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THE
ANNALS
OF
King JAMES
AND

King CHARLES the First.
Both of Happy Memory:

CONTAINING
A Faithful HISTORY, and Impartial ACCOUNT
of the Great Affairs of STATE, and Transactions of PAR-
LIAMENTS in ENGLAND,

FROM
The Tenth of King JAMES, M. DC. XII.

TO
The Eighteenth of King CHARLES, M. DC. XL. II.

WHEREIN
Several material Passages, relating to the late CIVIL WARS,
(omitted in former HISTORIES) are made known.

[By Thomas Frankland]

*Non Cinnae non Sullae longa dominatio, & Pompeii Crassique potentia cito in Cae-
sarem: Lepidi & Antonii arma in Augustum cessere, qui cuncta discordiis civilibus
fessa, nomine Principis sub imperium accepit. Tacit. Annal. lib. 1.*

L O N D O N,

Printed by Tho. Braddyll, for Robert Clavel, at the Peacock
in St. Paul's Church-yard, 1681.

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FROM
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Several material Passages relating to the late CIVIL WARS
(contained in former HISTORIES) are comprehended.

By JOHN BURNET, Secretary to the Council of State, under King CHARLES.

LONDON:
Printed by E. B. Baskin, for Robert Clavel, at the Printer's
in St. Pauls Church-yard, 1681.

Prof Geo. D. 1685



THE PREFACE TO THE READER.

It is the Genuine Character of an Historian to be bold and honest; not timorous to speak the Truth, and to be veracious in what he says. I have lived to see (though I never was engaged on either side) and had the Leisure and Advantage of an Academick and Sedentary Life, and thereby a good opportunity to consider of the Causes and Beginnings of our late most unnatural Commotions. It hath been well observed that it is very difficult to be of a Party and not to be partial; and therefore perhaps I may have reason, as well as some others, who have before labour'd in such Undertakings, to expect I may have a fair and candid Reception and Construction of these my Collections, which begin in the Tenth Year of King James, and end at the Beginning of the Year 1642. in which space of time, I think are comprized all those Matters of Debate, in which I hope I may safely and modestly say, *Pari sunt plus nimis incaluit*. I am very sorry that the necessity of this Province wherein I am engaged, should extort from me any Reflections or Observations upon either Party; but Truth must and ought to be spoke by an Historian, or else he cannot truly be called such: it would not (I think) become any ingenious Person to say he will not in his History reflect upon any Party, and yet throughout the whole Contecture thereof to do it. If any such Collections have been made, and lately emitted, I hope this Remark may not in any measure reflect either upon the Ingenuity, Honesty or Industry of the Undertaker; for that 'tis very difficult (as before is intimated) to have once engaged in a Cause, and not to retain some Kindness for it.

We have begun our Annals somewhat before the midst of King James his Reign, and think good to give our Reader the Reason why we set our no sooner, which is, that from that Era or Term of Time, we

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may commence the first and most considerable Grounds and Reasons, at least the Pretences, of the following reputed Grievances; such were,

1. The Divorce of the Earl of *Essex* from his Countess, the Lady *Frances Howard*; which Juridical Process we faithfully have given our Reader from the Original Proceedings of that Court.

2. The Disgrace of Archbishop *Abbot* with his Majesty thereupon, and other unfortunate Accidents which involved afterwards that great Prelate in the Concerns of a Party.

3. Which is coincident herewith, and coherent thereto, *The undutiful Behaviour of some Ministers in the Church of Scotland*, and others here at home, who afterwards embarked with them in the same Engagements, to the Ruin both of Church and State, towards their Natural Princes and Sovereigns: and what was a Consequence hereof, their departure hence of some of them into *Holland* or *America*, whilst others here remained in the Two Kingdoms, engaging the Commonalty of both to Commotions and Innovations.

4. The Encouragement which some of these received in their Opinions from some Foreign Divines [Protestant] but not having Episcopal Order amongst them, endeavouring the Subversion of the very Order of Bishops themselves in these Churches; and for that, Pretences of Innovations, or Popery, or some such like were then on foot, they endeavoured to bring in the five Controverted Points in the *Low Countries*, as a Shibboleth here into the two Churches of *England* and *Scotland*, to discriminate themselves from other true Members of these Churches, which were not in their Original Constitution of either Party, pretending themselves to be the only Orthodox and True Protestants, whilst they esteemed and called others *Papish*, *Arminian*, and what not?

5. The Spanish Match, with its Dependencies, here greatly feared and complained of, and the Power of the Count *Gondomar* with King *James*, &c. The breaking off of that Match, and another made with *France*, though at first well liked by the Commonalty, yet afterwards, as much as the former, found fault with.

6. The Power of the Duke of Buckingham with our Two last Monarchs, much complained of in several Parliaments of those Times, with the Parliamentary Debates thereon, and the divers events thereof.

7. Divers Expeditions and publick Undertakings of War, as that to the Isle of *Rhee*, to *Cales*, for the Recovery of the *Palatinate*, &c. Impartially Related; which proving not successful in themselves, became afterwards the Matters of publick Grievances and Complaints in future and succeeding Parliaments.

8. The many wants and diversion of Money and Treasure in the Commonwealth, together with the Methods and Ways made use of both heretofore and of latter times, by our Princes, for the Raising thereof, and more particularly of *Ship-money*; its Rise, the Debates thereof, the Case at large and particularly Argued, and now compleatly Published according to the Arguments of the Judges themselves had in the *Exchequer-Chamber*, which heretofore had been done only imperfectly and in part; which thing was thought unequal in an Historian, who pretends to be impartial, as it is in it self derogatory to the Truth of the Case, which will appear quite another thing, when all Parties do at large speak their own Sentiments, and have that equal and just Liberty which ought to be allowed them.

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9. The Proceedings of his Late Majesty with those of *Scotland*, from the first of the Tumults by them raised against him by those his Natural Subjects, *July 23. 1637.* all at large, and without any considerable interruption, and in due Order; which Tumults having so great and considerable an Influence upon these in our own Country, did require a more particular and exact Enquiry into, and Relation of, than formerly (I think) hath yet been given; wherein our Reader may (perhaps) find a thing not hitherto made clear and apparent: viz. The Confederation of the *English* Presbyterians with those of *Scotland*, publickly owned and acknowledged by each of them; as also the Transactions of the Lord *Lowdon*, and of others, the *Scotch* Noblemen with the *French* King for Aid and Assistance for their invading the Kingdom of England; and what influence the *Papists*, and in particular, the late great Cardinal *Richlieu*, the Great Minister of State in *France*, had upon those Commotions; having his Chaplain and Almoner here in *London*, in the Year 1639, and who was afterwards dispatched into *Scotland* for that end, to foment and carry on the *Scotch* Rebellion in that Year: A Matter (I hope) as it is in Fact true, so it cannot seem improbable to any who hath observed the *Jesuit*, that expert Angler, Fishing in every Water, well understanding, and as truly practising the old Lesson---*Semper tibi pendeat Hamus, Quo non sperasti gurgite piscis erit.* And it is no way to be doubted by his Practices and Attempts upon divers late our great Statesmen (though all in vain,) as upon Arch-Bishop *Laud*, to whom he made Offer of a Cardinals Hat, which that great Prelate as soon reveals to his Majesty, and was countermined in that his Attempt; who, to revenge himself both upon his Majesty and of the Arch-Bishop, contrives both their Destruction in the Year 1640. as will plainly appear by a discovery thereof made by *Andreas ab Habernfield*, to his Majesties Ambassador, at the *Hague* then residing, and by him communicated to the Arch-Bishop, who transmitted it to his Majesty, then at *York* in his Expedition against the *Scots*, *Sept. 13. 1640.* This Plot though thus discovered and made known to the King, he afterwards accomplished on that Fatal 30th. of *January 1648.* as will, I think, be made appear in the End of these *Annals*; to which our Reader is referred in the Perusal thereof; and that these sort of men have put on the Disguises of *Protestant Dissenters*, nay particularly preached against the established Religion of our Church, as well as of the Church of *Scotland*; *Dr. Oates* gives us Testimony, That several of the Society were of late sent into *Scotland*, to preach in the *Field-Conventicles* there; some whereof he particularly names in his Narrative; and that this is no new Artifice of the *Romanists*, but hath been formerly practised, will farther be made appear by an Extract out of the *Memorials* of Secretary *Cecil*, communicated from thence to the late Lord Primate of *Ireland*, Archbishop *Usher*; and is now in the hands of *Mr. Ware*, Son to Sir *Robert Ware*, late one of his Majesties Privy Council in *Ireland*. The Matter of Fact in short, is as followeth; In the Year 1567. one Faithful *Commish.* a *Dominican* Friar, who had been Ordained by Cardinal *Pool*, had been seized, and committed to Prison, and thence had before the Council, Queen *Elizabeth* herself present, he was there examined by his Grace *Mabew Parker* Lord Archbishop of *Canterbury*, why he did Preach, and what Calling he had thereto? He freely confessed he was Ordained by Cardinal *Pool*; And being farther interrogated by the Archbishop, why he had not obtain'd a Licence of Permission from

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some Bishop for his Preaching, that thereby (saith he) we may be assured you are not of the Romish Church? He presently replied, Those who usually hear me, know that I speak as much against Rome and her Pope, as any of the Clergy, and therefore am not to be suspected. Yet Mr. Commyn (saith the Archbishop.) By your way of Arguing, any person may Preach, if he but speak against the Pope. Not so, replied Commyn, he may not preach, except he hath the Spirit, which is the Spirit of Grace and Truth. That Spirit (saith the Archbishop) will surely comply with the Orders of the Church, lately purged from Idolatry and Schism. But I, (saith Commyn) endeavour to make it purer. Why then (saith the Archbishop) do you not Communicate with her in the Sacraments and Prayer? This (saith he) I endeavour to do, and have both given and taken the Body of Christ from those of Tender Consciences, who have Assembled with me in the fear of the Lord. Then (saith the Archbishop) You have a Congregation; Pray of what Parish, and of what Diocess? Not, saith he, of any certain Parish, or of any certain Diocess, but in the wide World, amongst the Flock of Christ, scattered throughout the wide World. Then, said the Queen, Your Diocess, Mr. Commyn is very large; and commanded him to withdraw; the witnesses against him, being called before the Board, deposed, That in Maidstone in Kent, he had publickly Preach't to a Select Congregation, and that he seemed, being in Prayer, as a distracted man, though his Hearers said, He was a heavenly man, and that it was God's Spirit that made him weep for the Sins of the World; and that he did continue in Extempore Prayer sometimes by the space of two hours. Her Majesty commanded him to be called, and spake thus; Mr. Commyn, will you receive Orders, and become of the Church of England so you may be permitted to Preach and to Pray with my Subjects; otherwise you may not: and though it appears by several Witnesses you have preached against Sixtus Quintus the Pope, yet you have usurped over the power both of Church and State, in doing contrary to the Orders that We, Our Council and Parliament have unanimously agreed on, by and with the Consent of the Clergy of the whole Land. He desiring Time to consider hereof, was made give Bail for his Appearance; which he having done, appeared again with his Bail, on the 12th. of April following, when her Majesty and the Council being busied in the Affair of the Spanish Ambassador, could not attend his Matter, hereupon he came forth to his Followers, and told them that he was acquitted by Her Majesty and the Council; but knowing himself not safe, he immediately that Night took Ship, (having prevailed upon the weaker Sex, who were most his Followers, to furnish him with 130 l. which he took along with him.) Before his departure, he made a Preachment to them, wherein he especially commended to them Spiritual Prayer as the chief Character of a True and Good Protestant, telling them, that the Set Forms in England (meaning our Common-Prayer) was but the Mass-Book Translated; and thus he made his Escape: Strict Search being afterwards made after him, it was known he was fled into the Low Countries; whence Information being given of him to Sixtus Quintus then Pope, he was seized in Rome (where he then was) by the Popes Order, and imprisoned; for he had left the Low Countries for fear of the Queen. Upon his Imprisonment, he writes immediatly to the Pope, acquainting him who he was; and upon what Account it was, what he had so preached; hoping and believing he had done his Holiness and the Catholick Cause good Service; for that he had always preached a-

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gainst Set Forms of Prayer; and that he had call'd the Common-Prayer the English Mass; and thereby had made the Church of England odious to the common sort of people; and that this would prove a Stumbling Block to that Church whilst it is a Church; for which he is commended by his Holiness, and dismiss'd with a Reward of 2000 Ducats.

The like Account we have on Record in the Register of the See of Rochester, of one Heth a Jesuit, who had preach'd in that Cathedral against Set Forms of Prayer; and being therefore suspected, was Cited before Dr. Gess, then Bishop of that See; who examining him, he said, he had left the Church of Rome; but confessed, he was not wholly of the Episcopal party in England; for that he had laboured to refine the Protestants, and to take off all smacks of Ceremonies that in the least tend to the Romish Faith. And he being told, That it was the Queens Highness, and the High Court of Parliament that had established the Forms and Manner of those prayers, and therefore it did not become any particular or private man to meddle any farther therein. He replied, It was then only my good will to make the Church of England purer. But finding that he was detected by a Letter which he dropt in the Pulpit of the said Cathedral, whilst in his Sermon, which was wrote to him from one Malt, a Superior of his Order, from Madrid, he openly said, Seeing my Vocation is now known, I shall not however acknowledge my self in any Fault, for I have fought a good Fight for Christ, whose Cause I have taken in hand, and have tried this Experiment amongst my Countrymen, that the World may see, that all those who term themselves Protestants, are not of the Church of England; though they speak against Rome,

The Letter, which I am confident our Reader will think Material, was as followeth:

Brother,

THE Council of our Fraternity have thought fit to send you David George, Theodorus Sartor, and John Huts their Collections, which you may distribute Where-ever you may see it may be for your purpose; according to the peoples inclinations. These Mixtures with your own, will not only puzzle the Understandings of your Auditors, but make your self Famous. We suppose your Wants are not considerable at present, by what we have heard; how your Flock do admire you every day more and more. Be not over-zealous in your proceedings in the beginning, but gradually win on them as you Visit them; and as you find their Inclinations bend to your Design, let us hear how you have proceeded; for it will satisfy your Brethren much, and enable them to instruct you for the Future. Hallingbam, Coleman and Benson have set a Faction amongst the German Hereticks, so that several who turned from us, have now denied their Baptism, which we hope will soon turn the Scale; and bring them back to their old Principles. This we have certified to the Council and Cardinals, That there is no way to prevent the People from turning Hereticks, and for the recalling others back again to their Mother-Church, than by the Diversity of Doctrines.

We wish you to Prosper.

Madrid, Oct. 26. 1568.

Sam. Malt.

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The whole of this short Narrative may be seen in the Register-Book of the See of Rochester, beginning Anno 2, & 3. Phil. & Mar. and continueth to the 15th. of Queen Elizabeth.

We all know the severe Laws here in force in England against Romish Priests and Jesuits, and also that they are very prudent men, and therefore may rationally be supposed not willing to adventure their Lives, except they had a fair Prospect of succeeding in their Attempts upon the established Religion of this and our Neighbour Kingdoms. One of the Order of the Jesuits, and he an eminent person amongst them, assures us in his Dedicatory Epistle [after his Conversion] to the States General of the United Netherlands, That his Order had an established Council of fifty persons here in London, in order to their great Design, and that they were in diverse Ranks and Habits as best befitted them, and that from hence they sent intelligence of their Affairs to the Superiors at Rome. Nay more, I find the late Usurper Cromwel, in one of his Speeches to a Parliament of his, Summoned to meet, Sept. 4. 1654. affirming, 'That he could prove by good Witnesses, That they had at that very time a Consistory and Council, that had very great influence on the Affairs of these Nations, and that moreover, he had that particular Instrument then in his own power, &c. Mr. Prynne's Relation is well known of the Queens Confessor's Action in Brandishing his Sword amongst the other Souldiers, at the murdering of the late Blessed King, and his telling Mr. Henry Spotswood, who much admired to see him there, that there were at least Forty or more Priests and Jesuits then present with himself on Horseback on that occasion; vid. Prynne's Brief Necessary Vindication, p. 45

These Relations being out of the Series of the Times whereof these *Annals* treat, I thought good here to mention; remitting our Reader to several other Observations of this Nature throughout the whole Body of these *Annals*, hoping they may be of use to some Dissenters from our Communion amongst us; letting them see that these very sort of men whom they so much declaim against, have been great Actors in our late Troubles, and that possibly they may now have more influence, than they desire they should have again to inflame us, and pray and hope that this may make us all careful to avoid their sly and subtil Insinuations, especially considering what a vast Treasure, and what Blood, more precious than the former, the late Bloody War hath cost us. I cannot stand to enumerate or calculate the numbers of persons slain, or sufficiently to aggravate the miseries during the continuance thereof; only give me leave to acquaint our Reader in short of what may be given an account of, as to the publick Moneys raised by Ordinances of Parliament, &c. for the carrying on of that miserable and unfortunate War: 1. Plate-Money upon certain Propositions, an incredible sum. 2. Money advanced on the Irish Rebels Lands, and Loan-Money upon several Ordinances of Parliament, by some call'd Publick Faith Money. 3. Sequestrations of the Kings, Queens, Bishops, Deans, Deans and Chapters, the Nobility and Gentries Lands [such as were by that Party esteemed Delinquents.] 4. The Monthly Taxes of 60000 l. for the Associated Counties, and at the same time 120000 l. or 100000 l. for all England. 5. The Excize, continuing near twenty years, now esteemed at 400000 l. per annum. 6. The Customs for the same space of time, now esteemed at 700000 l. per annum. 7. Composition Money, and for the sale of Delinquents Estates, which hath been esteemed at 8000000 l. nor to mention Plunder, Free-Quarter, and Decimations, the twenty and twenty fifth part of Lands and Goods,

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Goods, a vast and prodigious sum : By the Intrado of which sums, as are, as above, accountable some, and they rationally enough have computed the late Civil War to have stood the Kingdom in above 40000000 l. *Sterling* ; whereas since the Restitution of his Majesty, though the Kingdom hath been ingaged in two Bloody and Expensive Wars, for the main-
tainance of the Kings Just Rights to the Dominion of the Narrow Seas, it hath not yet (as some do compute) stood the Nation in one fourth part of that sum ; and yet our Fleet, the VValls of this Nation, now superiour in strength and number, at least not inferiour to that of our Neighbours.

It will now remain that we give our Reader an account (in regard he will find these Collections in very many things, and those very considerable, to differ from some lately made publick) in whose hands the chief *Manuscript Copies*, we have here made use of, are, and where they still remain, if any person have the curiosity to see them. It hath lately by some persons, and upon a point of very high import been questioned, who are the Three Estates in Parliament, and some use hath been made of Mr. *Rushworth's* Authority in the debate of this matter, who in his first Volum of his Collections hath publish'd somewhat relating to a Speech made by King James of happy memory, to a Parliament by him assembled in the Eighteenth year of his Reign, which in truth is not his Majesties Speech (as I am credibly informed by an Ear-witness, who was present when the King made that Speech) the person is Mr. *Munday*, who is Actuary of the Convocation, a very aged person, and yet alive, to attest the truth thereof, having the Copy thereof [now in my keeping] always in his Custody, and whereof he hath delivered several Transcripts to several persons of Eminency above 40 years ago, who desired the same. Who did impose on the Credulity of Mr. *Rushworth*, I here enquire not, only give the Reader to take notice hereof, that for the future no evil use may be made thereof. As to the Transactions of that great Affair of State, the *Spanish Match*, in the latter end of King James his Reign, I made use of a very fair Manuscript Copy now in the hands of Mr. *Dunning* : And as to the Speeches, Resolutions and Debates of that Parliament which sate in the third and fourth years of King Charles the Martyr, of ever blessed memory ; wherein the great Points of the Subjects Liberty and Property in his Estate were under the greatest height of Debate and Contest, I was herein very much assisted by a *Manuscript Journal* of that Parliament, wherein all the Speeches and Resolutions of that Parliament, and its most Eminent Members, are fairly related, and by me as truly communicated to the world : The Book it self is in the hands of my good Friend Dr. *Bernard*, Physitian to *S. Bartholomews Hospital London*, whose favour and kindness I must needs here publickly own for the use I have made of it : And in regard that Grand Affair of the *Ship-Money*, which was so learnedly argued by all the Judges of the Land, and Sages of the Law, then Councel on both sides, may perhaps prove a matter very acceptable to the Gentlemen of the Long Robe, for that the *Ardua Regis & Regni* were in those Debates most narrowly lookt into, I thought it not altogether unreasonable to give the world an exact account (for so indeed it is) thereof, the like being never yet extant ; the *Manuscript Collection* herein, by me made use of, was that of the Learned Counsellor Mr. *Doughty* of *Graves-Lane*, who was very exact in his Relation of that great and difficult matter, upon whose Credit the Arguments, as well as the Quotations of the Law-Books and Records, mentioned in that great Affair, is here made publick, hoping
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our Reader may not be disappointed by his References to the Authors and Books themselves, whose Testimonies and Authorities are there alledged. And lastly, to give the Reader a general account of the remaining matter of these Collections, he may know that we have not spared to consult the Publick Offices, in relation to Impeachments and Articles, &c. of Persons accused in Parliament; and more particularly those against the Earl of *Bristol*, and Duke of *Buckingham*, in the forementioned Parliament of the Third and Fourth of King *Charles* the Martyr, with their respective Answers to the matters objected against them; the Publick Prints, Proclamations, Acts and Orders of Council, &c. are every where extant, and are not the Propriety, I hope, of any second-hand Publisher, so as to exclude others from making use thereof: our Reader, I presume, will excuse us, if we do not pretend here to mention every minute Affair or inconsiderable passage which happened in the Times, whereof we have in these *Annals* discoursed, such are the Mutinies of disorderly Souldiers in their Marches, Orders of the Justices to suppress their Insolencies at their Sessions of the Peace, the Books for disciplining the Souldiers, by Authority made publick, or any other such like of less import, which perhaps to some men may commend an Authors industry, with the hazard of his Prudence or Discretion; such then as these we have omitted, remembering the Remarque of the *Historian* hereupon, that they are the proper Subject for a *Diurnal*, rather than an *History*. *Nerone secundo Lucio Pisone Coss. pauca memoria digna evenere, nisi cui libeat laudandis fundamentis & trabibus volumina implere, cum ex dignitate populi Rom. repertum sit, res illustres Annalibus, talia Diurnis Urbis actis mandare.* And so we pass them, and hope for the Readers pardon herein, and acquaint him, that in lieu thereof, we have given him the posture of Affairs in Foreign, and our Neighbour Kingdoms and States, especially when they might have any influence upon the Affairs of our own Kingdom, and accordingly as they fell under the Times herein discoursed of: We have brought down the Series of our History to the beginning of the year 1642. where we shall see a once flourishing and famous Kingdom, lately the Envy of other Nations, to have become the Object of their Pity, and of all the World, except themselves, whose Natives (as though they had clipt the Wings of Peace and Plenty, that they could not possibly escape them, and made these Blessings, once the happiness of the common world, their Propriety and Inclosure) became surfeited with their own happiness and prosperity, plunging themselves into the miseries of a most bitter, cruel, and expensive VVar, which their greatest Plenty could then only uphold; and which by the Mercy of God, more than of our own Deserts, after the expence of so much Blood and Treasure, at the Restitution of his now Majesty, our lawful Prince, together with the Laws of the Kingdom, and Liberties of Parliament, we were again restored; the Causes of which VVar being the Subject of this History, are very fit for every *English-man* to be thoroughly acquainted with, that he may truly know and understand, what in all likelihood may happen to be (which God forbid should ever happen) the evil consequences (to say no worse) of a rashly undertaken VVar, that so he may never again be brought to squander away his share of the blessings of peace and plenty, which we now (God be thanked) in the midst of our Neighbours VVars enjoy, for a Mess of Pottage, which we all by sad experience know had Death in the Pot.



ANNALS

OF THE

REIGN

OF

King JAMES:

Anno
1612.

The Ex-
traction
of the
Countess
of Essex,
and of her
Divorce.



Here was, amongst other Persons of Honour and Quality in the Court, a young Lady of great Birth and Beauty, *Frances*, Daughter of *Thomas Howard* Earl of *Suffolk*, Married in her Minority unto *Robert* Earl of *Essex*; with whom she co-habited for several years: She was Two and Twenty, and He Three and Twenty years of Age; and of him there was a common Fame (grounded indeed upon his own Suspicion) of his Insufficiency to content a Wife: The Effect of this Fame is very Notorious, and doth involve in it the Story of Sir *Thomas Overbury*, now imprisoned in the Tower of *London*, for refusing to go Ambassador, when appointed by the King. He was a Creature of the Lord Viscount *Rochester*, and a Person who had a very good Esteem of his own Parts and Abilities; and as he said of himself, that the Viscount *Rochester* was the fair Lady *Essex* by Letters of his own Penning; for which, some stick not to charge him of Ambition and Vanity, not to mention an old Grudge he alwayes had for the whole House of the *Howards*. When these young Persons were of Age to expect the Blessing of the Marriage Bed, the Earl was observed alwayes to avoid the Company of the Ladies; for which, he

was much talked of in Court as a Person unable for his Ladies Bed, which begat the Bruit in Court, *Fac. 16.* and this afterward private Disputation amongst Divines and Civilians of the Validity of the Marriage.

Accordingly the King being Petitioned by the Father the Earl of *Suffolk*, and the Daughter the Countess of *Essex*, he granted a Commission Delegative to four Bishops, two Privy Counsellors Learned in the Law, and to four other Civil Lawyers, with Clause to proceed *cum omni qua poterant celeritate & expeditione summarie ac de plano, sine strepitu & figura Judicii, sola Rei & Facti veritate inspecta & mera equitate attenta*; and with this farther Clause, *Quorum vos prefat. Reverendissimi Patrem Cantuariensem Archiepiscopum, Reverend. Patrem Lond. Episcopum, & Jul. Cesar. Militem, aut duos vestrum in ferenda Sententia interesse volumus.* But for some Exceptions about the *Quorum* arising amongst the Commissioners, and the Words *Sententia esse*, not *interesse*, a second Commission was granted, and two Bishops more adjoynd with this *Quorum*: *Quorum ex vobis prefat. Reverend. Patrem Georgium Cantuar. Archiepiscopum, Joannem Lond. Episc. Tho. Wint. Episc. Lancelot Eliens. Episc. Ricard. Coventr. & Lichfeld. Episc. Jo. Rossens. Episc. Jul. Cesar Milite. Tho. Parry Milite. in ferenda Sententia nos esse volumus.*

Her Father the Earl of *Suffolk* & she petition the King. He appoints Commissioners, four Bishops, &c.

A

Upon

Anno 1613. Upon which the Countess of Essex takes out Process against the Earl her Husband, to Answer her in a Cause of Nullity of Marriage.

The Earl he appears by his Proctor, and she gives in her Libel, (*viz.*)

That the Earl and the Lady six years since, in January, Anno Dom. 1606. were married; her Age then thirteen, and his fourteen; now she is two and twenty, and he three and twenty years old.

That for three years since the Marriage, and he then eighteen years old, they did both cohabit as Married Folk in one Bed naked and alone, endeavouring to have Carnal Knowledge of each others Body.

Notwithstanding the Earl neither did nor could ever know her carnally, he being before and since with a perpetual incurable Impediment and Impotency, at least in respect of her.

That the Lady was and is apt and fit, without any defect, and is yet a Virgin, and Carnally unknown by any man.

That the Earl hath confessed oftentimes to persons of great Credit, and his nearest Friends, that he never was able Carnally to know her, though he had often attempted and used his utmost Endeavours.

And therefore she prayeth the Commissioners, upon due proof hereof, to pronounce for the Invalidity and Nullity of the said Marriage.

The Earl by his Proctor denying the Contents, his Answer is required by Oath in a second Process; where in open Court his Oath was administered with so great care and effectual words, to wind off all Circumstances, as the like hath been seldom observed.

The Earl *viva voce* confesseth the Marriage and Circumstances as in the Libel; that they were not absent above three Months the one from the other in any of the said three years.

That for one whole year of the Three years, he did attempt divers times to know her, but the other two years he lay in Bed with her Nightly, but found no motion to Copulation with her.

That in the first year she shewed Readiness and Willingness thereto,

That he did never Carnally know her, but not find any Impediment in her self, but was not able to penetrate or enjoy her.

And believeth that both before and after the Marriage, he found in himself Ability to know Women, and hath sometimes felt motion that way.

But being asked whether he found in himself a perpetual and incurable Impediment? He answered, That in two or three years last past he hath had no Motion to her, and believes he never shall: now that she is apt as other Women, and that she is *Virgo integra & incorrupta*; and confesseth, That he hath often before Persons of Credit, confessed thus much.

Notwithstanding his said Oath, the Countess produced several Witnesses of the Marriage, Time, Age, Cohabitation and Codormition for Consummation, as before in the Libel; and that notwithstanding she was still *Virgo integra, incorrupta*; but because the Earl did not believe his Lady to be fit and apt for Copulation, therefore the Council desired *Matronas aliquas probas & honestas, fide dignas, & in ea parte peritas Domina assignari ad inspiciendum corpus dicta Domina.* Whereupon it was Decreed by the Court, that six Midwives of the best Note, and ten o-

ther Noble Matrons fearing God, and Mothers of Children, out of which they themselves would chuse two Midwives and three Matrons; out of which the Delegates did select five, *ut sequitur*;

Tunc Domini (viz.) Arch. Cant. Lond. Eliens. Covent. & Lichf. Cesar, Parry, Dunn, Benet, Edwards, habita inter eos privata deliberatione ex numero matronar. predict. elegerunt

The Lady Mary Terwhite, Wife of Sir Philip Terwhite, Baronet.

Lady Alice Carew, Wife of Sir Matthew Carew.

Lady Dalisan, Wife of Sir Roger.

The Lady Anne Waller, Widow.

Et ex Obstericum numero, &c. Margaretam Mercer & Christianam Chest. Et assignarunt Procuratorem dicta Domina Francisca ad sistendum hujusmodi Inspectrices, coram Reverendo Patre Episc. Lond. Cesar, Dun, &c. inter ceteros nominat. isto die inter horas quintam & sextam post meridiem Juramentum in hac parte subituras, atq; inspectione facta fideliter relaturas earum judicium, juxta earum scientiam & experientiam, &c. coram dictis Dominis Delegatis sicut prefertur assignatis, quam cito fieri possit, ante horam quartam & sextam post meridiem diei Jovis proxima; alioquin ad comparend. hoc in loco coram Commissariis dicto die Jovis inter horas quartam & sextam post meridiem ejusdem diei earum Judicium hac in parte tunc relaturas; & ad interessendum hora & loco respective predictis, ad videndum inspectrices predictas juramento in hac parte onerari, necnon quibuscunque aliis diebus hora & loco per dictos Dominos Commissarios nominat. dictis inspectricibus ad referendum earum Judicium assignat.

Accordingly, between the Hours of that Day aforesaid, were presented before the Delegates aforesaid the said Ladies sworn *ad inquirend. & inspiciend.*

1. Whether the Lady Frances were a Woman fit and apt for Carnal Copulation, without any Defect that might disable her for that purpose?

2. Whether she were a Virgin carnally unknown by any man?

Whereupon, they went from the presence of the Commissioners, into the next Room, where the Countess was, accompanied by the Counsel of both sides; into which Room was no Entrance but at one Door, whereat the Counsel presently came forth, and only the Countess was left with the Ladies; who, after some convenient time, returned their Report under their Hands, the Commissioners having first sequestered from their presence the Counsel on both sides (who had been present in all these Passages) and all other Persons except the Register, that so the Ladies and Midwives might more freely deliver their secret Reasons, &c. though it was not fit to insert them into the Record. And this is in sum their Relation.

1. That they believe the Lady fitted with Abilities to have Carnal Copulation, and apt to have Children.

2. That she is a Virgin incorrupt.

And to corroborate all this, the Countess in open Court produced seven Women of her Consanguinity; That inasmuch as the Truth of all was best known to her self, she might by virtue of her Oath discover the same, and her Oath should be no further regarded than as it was confirmed by the Oaths of her Kinswomen; the Law presuming that such Kindred should be best acquainted with the inward Secrets of their Kinswoman. In order the Countess had an Oath administered

Anno 1613. ministred to her, with all the like grave admonition as before to the Earl her Husband; and so she affirmed,

That since the Earl was eighteen years old, for three years he and she had lain in bed, &c. as in her Libel.

And then the Seven Noble Women, viz. Katherine, the Countess of Suffolk, Frances, Countess of Kildare, Elizabeth, Lady Walden, Elizabeth, Lady Knevet, Lady Katharine Thinne, Mrs. Katharine Fiennes, Mrs. Dorothy Neale, her Kinswomen, being charged to speak without partiality, they did all depose, That they believed the same was true.

1. And in particular, That post plenam pubertatem utriusque they both endeavoured Copulation.
2. That notwithstanding Ability on her part, per inspectrices she remained a Virgin incorrupted.
3. That the Earl had judicially sworn that he never had, nor could, nor should know ever her Carnally.

The Law then being, That Impotentia coeundi in Viro whatsoever, whether by natural Defect, or accidental Means, whether absolute towards all, or respective to his Wife alone, if it precede Matrimony, and be perpetual, as by Law is presumed, when by three years continuance, after the mans Age of eighteen years, there having been nil ad copulam, the Marriage not consummated, and the Law allowing the said Proofs, &c. it was abundantly sufficient to convince the said Earl of Impotency; and therefore the Judges Delegates gave this Sentence.

Sentence. Idcirco Nos, &c. in dicta causa Judices, Delegati & Commissarii, & Christi nomine primitus invocato, & ipsum solum Deum oculis nostris proponentes & habentes, deque & cum consilio Jurisperitorum, cum quibus in hac parte communicavimus, matureque deliberavimus prefatum Dominum Com. Essex dictam Dominam Franciscam ob aliquod latens & incurabile impedimentum perpetuum, predictum Contractum & Solemnizationem precedens intra Solemnizationem & Contractum predictum nunquam carnaliter cognovisse, aut carnaliter cognoscere potuisse aut posse, & eundem Dominum Comitem quoad carnalem copulam cum eadem Domina Francisca exercend. omnino inhabilem & impotentem fuisse & esse.

Pronunciamus, decernimus & declaramus prefatum pretensum Matrimonium sic inter predictum Virum Robertum Devereux Com. Essex, & predictam pre-nobilem Femina Francisca Howard de facto Contractum & Solemnizatum omniaque exinde sequentia ratione pramissorum, omnino invalidum, ac nullum fuisse & esse, viribusque juris caruisse & carere debere atque nullo & nullis atque invalido & invalidis, ad omnem juris effectum: etiamque pronunciamus, decernimus & declaramus dictum Matrimonium pretensum, omniaque exinde sequentia cassamus, annullamus & irritamus, memoratamque Dominam Franciscam Howard ab aliquo vinculo hujusmodi pretenso Matrimonii inter eam & dictum Dominum Robertum Comitem (ut prefertur) de facto contracto & solemnizato liberam & solutam fuisse & esse; & sic tam liberam & solutam insuper pronunciamus, decernimus & declaramus, eandemque Dominam Franciscam ab eodem Domino Comite Essex quoad vinculum Matrimonii pretenso predicti, omniaque exinde sequentia liberandam & divorciandam fore debere pronunciamus, & sic liberamus & divorciamus, eosdemque quoad transitum ad alias nuptias conscientis suis in Domino relinquere per hanc nostram Sententiam definitivam, sive hoc nostrum finale decretum, quem sive

quod fecimus & promulgamus in his Scriptis.

And the Records yet extant do mention the Proceedings (as our Reader will see) modest and legal, parallel to any former of like kind, wherein the Civil Laws are plentiful, and in this strict form had no room for corruption. The Commissioners who agreed to the Sentence, were four Bishops, Winchester, Lichfield and Coventry, Rochester, and Ely. The Civilians were three Knights; Caesar, Parry, Dunn. And yet though these were men beyond all exception, and the proceedings regular, yet were both they, and this Judgment, by a discontented sort of people then growing up in this our Kingdom, branded for [Men fit for the purpose, and that the Kings Will never wanted such Ministers in corrupted Times, both in Church and State.]

The Common People were offended with the Canons, and wish'd, that Essex might have as many Women to aspect him for his sufficiency, that he might have Justified himself upon others, or have Physicians (by Art) to certify his Natural impediment; or whether impedimentum maleficii (being accidental) presumatur precessisse, vel potius subsecutum fuisse matrimonium contractum & solemnizatum, whether they ought not post preceptum Judicis, to cohabit together, saltem per aliquod temporis spatium arbitrio Judicis moderandum, for further trial. Indeed the Archbishop Abbot took upon him the Quarrel, who (in truth) in the Civil Law was not so able: his doubts and queries were dispersed, and got some credit with the Clergy, whilst the Civilians (with much civility, if not fear of his authority amongst them) forbore to give him Answer, till the King himself took the pains to confute his Opinion.

The Common People offended.

The Archbishop's Arguments were six.

The Archbishop's Arguments.

1. That all Controversies concerning the Church are comprehended in the Scriptures, and Marriage is there accounted Sacred.

2. What Text doth warrant a nullity after Marriage, propter maleficium versus hanc? The Scripture indeed makes nullity, propter frigiditatem, Matt. 19. 12. some born chaste, some made Eunuchs, some made so by Grace.

3. 4. What Councils, or Fathers, or Histories, either Greek, or Latine, have ever mentioned maleficium versus hanc, until Hircanus Rhemensis Episcopus, four hundred Years after Christ?

5. 6. Essex is found defective, for whom we are bound to use two remedies, Eternal and Temporal.

For the first, Non ejicietur, nisi per orationem & jejunium.

For the second, Corporeal Medicines; but the Earl hath had none of these.

The Answer.

To the first, It is a preposterous Puritan Argument, without some better distinction or explanation; for the Orthodox say of all Controversies in points of Faith and Salvation, nullity of Marriage cannot be one, and therefore the consequence fails.

Secondly, If the Scriptures want a nullity, propter frigiditatem, then all the means which may make him frigidus versus hanc, must be comprehended; for why doth our Church condemn Marriage of a Man with his Sisters Daughter, or of two Sisters, but a paritate rationis, for none of them

anno 513. them are *in terminis* prohibited in Scripture; and so all the other unlawful Matches, for ascending or descending in points of consanguinity, *quia par est ratio*.

The like is in this Case, for although Christ spake only to three sorts of Eunuchs, yet, *ratio est quia non potest esse copulatio inter Eunuchum & mulierem*; and therefore Saint Paul tells us, it is not *conjugium sine copulatione*: I conclude therefore à *paritate rationis*, that Christ did comprehend under these three sorts all inability, which doth perpetually hinder *copulationem versus hanc*, whether Natural or Accidental; for what difference is there between the cutting off the Hand, and being made impotent therefore? *amputatio & mutilatio membri*, being the same in the Civil Law; it being sufficient unto moderate Christians to believe out of Gods Word; that marriage is null *sine copulatione*, and those words, *quos Deus conjunxit*, are never found in Scripture, where & *erunt eis*, doth not preceed, *viz.* and they shall be made one flesh.

But how ever the impediment be, whether universal, or *versus hanc*, or born so, or by Violence, or by Disease, or Inaptitude, that is ever *par ratio*, he is an Eunuch *versus hanc*, & *omnes alias*, seeing to him only she was Married.

To the third and fourth, there may be something to this purpose, or *aliquid analogum* with à *paritate rationis*.

Besides it is an ill Argument to say, that therefore it is not lawful, because Fathers nor Councils do not mention it.

The same Answer to the fifth: for till four hundred Years after Christ (perhaps) that Devilish trick was not discovered, and we know, *ex malis moribus bona leges, &c.*

And this in dispute, is only a question of order and policy, for the essential point of Matrimony cannot be accomplished *sine copula*.

Sixthly, The Devils have power over the flesh, and to exempt us from the power of witchcraft, was never maintained by any Learned Men, and why not of Protestants as well as of Papists?

Remedies, perhaps, have been used by themselves, but *non interest reipub. nec Eccles.*

And so to satisfy his Conscience, this pains was taken with the Archbishop, *ut cum conversus fuerit, confirmet fratres suos*.

In fine, Both parties freed to their second choice, the Countess the fifth of December Marries the Viscount, lately made Baron of *Brandspesk* and Earl of *Somerset*, the tenth Earl; the first being made by *Maud* the Empress: and *Overbury* in the Tower hears of this jollity, and himself in durance, threatens *Somerset* (no faith one, writes to him humbly imploring;) another (such like) pens the Letters thus,

Right Noble and Worthy Sir,

Sir Thomas Overbury's Letter.

YOur former accustomed favours, and also late promise concerning my present deliverance, hath caused me, at this time, by these lines, to sollicite your Lordship, and to put you in remembrance of the same, not doubting your Honour is at all forgetful of me, but only (by reason of my imprisonment) being posselt of divers Diseases, I would for my Bodies health and safety, taste of the felicity of the open Air, in which cause, if your Lordship please to commiserate my present necessities and procure me my speedy deliverance, I shall not only stand much the more obliged to you, but also acknowledge you the preserver of my life.

Such stuff as this makes up the matter, as they would make us believe, but in truth he threatened *Somerset* with some discovery, which was construed to be secrets of Love, or State, or both, not without monstrous defaming her honour, by message and writing (*filthy base Woman, they were best look to stand fast*) which begat fury in her, and subtilty in *Somerset*, least *Overburys* malice should break forth, to both their sufferings, and so trouble their whole fortunes. To prevent mischief to the one, and continual defamation to the other; combining with the rest, it was resolved by her to destroy him, which she first intended by Assassination, and dealt with one Sir *David Wood* (an ill look'd red bearded Scot) whom *Overbury* had prevented of a Suit valued at 2000 l. but his Cowardize, not Conscience, fearing to engage, she and they plotted the poisoning of him in prison, as the Story intends to discover in particular.

This Spring seizes *Northampton* for Death, he was a Brother unto the late Duke of *Norfolk*, who suffered for his attempts of Marriage with the Queen of *Scots* (as before remembred) then a prisoner here in *England*, which might be some motive for the King to consider the advance of this Man, and that Family, which he did, by preferring the Dukes second Son to be Earl of *Suffolk* 1603. and by restoring the Dukes grandchild *Thomas* Earl of *Arundel* 1604. as aforesaid, and by particular preferments of this *Henry*, who was more wedded to his Book than to his Bed, for he died a Bachelor; he was accompted Wise and Learned, a cunning States-man; and for all these abilities, out of the Kings great affection to Letters, especially being centered in a Noble person; at his first accession hither, he the rather advanced him in succeeding Creations, as Baron of *Marnhill*, Earl of *Northampton*, then Privy Councillor, Lord Warden of the Cinque-Ports, Lord Privy-Seal, and Knight of the Garter, and elected Chancellor of the University of *Cambridge*; he had plenty for his single Life, and to spare for his Friends in his expence, not over frugal, maintaining his Port the most remarkable (like the ancient Nobility) in his Family and dependance, of any Lord then and since his time.

He assisted his Nephew the Earl of *Suffolk* by his designing and large contribution to that excellent Fabrick *Awdley End*.

He built that Noble Structure at *Charing-Cross*, *Northampton-House*, and presented it a new Years gift to his Cousin German the Lord *Walden*, *Suffolks* eldest Son, and yet left his other Cousin the Earl of *Arundel*, the rest of his Estate, so to make to appear to the World his equal distribution to such even kindred.

He was Pious, and gave good Testimony thereof in his Life, built that handfom Covent at *Greenwich*, and indowed it with Revenue for ever; for maintenance of decayed Gentlemen Bachelours, a competent number, and for Widdows also considerable.

He died in April, Anno 1614. full of Years and Honour, and suspected more Catholick than some will think reasonable, though in the form of a Church Papist, (as some do lately Publish) and to be a setter in the monstrous Murther of Sir *Thomas Overbury*, though the Lieutenant of the Tower, *Telus*, in his Examinations and Confessions, cleared him; which suspicion is since grounded upon the interpretation of his familiar Epistles to the Earl of *Somerset*, and indeed bruited

Fac. II.

He threatens Somerset, and they contrive.

The Earl of Northampton's death, &c.

Anno
1614.

Duels first
rise in
England,
and their
Remedy.

bruited since his death, and where so proofs precede, we may be sparing to note him, so Noble a person, with that or any other injury.

About these times, the humors of young Gallants not brooking the peaceable conditions of our Kingdoms, and neighbour Nations, took upon themselves to quarrel with each other, and to fight it out in Duels upon slight occasions, and very frequent; which induced his Majesty to publish a severe Edict against private Combates and Combatants, their Seconds, Accomplices and Adherents; for prevention of those heavy events where to so worthy Families become obnoxious, by the odious and enormous impieties inevitably subsequent thereupon.

Intending by that time, that the most proper remedies have qualified the distemper of ill disposed minds, and that audacious Spirits have imarted for incompetent desires; the false colours and pretences of erring Custom have both been counterpleaded and corrected by reforming severity; by that time, I say, the passion hath been put into the right course of submitting to discretion, and Caution hath wrought it self at leisure into as constant a form and habit of conforming to obedience, as Selfwill took in former times to plant false Principles; the greater part will easily discern, that there is greater reason to reproach those that offer challenges of madness, than to tax those of cowardice that abstain out of duty.

And therefore those that should conceive themselves to be behind in the least respect or point of Honour, should repair to the Marshals Court, who were instructed and prepared as well for the cleansing of all green Wounds, as the healing of old Ulcers that shall appear to them.

A Duel
between
Priest and
Wright.
Informa-
tion a-
gainst
them, &c.

Hereupon occasion was soon given and taken in a Duel of Priest and Wright, for writing and carrying the challenge; and an information against them in Star-chamber, by a charge of Sir Francis Bacon Attorney General, and though the persons were but mean, yet they served for example to the Great, the Dog to be beaten before the Lion, the one a Barber Surgeon, the other a Butcher.

Sir Francis
Bacon At-
turny
General
his speech
against
Duels.

This eloquent Orator divideth his charge into four branches.

1. The nature and greatness of the mischief.
2. The causes and remedies.
3. The Justice of the Law of England, which (saith he) some think defective herein.
4. The capacity of this Court where the remedy is best to be found.

1. For the first, When revenge is extorted out of the Magistrates hands into private men, presuming to give Laws to themselves, it may grow from Quarrels to Banding, so to Trooping, then to Tumults and Commotions, from private Persons to Families and Alliances, and so to National quarrels, and subject the State to Inflammations and Convulsions; and herein offences of presumption are the greatest, and this to be done by the *Aurora filii*, Sons of the morning, young men full of hope and towardness.

2. The causes no doubt a false imagination of honour and credit, bewitching Duels, *species falsa*, against Religion, Law and Virtue, that men now adays had lost the true notion of Fortitude and Valor; the one, Fortitude, distinguishing the grounds of quarrels, whether they be Just and Worthy a mans Life, being to be sacrificed to honourable Services, good Causes, and noble Ad-

ventures; expence of Blood is as the expence of Money, not to be profuse in either upon vain occasions.

Fac. 12.

For the remedies four things may be effectual for repressing the depraved customs of Combates.

First, The State to abolish it; for then every particular person thinks himself thereby acquitted in his reputation, when he sees it an insult against Sovereign power; like unto the Edict of Charles the ninth of France against Duels, that the King himself took upon him the honour of all that were grieved or interested for not having performed the Combate, when he shall see the rule of State dis-interest him of a vain and unnecessary hazard.

Secondly, This evil must not be cockered, the compounding of quarrels is taken into the Hands by private Noble-men and Gentlemen; they tell men who is before hand and who behind hand; this countenances Duels, as if therein there was some what of right.

Thirdly, The most prudent and best remedy may be learned out of the Kings Proclamation, the false concealed humor must be punished in the same kind, *in eo quis rectissime plectitur in quo peccat*, such men to be banished the Kings presence and excluded the Court for certain Years, to be cast into that darkness, not to behold his Sovereigns face.

Lastly, We see the root of this offence is stubborn, for it despiseth Death, the utmost of punishments, and therefore these Men to be executed by Law without all remission. The severity of France had been more, where, by a kind of Marshal Law established by the King, the party surviving was instantly hanged, their wounds though bleeding, least a natural Death should prevent the example of Justice; or if not so to do, but with greater Lenity, yet of no less efficacy, which is to punish by fines in Star-Chamber, the middle acts and proceedings which tend to Duels.

3. Now for the Law of England, it is excepted against in two Points.

Not to difference between an insidious and foul Murder, and killing upon fair Terms, as they term it.

The other, not providing sufficient punishment for Contumely of Words, as *The Lie*, and the like.

These Novelties are thus answered; The Law of God makes no difference, but between *Homicide voluntary* and *involuntary*, which we term *Misadventure*, and for which there were Cities of Refuge.

Our Law hath a more subtil Distinction, *The Will inflamed*, and *The Will advised*; Man-slaughter in Heat, and Murder upon Malice or cold Blood. The Romans had restrained this Privilege of Passion, but only where the Husband took the Adulterer in the Fact; yet Cain enticed his Brother into the Field, and slew him treacherously; but Lamech vaunted of his Murder to kill a young man, and if it were but in his hurt; so as the difference is between insidious and presumptuous Murder, these of Cain and Lamech.

Greece and Rome had not this practice of Duels; It is said, *Fas est & ab hoste doceri*.

There was a Duel between two eminent persons of the Turks, and one slain; the Council of Bashaws reprehended the other: How durst you undertake to fight one with another? Are there not Christians enough to kill? Did you not know

know, that whether of you were slain, the loss would be the Great Seigniors?

Anno 1614. 'Tis true, we find Combates before an Army amongst the Romans, which they called *Pugna per provocationem*, between Generals themselves, or by their Licence to others.

So David asked leave, when he fought with Goliath, and Joab, when the Armies met, gave leave, Let the young men Play before us.

And of this kind was that famous Example in the Wars of Naples, between the Spaniards and Italians, where the Italians prevailed.

The Second Combat is a Judicial Trial of Right, introduced by the Gothes and the Northern Nations, and more ancient in Spain.

But yet a wise Writer says, *Taliter pugnantem videtur tentare Deum, quia hoc volunt, ut Deus ostendat & faciat Miraculum, ut justam causam habens Victor efficiatur, quod saepe contra accidit.* Nay the French Folly in this kind had it in toleration, never Authorized by Law, but of late punished with severe rigour. As for the supposed Defect in our Law for Lies and Fillips, words of Denial and Flea-bites to murder a man, Solon's Answer satisfies, That he had not ordained Punishments for it, not imagining the World so phantastical to take it so highly.

The Civilians say, That an Action of Injury does not lie for it; indeed Francis the first of France gave the Lie to the Emperor, and in a solemn Assembly said, That he was no honest man that would bear the Lie.

The Laws of England had only these Degrees of Injury; Slander, Battery, Maim, and Death, but as for a Fillip, *Gonsalvo* said, A Gentlemans Honour should be *de tela crassiori*, of a stronger warp.

Now for the power of this Court to censure, Presidents have been in the Minor Wharton's Case Plaintiff, where Acklam, Defendant, Servant to Ellesbarys, was Fined for carrying his Masters Challenge but by word of Mouth.

And it was concluded to prosecute in these Cases against such,

As shall appoint the Field, though the Fight be not acted.

Send Challenge in Writing or Message.

Shall deliver either of them.

To accept or return them..

To be a Second.

To depart beyond Seas to Combat.

To revive a Quarrel by Scandalous Bruits or Pasquils, Counsels, or Quarrels.

And that a man may in those Cases be as well *Fur de se*, as *Felo de se*; If he steal out of the Realm to fight, he doth, *Machinari contra Coronam*.

Patrick Earl of Orkney rises in Scots land.

But let us remember Scotland: we have before heard of the Earl of Orkney's Mis-behaviour in Scotland, which of late so increased, as he was again sent for, and committed; having rioted most of his Estate, the Remainder was Mortgaged to Sir John Arnott, of whom the King purchases his Interest, by which means he might the better give Relief to the Distressed Tenants from oppression.

The Earl now in Dumburton-Castle, with a Noble a day Pension, for his Maintenance, had Information how his Estate, with Castles, Kirkwall, Birsay, and other his Houses and Lands in the Isles, were rendered to the Kings Sheriffs, he endeavouring first to escape; but not effecting, sends his Base Son to get Forces, and to expel the Possessors.

He does so, and with some loose People assaults Birsay, and takes it, wherein he puts a Garrison of thirty Men, and hastens to Kirkwall, and seizes that also.

This Intrection comes to the Kings Knowledge and he hastens a Commission to the Earl of Caithness, Lieutenant of those Bounds; who, with his Cannon recovers the Castles in six weeks, and there within he made Prisoners; Robert Stewart, the Earl's Base Son, and four more Principal Actors were Arraigned at Edinburgh, Convicted, and hanged.

The Earl as Accessary, came to Trial, being Indicted for causing his Base Son to surprize Kirkwall and Birsay, inciting the People to Rebellion, and detaining the Castles Treasonably against the Kings Forces.

His Trial and Sentence.

He was allowed Prolocutors (Lawyers) of the best esteem, who deny the Libel (as they call it); but the Confession of his Base Son and others, with his Missive Letters written to one John Sharp, for detaining those Castles, and a Charter of certain Lands Assigned by him to one Patrick Halore, for assisting the Rebels, the Assize of Jury being his Peers, Earls and Lords, found him guilty of Treason; and he was presently Executed at Edinburgh.

This was the end of Patrick Earl of Orkney, Son to Robert Stewart, one of the Base Sons of King James the Fifth (for he had others) this Robert was at first Abbot of Holy-Rood-House for divers years after the forfeiture of Hepburn Earl of Bothwell, and obtaining those Isles, he exchanged the Abbacy, with the Bishoprick of Orkney, and so became sole Lord of the County. Patrick succeeding to an Elder Brother, and grown a Courtier, involved himself in great Debts, which made him the more Tyrannous over the People to recover his Wants.

At Glasgow was apprehended Ogleby a Jesuite, lately come from Gratts, by Command of his Superiors in that Colledge: he answered peremptorily to the Commissioners Questions, professing not to prejudice others by any Confession: their Torture to enforce him to impeach others, was to debar him Sleep for some time, until he was forced falsely to accuse any Body; which he, after Repose, would deny again.

The King was displeased with such Force to Men of his Profession; and if no Crime could be proved but his Calling, and saying Mass, they should banish him, not to return upon pain of Death; but if his Practise had been to induce the People to Rebellion, and had maintain'd the Popes Power transcendent over Kings, and refused the Oath of Allegiance, they should leave him to the Law; but withal they were to urge his Answer to these Questions.

1. Whether the Pope be Judge in *Spiritualibus* over his Majesty, and whether in *Temporalibus*, if it be *in ordine ad Spiritualia*?
2. Whether the Pope hath power to excommunicate Kings (such as are not of his Church) as His Majesty?
3. Whether he hath power to depose Kings after his Excommunication, and in particular, His Majesty?
4. Whether it be no Murder to kill the King so deposed?
5. Whether he hath power to absolve Subjects from the Oath of their Native Allegiance to His Majesty?

He Answers in Writing.

To the First affirmatively, in *Spiritualibus*; but

Anno 1614. but whether in *Temporalibus*, he is not obliged to answer to any but a Judge of Controversies in Religion, the Pope, or one of his Authority.

To the Second Affirmatively; and that all persons Baptized are under the Popes Power.

To the Third he will not declare but to a Lawful Judge of Religion.

To the rest *ut supra*.

He could not be moved by Threats, but rather railed at the Oath of Allegiance, as damnable and treasonable against God; and so came to Trial of Life: but was told over-night, that he was not to be tried concerning his Profession, but for his former Answers to the Questions, which he may recall, and crave Mercy; but this he utterly refused.

And so was impanelled, grounded upon the Acts of Parliament, against such as declined the Kings Authority, or maintained other Jurisdiction, and upon his former Answers.

He protests not to acknowledge the Judges nor Judgment lawful; for if it be Treason here, it should be so in all other Kingdoms, which is not; your Acts of Parliament are made by partial men, and of Matter not subject to their Forum, for which I will not give a Fig. The King hath no Authority, but derivative from his Predecessors, who acknowledged the Popes Jurisdiction; if the King will be to me, as they were to mine, he shall be my King; if otherwise, I value him not; and for the Reverence I do to you bare-headed, it is *ad redemptionem vexationis*, not *ad agnitionem Judicii*.

That the Jury were either his Enemies; or his Friends; if Enemies, they could not sit upon his Trial; if Friends, they ought to assist him at the Bar; That what he suffered, was injurious, and not Justice; he had not offended, nor would crave Mercy. My Commission (said he) was by Command of my Superiors, and if I were abroad, I would return hither again, and repent only that I have not been so busy as I should, in that which you call perverting of Subjects, and I call saving of Souls; I do decline the Kings Authority, and will do it still in matter of Religion: the most of your Ministers maintain it, and if they be wise, will continue in that mind.

As for that Question, Whether the King being Deposed by the Pope, may be lawfully killed? Doctors of the Church hold the Affirmative, not improbably; and as it is not yet determined, so if it should be concluded, I will die in the Defence; and (now) to say it were unlawful, I will not to save my Life.

His insolent Speech was shortned by the Juries quick Return, who found him Guilty, and he had Sentence of Treason; and to stop his Railings, he was after Noon the same day Hanged at Glasgow.

He was a desperate second Ravilliack, and ready in that Devilish Doctrine of Deposing and Dethroning Kings; which he urged the more (he said) as consonant to the Kirk-Ministers Tenents, and that nothing troubled him, but to be taken away ere he had done that which all Scotland and England should not have prevented; and had it been performed, no Torments would have been by him refused.

So then we see the Cause of his Execution; for the King professed never to hang a Priest for his Religion.

The opening of the Spring gave opportunity to sundry Families of England to prepare themselves for Planting in America, upon no great

encouragement of Profit or Pleasure, by any former Voyages of the English into those parts; but People and Trade increasing there, they would unburden this State with Foreign Adventures. The Design was for New England, a part of America, in the Ocean Sea; opposite to that part of America in the South-Sea, which Sir Francis Drake discovered in his Voyage about the World, and named it *Nova Albion*: But he was never employed thither as a Discoverer or Planter upon this part of America. Taking the Coast from Cape Florida, in Twenty Degrees (North-Latitude) North-Eastward to Cape Britain, between the Degrees of Latitude, from 20, to 45, King James granted Letters Patents, being about fifteen hundred Miles; but to follow it abroad, near two thousand Miles.

And all this Coast, from Cape Florida, of 20 Degrees, to 45, was first Discovered by John Cabot, with six Sail of Ships, who had his patent from Henry 7. Anno 1442, about the time that Columbus discovered the middle part of America for Ferdinand and Isabel of Spain, and is called the West-Indies.

The first Colony from England, was with Sir Walter Rawleigh, assisted in Company of Sir Ralph Lane, and Thomas Heriot, that Learned Mathematician, Anno 1584. who, in Honour of Queen Elizabeth, named it *Virginia*; leaving there sixteen Men, which were brought home by Sir Francis Drake, in his Return from his West-India Voyage a year after; and this part is contained from Florida, to the Chesapeake Bay.

The next Northward, is a part of Land, to which Sir John Popham Lord Chief Justice was sent, for Discovery and Trade, Anno 1606. but having no Success returned; and since it is called *New-England*.

Then the Land adjoining Northward, was discovered by Captain Gosnold, all that Coast being studded with broken Lands, and called by him *Elizabeth's Isles*.

Then you come to Cape Cod, and to the Discovery of Captain Weymouth's Land and Large River, and so forward, to other Plantations liethence of the English, so far as Cape Britain.

Then to *Nova Francia*, the Colonies of the French; which Land, in truth, they have engrossed, as being Elbow-room for all; and which ends at Cape Race, the Lands spreading from thence directly Northwards, and named *New-found-England*, until you sail into the Frozen Sea; where Davis, Bafin, and Hudson made large Discoveries many thousand Miles.

But to our Business: This Year, 1614. Capt. Smith intended for *New-England*, with two Ships; not to Plant, but to take Whales, and other Fish, and to Trade for Furs, and so returned.

And presently from Plymouth, he went out again with one Ship; and Michael Cooper with five from London, accompanied with four more from Plymouth, partly to Trade and Plant.

And indeed these People, for Planters, were suspected Notorious Schismatics, Brownists, Anabaptists, Families of Love, and the like, under such Notions, so together, and here and there strewed over with a Spice of Protestantism, but by the general Name of Puritans, which term included good and bad in their distinct Kinds, truly and ingeniously distinguished into the *Puritan Knaave*, and the *Knaaves Puritan*; but in truth, all of them (of the first Rank especially) Enemies to the Hierarchy of our Protestant Profession in the Church of England.

And

Anno 1614. And away they would go, for Elbowroom, to model a new Church Government, such as hereafter should happen, for (God knows) they were so diversly affected, that as yet they could conclude of none, nor ever would agree to any.

It was not impossible also, but those factions there might breed into extremes, and become hereafter Nurseries for all Nonconformants of Church or State, with some prejudice to this Government at home.

And therefore then there was a restraint for the present only, until by examination of some of their Principals remaining behind, a better account might be assured, concerning those that are sent before, for whose good behaviour there these were responsible here, and so they had leave to go.

And in a word at that time, and until these later days, most of the violent pretenders for Plantations either Governors or Assistants, here in their several Courts were a company of cunning contrivers, who abused the honest Adventurers, and of long time came loss to them in all their returns.

The King in debt consults for raising of monies by new Honours. Knight Baronets. † Salith a good Author.

The Kings bounty had stretched beyond the liberty of his Treasure, which he timely took up, and was free in rewarding merit by Honour of Knighthood, upon such whose estates were not answerable in value to other Gentry, before whom they were to take place of precedency, and therefore it was designed (twelve months since) by the late Treasurer Salisbury, to create a degree of Knight Baronets to precede all Knight Bachelors, being the earnest suit of themselves, ninety persons in all of good Birth and Estates, and each of them (except two and twenty) were then Knight Bachelors, and was done † to my knowledge, for I copied the list of them before it was presented to Salisbury; and as true, that his exception thereto was, that it would discontent the Gentry; to which themselves replied, that it would rather satisfy them in advance of Dignity before others, who now came behind those meaner men, who indeed the King was forced to Dub, for his honour and some merits of theirs; having no other reward or money to spare, and therein not much to blame, to oblige them that way; and Salisbury dying, it was now established: the design having Martial reference to Honour and Arms, the Prerogative of every Sovereign; as in former presidents of all Christian Princes, and States Monarchical and Republicks; especially upon distress of any Province or Place, for support or defence thereof.

Their precedency, &c.

And herein other Princes exceed in Example, and were never quarrelled at by any, as in Germany, Spain, France, Italy, Venice; and must it now be a crime in this King, in the settlement of his Inheritance here, to take leave to advance the Creation of one single Order? A new erect distinct Title, with those privileges to them and their heirs for ever; place before all Knights Bachelours and of the Bath, and all Bannerets (but they are not in being), to be impleaded by addition Baronet, and the Title Sir, and their Wives Lady; the King shall not Create any Degree under the Dignity of a Baron, that shall be Superior or Equal to them; no more to be made, but the full number of Two hundred, until some of these dye; but the younger Sons of Viscounts and Barons, (by Decree of the King and Council upon controversy) were adjudged to take place before them, and that their heirs males at One and twenty shall be Knighted, and shall have either

in a Canton in their Coat of Arms, or in a Scutcheon, at their Election, the Arms of Ulster, Argent, a Hand Gules; their place in the Kings Armies to be in the gross, near the Kings Standard, for Arms. Defence thereof.

Nor was this done, but in the like Example or Noble way, for each Baronet to maintain thirty Foot-men for three Years at eight pence per diem, each Souldier in Service of the Kings Forces, for the establishment of the Province of Ulster in Ireland, not as yet emptied of Rebels, which came unto One thousand nine hundred and five pounds a piece; and it was their own humble suit afterwards to compound the expence at a certain value, and to put the charge in general upon the King; and he lost by the Bargain; the Composition came but to Ninety eight thousand five hundred and fifty pounds, and cost the King much more.

And for the Honour of their Degree and Memory, it may not be amiss to insert them in order of precedency in their Roll, Threescore and eight of them being Knights already, and Two and twenty Esquires.

Suff. Nicholas Bacon.
Lanc. Richard Mullineux.
Glam. Thomas Mansell.
Leic. George Sherley.
Glam. John Stradling.
Derb. Francis Leak.
Suff. Thomas Pelham.
Lanc. Richard Houghton.
Wilt. Jo. St. John.
Linc. Nicholas Sanderson.
Suff. Jo. Shelley.
Cestr. Jo. Savage.
Essex. Fr. Barington.
Leic. Henry Barks Esq;
Ebor. Will. Wentworth Esq;
Westm. Richard Musgrave.
Norf. Henry Hobard.
Cestr. George Booth.
Camb. Jo. Peyton.
Suff. Lion Talmage Esq;
Nott. James Clifton.
Linc. George St. Paul.
Linc. Philip Terwit.
Linc. Roger Tallison.
Linc. Edward Carr.
Norf. L'estrangle Mordant Esq;
Essex. Thomas Bendish Esq;
Carn. Jo. Wynn.
Gloc. William Throgmorton.
South. Richard Worley.
Bedf. William Gostwick Esq;
War. Thomas Puckering Esq;
Camb. Nicholas Sands.
Ebor. Fr. Worley.
Ebor. George Savile.
Derb. William Kneveton Esq;
Norf. Philip Woodhouse.
Oxon. William Pope.
Rutl. James Harington.
Staff. Richard Fleetwood Esq;
Oxon. Thomas Spencer Esq;
Lanc. Jo. Tufton.
Camb. Samuel Peyton.
Norf. Ch. Morrifon.
Lanc. Henry Baker.
Essex. Roger Apleton Esq;
Lanc. William Sedley.
Lanc. Thomas Gerard.
Staff. Walter Aston.

Names of the first created Baronets.

Anno 1614.	Norw.	Ph. Knevet.
	Essex.	Jo. Wentworth.
	Ebor.	Henry Bellasis.
	Ebor.	William Constable Esq;
	War.	Thomas Lee.
	Rutl.	Edward Nowell.
	Hunt.	Robert Cotton.
	Cestr.	Robert Cholmondley Esq;
	Devon.	Edward Seymer Esq;
	Lanc.	Moyell Finch.
	Oxon.	Anthony Cope.
	Linc.	Thomas Mounson.
	Linc.	Thomas Vavisor.
	Derb.	Thomas Gresly Esq;
	Gloc.	Paul Tracy Esq;
	Ebor.	Henry Savile.
	Derb.	Henry Willoughby Esq;
	North.	Lewis Tresham Esq;
	North.	Thomas Brudenel Esq;
	Kant.	William Twisden Esq;
	Kant.	Edward Hales Esq;
	Kant.	William Moynes Esq;
	Essex.	Thomas Mildmay Esq;
	Essex.	William Maynard Esq;
	Buck.	Henry Lee Esq;
	Wilt.	Edward Gorges Esq;
	Essex.	Harbottle Grimston Esq;
	War.	Thomas Holt Esq;
	Sam.	Jo. Portman Esq;
	Linc.	John Wray Esq;
	Berk.	William Essex Esq;
	Ebor.	Marmaduke Wivell Esq;
	Wilt.	Fr. Englefield Esq;
	Staff.	Jo. Pessell Esq;
	Essex.	William Aloff Esq;
	Nor.	Edward Devereux Esq;
	Dev.	Thomas Ridgeway Esq;
	Corn.	Renal Mohane Esq;
	Essex.	Paul Banning Esq;

68 Knights }
22 Esquires } 90.

These afterwards.

Diab. Thomas Blaxton Esq;
Chester. Rowland Egerton Esq;
Norff. Roger Townsend Esq;

The King considers how to get out of Debt, &c. It is well known that Queen Elizabeth left her Coffers empty, and her Revenue not ample, for in Treasurer Burghleys time, the profit of the Kingdom (besides Wards and Duchy of Lancaster) was One hundred eighty eight thousand one hundred ninety and seven pounds per annum; and the Payments were One hundred and ten thousand six hundred and twelve pounds per annum, in which these were constant per annum.

The Household Forty thousand pounds ordinary, and now increased necessarily almost treble.

The Privy Purse Two thousand pounds.

The Admiralty Thirty thousand pounds.

1. For support, this King was to proportion his Issues with his Revenues, both certain and casual.

2. By abating or reforming the excess of his Household.

3. By raising moneys, and improving the Crown Revenues.

For the first, He could not well tell how to begin that Lesson, for coming in hither with an increment of expence, Himself, Wife, and Children, and a large Train of old Servants to be new rewarded, the Marriage of his Daughter very lately; which expence in that amounted un-

to near One hundred thousand pounds, and her Aid-mony came but to Twenty thousand and five hundred pounds; and that we may see the charge and expence of this Mariage in particular, I shall set it down.

For the *Palsgraves* Diet at his standing-House, Six thousand pounds. Charge of the *Palsgraves* Marriage.

For his Diet at his Instalment of the *Garter*, Four thousand pounds.

For Diet at his Marriage, Two thousand pounds.

For Lodging for his Servants, Eight hundred and thirty pounds.

To the Wardrobe for Apparel for the Princess Elizabeth, Six thousand two hundred fifty two pounds.

For furnishing her Chamber, Three thousand twenty three pounds.

Apparel and necessaries for her to my L. Harringtons, One thousand eight hundred twenty nine pounds.

Jewels and Apparels for her Servants, Three thousand nine hundred and fourteen pounds.

To divers Merchants for Silks, &c. Nine hundred ninety five pounds.

The Lords Mask at her Marriage, Four hundred pounds.

For the Naval fight of Fire Works on the Thames at her Marriage, Four thousand eight hundred pounds.

More Fire Works on the Thames at her Marriage, Two thousand eight hundred and eighty pounds.

To Sir Edward Cecil as Treasurer for her Journey from hence to Heidlebergh, and for her Purse, Two thousand pounds.

For settling her Jointure, and charges to some of the Gentry to go thither and to take the Assurance, Eight hundred pounds.

For her Transport to Flushing, Five thousand five hundred fifty five pounds.

Total 53294 l.

Paid over to the *Palsgraves* Agent for her Portion, Forty thousand pounds.

The Total is, Ninety three thousand two hundred ninety and four pounds.

These expences put the King to consider of the best means of Recovery, so that several ways were proposed to make up his Disbursements answerable to his incomes; and the way was, the first work of ordinary good Husbandry, and might well be expected from a *Paterfamilias*, yet it would not for the present, *Rebus sic stantibus*, become this King, whose Fame and Honour (as all other Sovereignities, so his in particular) stood more upon reputation than profit; and therefore he (according to the magnificence of Royalty) left that consideration; and he had done reasonable well, if not too much, for satisfying his Train.

His second way was, To consider of his great expence of Household, now enlarged into several Courts, King, Queen, Prince, and Nursery; and these being look'd into, he was forc'd (contrary to the Royal and largest Heart of any of his Progenitors) to come to Retrenchments, and truly in this, he was advised to use the means of mean people, and others subordinate; Ingram and others.

And first, He removed by Proclamation a number of useless persons of his own Nation, that

unnecessarily depended upon the bounty of his Court, and returned them home again.

Anno 1614. Then he proportioned to each Court their expence, particularly rated for personal Diet and dependance, Livery and Wages, Charge and Salary.

And this was done without publick complaint of any pressure upon the people (as hath been usual heretofore to Parliaments, and by them redressed) but prudently considered, and so referred to the Council Table.

The anti-
ent way
of the
Household.

In ancient time the Household was regulated by Book order, and continued so to Henry 8. when Cardinal Wolsey (for more Honour to that Christmas King of immoderate expence) settled it, and so remained a ground work to this present time, being now so corrupt as that new ways were proposed, in effect to put down Tables, and to allow Attendance money, as France does; or else by setting up Hall again, to the best, first, and most magnificent order; that so being spent in publick to the Kings honour, the secret waste of Chamber Diet, and purloining out of the Court by back Doors prevented, most of the meaner Houses at Westminster, were maintained with Food and Firing, the stealth of under Chamberers.

We all know what excess was usual in our ancient Retinue and Servants, with blew Coats and Badges, especially respecting the Garter of St. George, who were now ordered to lessen their number, and afterwards to fifty Gentlemen, and no more, to each Knight of that Order, heretofore an excessive number, to vie it out who should bring most.

And to reform himself from the excess of his Royal Heart in gifts and rewards, he published Orders and Articles in print, in what manner his pleasure restrained his bounty, and in what natures he was willing to grant. Having been liberal to the Scots, whom he brought with him, Men of the greatest eminency at home, thereby to bind them here with Freehold Lands, as also with English Titles. For what held the great Gascoign Jean de Foix, firm to the Crown of England, but his Earldom of Kendall here? A neglect in Queen Elizabeth, to draw the chief Nobles in Ireland into England. By exchange or gift of Lands to have made them Freeholders here, she might then have spared Two millions in her Wars.

Scots sell
the Lands
the King
gave them

But indeed the Kings gifts in Land to the Scots, unthankfully and unfittingly they sold, conveying that Treasure into Scotland, and so his great design of uniting them here became frustrate; and we find how many of them so engaged, have turned Adversaries to his Posterity.

The Eng-
lish repine
at the
Kings gra-
tifying the
Scots.

And it may be remembered well, that not a penny was given then freely to the Scots, but gave alarm to every part of England, Discourse, Notes, Copies of all Privy Seals for money given, and so shewed them in Parliaments; yet no noise of what the English had, though ten times more.

Benevo-
lence.

But his free Hand having stretch'd his Purse-strings, then was a free Benevolence considered of, from such good Subjects, as in hearty affection to their Sovereign, were willing to contribute; as did the Lords and others: by which he might have experience how they would serve him, that served themselves so well. The building up of their own Fortunes and Factions, had been their diligent Studies, and his Service but the exercise of their pleasures; and his

benevolence came but to Fifty two thousand nine hundred and nine pounds out of their purses, which yet madded the ill-minded men (Pillars (so some men called them) to the Kingdoms Liberties) always plotters to the Kingdoms miseries, who being ashamed to be out done in honesty and honour, they justly drew upon themselves a Mark of Malignancy, and so needed not otherwise to be noted (by giving in their names) as is pretended; and yet they would be meddling, devising poor Arguments, to pretend it was against the Subjects Liberties, though accustomed evermore by examples of all former Sovereigns.

Fac. 12.

But to tell your Historian how ancient the Custom of Benevolence hath been, ever since the Statute of 20 Hen. 8. that united Wales and England together, and to send their Members to Sit in our Parliament; where a Motion being made in the House of Commons for a Benevolence to be freely given to that King, an honest Knight (for a Welch County) made Answer, Mr. Speaker, *This Word Benevolence, is a pretty Word, but I understand it not: yet sure it is something his Highness should have; if it be so, in Gods Name let him have it; the sooner the better, and so it may deserve Thanks, else it will not.*

Hist. Great
Britt. p. 78
Benevo-
lence its
Antiquity

Thus it was then; but now it is held to be against Law, Reason and Religion; and Injustice and Impiety to be accepted.

And because his whole Reign was necessitous, and the want of Money for him to be liberal, was his Disease; I think fit to say somewhat here in excuse to all the future aims and ends which he took to get Money, which answers the third way of Improvement.

There was much ado in Council to advance the Crown by several wayes of improvement, by Grants in Parliament, wherein the King made some Trial: so be it examined from former examples, whether or no their Bounties exceeded his Merits. Some advised him to fall upon Acts of Resumption of Lands, Offices and Annuities, unadvisedly or profusely bestowed by his Predecessors, or himself, upon undeserving persons, which have been usually done by former Precedents of Princes, *ubi necessitas Regis cogit*; but this his Noble Heart disdained. Indeed it was called by some wicked counsel to work upon his Necessity, thereby to make him odious to his meritorious Servants, and good Friends.

Endea-
vours to
advance
the Kings
revenue.

Did he ever do as others, Hen. 3. to his Subjects? of whom one sayes, *Quicquid habuerunt in esculentis & poculentis; rusticorum enim equos, bigas, vina, victualia ad libitum cepit.*

He made trial of voluntary Lones, or Benevolence by Privy Seal, which was neither burdensome, nor dishonourable; being so petit in the Purses of the ablest Subjects.

But Compulsion I know of none, unless you call in the Star-Chamber to the Accompt, the Muilt and Fines of great offenders, and perhaps adjudged by that Court to some value as the Crime deserved, which might be suspected in favour or support of the Kings Occasions; yet you will find, when such happened, it was in the excess of unparalleld Crimes, not in other Courts of Justice liable to Examination or Punishment, which as it was in *Terrorem populi*, so now in these our latter dayes being suppressed, in favour and liberty of the Nation, the wickedness of sinful man takes freedom to offend in such horrid wayes, that nought but some such extraordinary course of Justice can possibly reform.

Pawn-

Anno 1614. Pawning of Jewels and Plate had been frequent by all former Princes, and that not in ordinary wayes; *Aurum & Focalia Fœnetri Sancti Edwardi Confessoris vasa aurea, & diversa Focalia.*

The manner of raising Money formerly.

Nay, *Magnam Coronam Anglia.* Yes, and Queen Elizabeth did it, and had no more need than he; but he did not.

To assign Customes, and pawn the next Subsidies to be granted, hath been a Device to draw on Supplies the sooner; which he refused.

The Privy Seal indeed he made use of, but very moderately in comparison of former Presidents, if you examine the Records and Rolls of willing Subjects bountiful Assistance.

Compulsory wayes have been Presidents to Necessitated Princes, exacted from Merchants, Strangers, or be committed to Prison, and the English Subject little better favoured.

What will you say of *Hen. 8?* Ten per Cent. of all Goods, Jewels, Utensils, and land extremely rated *per Sacramentum suorum.* In that Rank may be remembered a Custom called *Liberalitas Populi, &c.* but in the gathering by Commissioners, such Threats were used, as was little better than violence, and was customarily reduced down to Queen Mary. Indeed Queen Elizabeth had a little better way; She returning their Bounty back again sometimes, whereupon they doubled the Sum to her Majesty.

There is a Statute to compel Subjects to attend the Kings Service; which was repealed by Queen Mary, and that again repealed by Parliament of this King; of which truly he made no other advantage, than to send half a dozen refractory Puritans, that troubled the State, on his Errand into Ireland, and yet paid them good Salary for their pains, which had been usual heretofore in the like case, at their own cost.

Trading themselves, I could shew Presidents for this also, of other Princes engrossing Trade of Commodities; as one did with all the Wools, at a long day, and a narrow price, and sold them over Seas with great gain: the like of Tin, Corn; nay, bind all men to Trade their Staple to one certain place, and yet themselves Trade to places of more advantage, and this was the Glory that Queen Elizabeth stoop'd unto, and took occasion to Trade in, when the Gain was advantage, though but in Strong Beer.

Licensing others also. It was so ordinary heretofore to raise Monies by Licensing Trade, non obstante Statutes and Customs, as that those grew to high complaints; yet necessitated Kings continued these non obstantes, non obstante, and this King found them in Grants, for certain years in being, and made no further example of them, unless Transporting of a quantity of undrest White Cloaths to the Earl of Cumberland, and some others, and that upon good reason of State too.

Raising Rates of Merchandise. There will never want Will in the Merchant to abuse each other, and gain to themselves; and therefore as all Princes have occasion, and the increase of Commodities requiring, do raise the Rates; and this was done *cum consensu Mercatorum*: but of late the just Prerogative imposed it, where the Merchants gain might give way, if you could conceive it convenient to their Conscience, ever to acknowledge any gain sufficient.

Letting Customs to Farm. He did so: Some murmured, it grieving the Subject to pay Cu-

stom to the Subject; but do they serve the King for nought? Infinite Gain! It was then wished that they should declare their Benefit, and afterwards become Collectors for the King. *Fac. 12.*

Queen Elizabeth, after she had raised Custom-er Smith from 14000 l. per annum, to 42000 l. made him discount what he had got. This King did not so; yet he did better: borrowed Money, and never paid it them: Besides, they were alwayes at hand to be squeezed; and what his Successor failed in that way (being perhaps surprized by Death) the next long Parliament did to purpose, ruined them all upon old Scores.

And was it not time for King James to do so? We all know by the succeed, such Contractors lost not by their Farm: by which we may be assured how mightily Trade increased by the wise Government of this King; and no Text more certain to prove it, than the Inter and Overloping of Merchants to get in to be Farmers; so mighty was their gain, and so secret this their Trade, as (but by their pride, profuse and stately comportment since) could never otherwise have been imagined.

Liberties and Penalties. There have been Kings that have Proclaimed, *Quod omnes Chartæ irritæ forent, nisi posteriori Sigillo roborentur.* Nay, *Qui suis volebant gaudere, innovarent Chartas suas de novo;* and this was done by Commissioners, or by Quo Warranto against all.

And for Penal Laws, though I know, that many Projectors advised, yet former Examples of this kind have evermore been fatal to those of the Quorum; but this King declined it all.

Selling Offices had been done formerly; not a King scaped it to sell great Offices of the Crown and State, for Years, for Life, under the Kings Hand and Seal: they may be seen in the Records, thus, Chancellor, Chief Justice, all Keepers of Records, Clerks of Assize, Masters of Game and Parks, and what else of Profit and Repute.

In France it is common, not one escapes; and in Spain as usual, and defended as lawful; and there are some that have prescribed them amongst the best Rules of Reigning Sovereignty, both Ecclesiastical and Temporal. It may be, that Favourites and Courtiers made bold with their Interests in their Master to receive their Rewards; but his own hands were ever closed from such corruption.

Sale of Honours. It was the ancient Power, and that Legal, to call Landed men to Knight-hood or Fine; which he did by Favour and Grace which he gave: Truly I believe he was no Niggard in them too. But indeed, there being no Chivalry, or Deeds of Arms in this Time of Peace, to make men merit Honours; those that had it (Favourites excepted) I rank in Desert, and so of due reward. To others I confess, they paid for it, and they were those off-hand Lords as were made Earls together, that paid eight thousand pounds apiece, and the pride of their hearts never bogled at the purity of the Project, but swallowed down the Corruption, without check of Conscience; and yet (as some say) some of them set their Sons to beg again part of it for their private Expence.

The Baronets were Created upon a better Score, and both these without any Plot of State, as was feigned: and the Designs upon the Earl of Salisbury for the former, and upon

Buckingham for the latter, when in truth, Pride and Ambition made the Project their own; and in Gods Name let such pay the price thereof; and I know as honest and discreet as our latter times can boast of, moulded other such Designs for degrees of Honour, to be hereditary in Tail, as under-Degrees to those already in use, which yet the King, for that present, declined.

Coin and Bullion. All men know that Coin and Bullion in any State, admit great wisdom in the management; and as many overtures were now offered, as could stand with Justice or customary Presidents. It was much urged to abate Money, which was never used by any but as a last shift, full of dishonour, as in Bankrupts, and a certain inconvenience to all Revenues of Rents, and so to the King in that particular, as the greatest Landlord, and so his disadvantage, which he declined; Monies being esteemed, *quantum in massa*, not altogether *per sculptum*, and so hold esteem by their true value; Queen Elizabeth held it up from abasement, which her great potent Enemy Spain would not do.

Then was advised *Cambium Regis*, an Office ancient, until of late the Goldsmiths have engrossed it; some thoughts there were to make the *Exitus* exceed the *Introitus* in Traffick, that the unnecessary, nay useless Commodities brought in, (in old time accompted, *Wines, Spices, Silks* and *Fine Linnen*) the Manufactures of Out-Lands, and sold to us to a great value, even in Babies and Rattles, being the said occasion then, the great want of Bullion, not sufficient *in specie* to pay the Lender in principal. At last it was concluded to get advantage in the Coinage, either *Simple Metal*, or *Mixt*; by which we see, that all Monarchs have *Aere, Argentum & Auro*, and so was Coined only Farthings, lest other Stamps of more Value should clog the Kingdom; and a proportion was (together) Coined, and do what his State could, was in few years counterfeited by our Neighbour *Hollanders*, and as many Firkins filled by them, that the Farthing-Office was not able to rechange upon the Rebate for Silver, which yet the King continued, till these late Times called in, examined the Inconvenience of Leaden and Copper Tokens, as great a Benefit now to Retailers, as formerly to the State, but with much more inconvenience to the Nation, being only utterable and current to each Retailer of his own Mint and Mart.

He was forced to adventure upon the use of *Parliaments*, and to begin with Money, but not to build long upon their Discusses, whereby came that Saying in common, as of no other Design, *Subsidies granted, Parliament ended*; and therein the disadvantages he found, might well distinguish him, and their less frequent Calling from his Predecessor, and her often Invitation, and indeed discourage any Prince that should next succeed her.

The Disposition and Spirit of the Times, considered, were not alike with him; her People ingenuous and un-inquisitive, wrapped in Innocency and humble obediee; but in his time, their Passions and Disaffections had got loose Reins, the Snaffle in their Teeth, contesting and capitulating.

The Reasons of her Actings were her own Will; for then she having just cause to complain of Oppressions (as they did) they only conveyed

them to her notice, and left the Time and Order of Redress to her Princely Discretion; and yet when it was not altogether concerning them, she would bid them meddle to amend their own Manners; nor were her Messengers choaked by any Reproach, that came of such Errands. In his time, so much degenerate from the purity of the former, under pretence of Reforming and Freedom, that their very Enquiry extended to the Privacy of the King himself.

Nusquam Libertas gratior extat, Quam sub Rege pio.

Afflicting themselves to search for Mischiefs, and being found, to scandalize the State with them.

How these were nourished and afterwards formed, the Revolution of time hath made obvious to all men, and saves me the Labour to set down the Particulars.

It was no Novelty then to applaud the former times, and to vilifie the present; for indeed her Fame carried it current in a long continuance, to have lived and died Royally and Victoriously, without the disquiet of the Peoples affections, and being but a Sojourner in the World, in respect of her Maiden-hood, might be, and was a Blessing to her own times; the impression of her good Government, besides her happy Memory, is not without some effect, which doth survive her; but this King blessed already with Royal Issue, and whose fruitful Bed promised Increase, it was more proper & agreeable with him to be studious not only in the Transitory part of good Government, but in those Acts which are in their nature permanent and perpetual to his Posterity, rather to increase, than diminish the Advantages of Sovereignty, which he aimed at, and for his part and time did perform; but it is a tender Subject to discuss; I have done.

Yet I may add a Truth; That all the force and power of his Progenitors, and all their Merits and Policies to boot (for more than an Age before hers) could never borrow so much Credit upon their *Privy Seals*, as she did during her Time; and left them all for this King to discharge, great and vast Sums; which shews, that Necessity put her upon that piece of State, when neither her Exchequer could afford Relief, nor the urgency of her Affairs endure the delays of Parliaments assistance; for in truth, she had strained likewise from the People in that way of *Subsidies*, more than ever any Prince (I will not say many) that were before her.

She had the way to do it, by complaisance of a Princefs; and he a King, not affecting that course, fail'd of such effects.

The Qu. methods to get Money.

For he was by nature more reserved than popular, and had his Virtues fitter for estimation, than love, and did like a King; his Soul being planted higher, overhot such Matters as lay level to anothers eye.

And so (as I have said) some of these ways to get Money, were set afoot this year 1614. and upon several occasions in his Reign after proposed, but not effected.

In those times of Trade, the Merchant-Adventurer usually transported our *English Cloaths*, white, undress'd, and un-Died, and the *Dutch* had got the Art by the end, fitted and stretch'd them by their Knavery, and so return'd them to us at high Rates; of this the Cloth-workers of London complain; which was soon remedied by

Pro-

Anno 1614. Proclamation, forbidding the Transport; and to countenance that Corporation, the King was Feasted in their Hall, and made Free of their Company, the rather, because their Coat of Arms, The Thistle, is the Scots Embleme; and over went our Cloaths accordingly, Died and Dress'd; which the *Hollanders* forbid to be brought by them; and therefore dealt with our *Fell-mongers*, and got over our Wools, and the Mystery of making Cloth.

Whereupon, we Proclaim and forbid the Transport of our Wools: the Quarrel between those two Corporations, and their respective Gains is by the Merchant-Adventurers complain- ed of, and for mitigation of their mischief, several Warrants for some thousands of Cloaths were sparingly Licensed by wisdom of State, to be sent over; and so evenly moderating the Mystery of Merchants that cozen each other; and at their great Feast likewise the Prince was made Free.

K. of Den- mark in England. His Enter- tainment. The King of Denmark makes a Second Visit to see his Sister the Queen, for fourteen dayes, upon no Business of State, only his Affections to her, and Jollity to himself, with a Train of no more than half a hundred persons of Honour and Nobles, of his own breeding to the Dutch Diet and Drink, to which he was too much inclined, and oft-times had his Load; for we were not wanting of our Boon Companions that waited on him for that purpose.

E. of Suff. succeeds Salisbury in the Treasurer- ship. The Earl of Suffolk succeeding Salisbury in the Treasurership, yielded his Office of Lord Chamberlain of the Kings Household to his Son-in-Law Somerset, as aforesaid; and he the Place of Secretary unto Sir Ralph Winwood, lately returned from the Netherlands, where he had been Ambassador Lieger of a long time.

News of Overburys Death. The Summers Progress returns the King to London, where had been some muttering of Overburys Death in the Tower, Discovered beyond the Seas by the Apothecaries Boy that empoysoned the Clyster, and having his Reward, was sent out of the way to Flushing; where he told the Tale to Trimball, the Kings Agent there; by whom it came to Winwood's knowledge, and so to the King, and by degrees to particular Examinations, Confessions and Executions of all these; Weston an Apothecary, Mrs. Turner, a Doctor of Physick's Widow, Sir Jervis Yelvis, Lieutenant of the Tower, and Franklin, all Accessaries.

Accompli- ces. Trial of Weston. But Weston being the principal Actor, it was therefore his Turn first to come to the Bar, at the Hustings Court in Guild-Hall; where, beyond Judge Cooke's expectation, the man stood mute, notwithstanding all Allurements and Threats that could be used; and so was returned to Prison: Cooke informs the King, That unless the principal be Convict, the Accessaries could not be tried: But by continual Cunning, and some fair promises of Pardon, Weston put himself upon his Countrey, and was Cast, Condemned, and Hanged. Cooke not content with that, gets knowledge under-hand that Serjeant Yelverton, an Obliged Servant to the House of the Howards, had advised this Counsel for Weston, not to betray any parties; and this Tale was told by Sir Robert Cooke, from his Fathers Confession.

After all, comes Somerset and his Countess, and are both Condemned. Some that were then at their Trial, and not partial, conceived in Conscience, he might have been spared that Sen-

tence, and as himself sayes to the King, That he fell rather for want of well defending, than by force of Proofs; for I so far (saies he) forsook my self and my Cause, as that I might be more Condemned for that, than for the Matter.

And because it was a Story of evil Fame, near and far off, I shall put it to the Test, in a brief Narratory, being pleaded before the Lord Elmore, Chancellor and High Steward for the Day, and most of the Peers at Westminster-Hall, May 1616. in this manner;

A Peer of the Land hath this Priviledge upon Treason or Felony Indicted, to be Tried by his Peers; the King by Letters Patents assigns some Sage Lord of the Parliament to be High Steward of England, for that day of his Arraignment; who, before that time, makes Precept to his Serjeant at Arms, to warn to appear before him a certain number of Lords of the Parliament, twelve at least, upon that day at Westminster; at which time the High Steward shall sit under the Cloth of State, and cause his Commission to be read; the same Searjeant returns his Precept, and calls the Lords; who appearing by Name, and Set, the Lieutenant of the Tower is called, and brings his Prisoner into the Court to the Bar. The High Steward then declares to the People the cause why the King hath Assembled those Lords and the Prisoner, and perswades him to Answer without fear freely, and commands the Clerk of the Crown to read the Indictment unto him, and to ask him if he be Guilty or not? To which he usually answers, Not Guilty, and to be Tried by God and his Peers; then the Kings Attorney and Serjeants at Law give Evidence against him; whereto, when he hath given Answer, the Lieutenant of the Tower is commanded to return with the Prisoner from the Bar, whilst the Lords do secretly confer in the Court together; and then the Lords rise up out of their Places, and consult among themselves; and what they affirm, shall be done upon their Honour without Oath.

And being so agreed (or the greatest number) they return and take their places again in Court, and the High Steward demands of the youngest Lord first, if he that is Arraigned be Guilty or not? and so the next in order, and the rest, each one answering Yea or No: Then the Prisoner is sent for to the Bar, to whom the High Steward recites the Verdict of the Peers, and doth give Judgment accordingly. Stanford Pleas del Corone, Lib. 3. Placit. 188.

The Antiquity of this kind of Trial, by Antiquity their Opinion is grounded upon Magna Charta, but others take it to be more ancient, though there inserted by Henry 3. but was brought in by the Conquerour, being answerable to the Norman and French Laws, and agreeable with the Customs Feudal; where almost all Controversies arising between the Sovereign and his Vassals are tried per Judicium Parium suorum.

And if a Peer upon his Arraignment of Treason, do stand Mute, Judgment shall be given upon his Indictment, and yet shall not be pressed to death, but saves the Forfeiture of his Lands. Stat. Westm. Edw. 4. Dier 205. but if upon Indictment of Felony, he may be mute.

The Reason of Magna Charta aforesaid, is there expressed, where he was Indicted at the Kings Suit of Treason or Felony; the words being (nec super eum ibimus, we will not pass or sit in Judgment upon him, but by his Peers) but if an Appeal of Murder or other Felony, be

The manner of this Trial.

be sued by any common person against a Peer, *Anno* he shall be tried by common persons, and not by *1615.* Peers. *Stan. Pleas Lib. 3. Brooke Trial, 142.* But yet this Priviledge hath some Restraint; for an Archbishop or Bishop, though Lords of Parliament, out of Parliament-time, in such cases shall be Tried by a Jury of Knights, and other substantial persons, upon their Oaths, because Ecclesiasticks cannot pass in like cases upon Trial of other Peers; for they are forbidden by the Canon and Ecclesiastick Laws to be Judges of Life and Death; though as Barons of the Land, they may have equal Right to Sit, as any other Lay-Peers, and may if they please, be present.

You see the great regard the Law hath to the Word of a Peer (heretofore) upon his Honour, and yet how many ordinarily break their Oaths in common?

And these premised, we come to the Case of Somerset and his Countess.

First, Therefore Sir *Tho. Overbury* for a time was known to have great interest and straight Friendship with the E. of Somerset, both in his meaner Fortunes, and after, inasmuch that he was a kind of Oracle of Direction unto him; and if you will believe his own Vaunt (being indeed of an insolent and Thraconical disposition) he took upon him, that the Fortunes, Reputation and Understanding of this Gentleman, who is well known to have had an abler Teacher, proceeded from his Company and Counsel; and this Friendship rested not only in Conversation, and Business at Court; but likewise in communication of State; for my Lord of Somerset exercising at that time, by his Majesties special Favour and Trust, the Office of Secretary, did not forbear to acquaint Overbury with the Packets and Dipatches from all Parts of France, Spain and the Low Countreys, and this not by Glimpses, or now and then rounding in the Ear for a Favour, but in a settled manner; Packets were sent, sometimes opened by my Lord, sometimes unbroken, unto Overbury, who perused them, Copied them, Registered them, made Table-Talk of them, as he thought good. So the time was, when Overbury knew more of the Secrets of State than the Council-Table did; nay, they were grown to such Inwardness, as they made a play of all the world besides themselves, so as they had Cyphers and Jargons for the King and Queen, and great Men of the Realm, things seldom used, but either by Princes, or their Confederates; or at the Court, or at the least by such as practise and work against, or (at least) upon Princes.

But as it is a Principle in Nature, that the best things are in their corruption the worst, and the sweetest Wine makes the fowrest Vinegar; so it fell out with them, that this excess, as I may say, of Friendship, ended in mortal Hatred on my Lord of Somerset's part.

It hath been said, that *Frost and Frowd ends Fowl*, and I may add a third, and that is, *Friendship of ill Men*, which is truly said to be *Conspiracy*, and not *Friendship*; for it happened, that the Earl of Somerset fell into an unlawful Love, towards that unfortunate Lady, the Countess of Essex, and to proceed to a Marriage with her; this Marriage and purpose did Overbury mainly impugn, under pretence to do the true part of a Friend, for that he accounted her an unworthy Woman; but the truth is, Overbury who (to speak plainly) had little that was solid for Religion or Moral v. but was wholly pos-

sest with Ambition and Vain glory, was loath to have any partners in the favor of my Lord of Somerset, and especially not any of the House of Howards, against whom he had professed hatred and opposition. *Fac. 13.*

And that this is no sinister construction, will appear, when you shall hear that Overbury made his brags, that he had won him the love of the Lady by his Letters and industry: so far was he from being tender of Conscience in this point.

And certainly howsoever the Tragical misery of that poor Gentleman Overbury might somewhat obliterate his faults; yet because we are not upon point of civility, but to discover the face of truth; for that it is material to the true understanding of the state of this cause, Overbury was in many things to be blamed, and in his commendations the Ballads may be mended for that point, which paint him out otherwise; and partiality must be blamed, which now a days favours him, in malice to the memory of the Ministers of these times. *Overbury in some things faulty.*

But to proceed, when Overbury saw that he was like to be dispossessed of my Lords Grace, which he had possessed so long, and by whose greatness he had promised himself to do Wonders, and being a man of an unbounded and bold Spirit, he began not only to diswade but to deter him from the love of that Lady; and finding him fixed, thought to find a strong remedy, and supposing that he had my Lords Head under his Girdle, in respect of communication of secrets of State (as he calls them himself) secrets of Nature, and therefore dealt violently with him to make him desist, with menaces of Discovery and the like. Hereupon issued two streams of hatred upon Overbury, the one from the Lady, in respect that he crossed her Love, and abused her Name, (which are Furies in Women); the other of a more deep nature, from my Lord of Somerset himself, who was afraid of Overburys nature, and if he did break from him and fly out, he would wind into him, and trouble his whole Fortunes; so certainly it was resolved that Overbury must die. To accomplish his death there occurred two ways; the one of Assault, the other of Poyson.

For that of Assault, after some proposition and attempt, they passed from it, as a thing too open and subject to more variety of shame: that of Poyson likewise as an hazardous thing, and Subject to many preventions and cautions, especially to such a working and jealous Brain as Overbury had, except he was first in their Hands: therefore the way was first to get him over Seas, or into a trap, and lay him up, and then they could not miss the mark; and therefore in the execution of this Plot, it was concluded that his pride should be designed to some Honourable employment in Foreign parts, and should underhand by himself, my Lord of Somerset, be encouraged to refuse it, and so upon contempt he should be laid Prisoner in the Tower, and then they thought he should be close, and Death should be his Bail. *The manner how they attempted his Life.*

Yet were they not at their end, for they considered, that there must be a fit Lieutenant of the Tower for that purpose, and likewise a fit under-keeper of Overbury. *They consulted about it.*

First, They should meet with many impediments in the giving and exhibiting of the Poyson.

Secondly, They should be exposed to note and

Their falling out, and the Consequence thereof.

and observation, that might discover them.

Anno 1616. And thirdly, *Overbury* in the mean time might write clamorous and furious letters to his friends, and so all might be disappointed.

They agree upon the method.

And therefore the next link of the Chain was, to displace the then Lieutenant *Wade*, and to place *Telvis*, a principal abetter in the impoysonment; to displace *Carew*, that was under-keeper in *Wades* time, and to place *Weston* that was the actor in the impoysonment.

And this was done in such a while, that it may appear to be done as it were in a breath.

Then when they had this poor Gentleman in the *Tower*, where he could not escape nor stir, where he could not feed but by their Hands, where he could not Speak or Write but through their Trunks, then was the time to act the last day of this Tragedy.

Then must *Franklin* the Purveyor of the Poyson, in May 1613. procure five, six, seven several Poysons, to be sure to hit his Complexion; then must *Mistress Turner*, Doctress of the Poysons, advise what Works at present, and what at distance; then must *Weston* be their Tormentor, and chace him with Poyson after Poyson, Poyson in salt meats, Poyson in sweet meats, Poyson in Medicines and Vomits, until at last his Body was almost come by use of Poysons, to the state of *Mithridates* his Body, by the use of Treacle and Preservatives, that the force of the Poysons was blunted upon him, *Weston* confessing, when he was chid for not dispatching, that he had given him enough to Poyson twenty Men.

Impoyson him from March to September.

And because all this asked time, (impoysoning from March 9. to September 14.) courses were taken by *Somerset* both to divert all the true means of *Overburys* delivery; and to entertain him with continual Letters, partly with hopes and protestations for his delivery, and partly with other Fables and Negotiations; somewhat like some kind of persons which keep in a Tale of Fortune-telling, when they have a felonious intent to pick their Pockets and Purfes, until at last they hastened his destruction by an impoysoned Glyster; and this is the narration of this act which I have summarily recited.

By a Glyster.

Manner of the Countess her behaviour at her Tryal.

Then comes his Countess to her Trial, guilty of too much contrivance and practise, though in Murder it be crime enough, yet she confessed that which could not be proved; and at her Trial, she seemed drowned in a deluge of grief, being therein beholden to nature, that she should vent her self in Tears; seeing that sorrow which cannot bleed in the eyes, often festers in the heart; and so it appeared in her excess. Women can hardly do any thing without over-doing; feminine passions must either not be full or overflow. And indeed she could not utter one word in her own Defence, which begat relenting even in the Council that pleaded against her, who otherwise take pride to force Arguments, making their Tongues their Ware, and Eloquence their Trade: but her sorrowful silence needed the less Rhetorick in them, to urge her guilt; or in her Judges to consult the weight of her crime.

Their Reprieve.

These considerations moved the Lord Steward and Peers jointly, to move his Majesty for mercy, and for the present procured their Reprieve back to the *Tower*; but indeed she was dead whilst living, being almost drowned in despair, to work out her repentance, for which cause principally her life and his were enlarged; as conceiving it the worst of Justice to kill both Body and Soul;

and after long imprisonment and true and hearty penance nine or ten Years together, and no doubt Repentance also; they had liberty out of the *Tower* in January 1621. and confined to the Country, and at last their pardons were procured, which in truth, notwithstanding her great Family and deserving Friends, faith *Sunder-son*, got but by inches, four months before the Kings death, which was Anno 1624.

At last pardoned.

But in the whole Execution, where so many suffered, let the Prefacer to the Pamphlet of Fables, *The Court and Character of King James*, pick out a greater Precedent in any History more remarkable for exquisite Justice, than this of the King; wherein, by the way, he may be allowed his own even Conscience, for Justice and Mercy both, which no doubt hath found acceptance at God's Tribunal in his behalf, and his posterity in due time by our Saviours merit shall be gathered together in the the mystery of mans Redemption.

And for the other Historian, let his memory be blamed for recounting so many untruths, and yet Hypocritically he closes with this Gloss, *Pardon* (says he) the sharpness of these expressions, for they are for the glory of God.

Hist. of Great Brit.

I could say more in this and other unfortunate Stories of backward times, but I delight not in ambitious pains in an useless description of miseries; I had rather shew you what *Somerset* could say for himself, concerning his Land, much more in doubt for his life; it being a piece of charity to the distressed, and to the memory of the deceased. I shall not therefore conceal it, and the length thereof.

May it please your Majesty,

BY this Gentleman your Majesties Lieutenant, I understand of some halt you made, and the cause of it, at such time as he offered to your Majesty my Letters; but soon after your Majesty could resolve your self, and behold me nothing so diffident of you; but in humble Language petitioning your favour; for I am in hope that my condition is not capable of so much more misery, as I need to make my passage to you by such way of intercession.

Somerset Letter to the King.

This which follows after, I offer your Majesty, though not as to your self, for upon less motive you can find favour for me.

Now I need only move, not plead before your Majesty, as my case doth stand; for what I seek to have done, follows upon what you have already done, as a consequence and succeeding growth of your own act.

But to the effect, that your Majesty may see, that there is enough to answer those (if any such there be) as do go about to pervert the exercise of your Power, and to turn it from its own clear excellency, for to minister unto their passions; I have presumed to this end to awake your Majesties own conceit upon this subject, which can gather to it self better and more able defences in my behalf upon this view: For though the acts of your mercy, which are not communicable, nor the causes of them, with others; as derived from those secret motives which are only sensible and privy to your own Heart, and admit of no search or discovery to any general satisfaction; and that under this protection I might guard my particular sufficiently; yet my case needs not hide it self, but attend the dispute with any that would put upon it

Anno 1616. it a monstrous and heavy shape, though that I must acknowledge that both Life and Estate are forfeited to you by Law; yet so forfeited, that the same Law gives you the same Power to preserve as it doth to punish, whereby your Majesties higher Prerogative doth not wrestle with it, nor do you infringe those grounds by which you have ever Governed; so as the resistence is not great, that your Majesty hath for to give Life, and which is less in the gift of Estate; for that Law casts wholly upon your self, and yields it as fit matter for exercise of your goodness. Once it was your Majesties gift to me, so it may be better not taken, for to avoid to take that which hath been once their own; and I may say farther, that Law hath not been severe upon the ruine of innocent posterity, nor yet cancelled nor cut off the merits of Ancestors, before the Politick Hand of State had contrived it into these several forms, as fitted to their ends and Government.

To this I may add that whereupon I was Judged, even the Crime it self might have been none, if your Majesties Hand had not once touched upon it, by which all access unto your favour was quite taken from me. Yet as it did at length appear, I fell rather for want of well defending than by the violence or force of any proofs; for I so far forsook my Self, and my Cause, as that it may be a question whether I was more condemned for that, or for the matter it self, which was the subject of that days Controversie.

Then thus far nothing hath appeared wherein your Majesty hath extended for me your Power, beyond the reasonable bound; neither doth any thing stand so in the way of your future proceedings, but rather make easie your Majesties favour for my relief.

What may then be the cause that malice can pitch upon, wherefore your Majesty should not proceed to accomplish your own work? Aspersions are taken away by your Majesties letting me loose to the utmost power of Law, with the Lives of so many offenders, which yieldeth the World subjects of sorrow rather then appetite to more Blood. But truth and innocency protect themselves in poor men, much more in Kings; neither was there such aspersion (God knows) in any possibility towards your Majesty, but among those who would create those pretences to mislead your Majesty, and thereby make me miserable; if not this (whereof the vertue and use was in the former time and now determined) there is not any but your pleasure.

It is true, I am forfeited to your Majesty, but not against you by any treasonable or unfaithful act; besides there is to be yielded a distinction of men, as in faults; in which I am of both under the nearest degrees of exception.

Yet your Majesty hath pardoned Life and Estate to Traitors and Strangers, sometimes the one, sometimes the other; nay, to some concerned in this business, wherein I suffer, you have pardoned more unto them than I desire, who (as it is reputed) if they had come to the test, had proved Copper, and should have drunk of the bitter cup as well as others.

But I do not by this envy your favours to any persons, nor seek I to draw them into the Yoak with my self, but applaud your Majesties goodness, being in that respect in a near possibility to come at me; besides this to Etwish your

Majesty hath given an Estate, which is a greater gift than Life, because it extends to posterity, who was the worst deserver in this business. An unoffended instrument might have prevented all after-mischief, who for his own ends suffered it, and by the like arts afterwards betrayed it.

To this I may add *Tresham* in the *Powder Treason*, upon whose Successors I do not cast any of his infamy, yet he preserved himself to posterity; so as what he, or others such as he, have defrauded by the arts of Law, and whom their own unfaithfulness made safe; I have much a do to hold my ingenuity and confidence how it may be, because I distrusted not your Majesty, or because it returned in your power from whom I had it. Is it in danger to be broken or dismembred? Let me hope that there is nothing which by favour may be excused, or by industry might have been avoided, that will fail me, where your Majesty is to determine. It is not I that put your Majesty in mind opportunely, it is he that was your Creature, it is *Somerset* with all your honours and envious greatness, that is now in question. Kings themselves are protected from the breach of Law, by being favourites and Gods Anointed; which gives your Majesty like priviledge over yours, as I took from Doctor *Donne*, his Sermon, That the goodness of God is not so much acknowledged by us in being our Creator, as in being our Redeemer; nor in that he hath chosen us, as that nothing can take us out of his Hand; which in your Majesties remembrance let me challenge and hope for: for the first accesses of favour they may be ascribed unto ones own pleasing themselves; but that appears to be for our sakes, and for our good, when the same forsakes not our civil desires.

This Redemption I crave, not as to my own person, but with your benefits once given; nor do I assume them very deep, for I have voluntarily departed from the hopes of my Pension, Place, Office: I only cleave to that which is so little as that it will suffer no parting or diminution.

And as in my former Letters, so by this, I humbly crave of your Majesty not to let the practices of Court work upon your Son the Prince, not fearing the sufferance of my loss in that particular, so much (for I cannot lose it, but willingly all with it) as for to take off the Stage, that which in the attempt may prove inconvenient.

But if your Majesty have any respects to move you to suspend your goodness towards me, let that which is mine rest in your own Hands, till that you find all opposite humors conformed to your purpose.

I have done wrong to my self, thus to entertain such a doubt of your Majesty; but the unrelenting of adversaries, which when you will have them will soon alter; and that all this while I have received nothing of present notice for direction or to comfort me from your Majesty, hath made me to expostulate with my self thus hardly; for God is my Judge, Sir, I can never be worthy of, if I have these marks put upon me of a Traitor, as that tumbling and disordering of that Estate, would declare. The divorce from your presence, lays too much upon me, and this would upon both.

I will say no further, neither in that which your Majesty doubted, my aptness to fall into, for

Anno 1614. for my cause nor my confidence is not in that distress, as for to use that mean of intercession or any thing besides, but to remember your Majesty that I am the workmanship of your Hands, and bear your stamp deeply imprinted in all the characters of favour; that I was the first plant ingrafted by your Majesties Hand in this Place, therefore not to be unrooted by the same Hand, lest it should taint all the same kind with the touch of that fatalness, and that I was even the Son of a Father, whose Services are Registered in the first Honours and impressions I took of your Majesties favour, and laid there as a Foundation-stone of that building.
 These and your Majesties goodness for to receive them, is that I rely upon, praying for your Majesties prosperity; I am in all humbleness,

Your Majesties Loyal
 Servant and Creature

R. SOMERSET.

Marriage of the Lady Arabella Stuart and Sir William Seymour. Their pedigree.
 I should not trouble you with the Marriage of the Lady Arabella Stuart, and Sir William Seymour, both of kin to the Crown, she by the Earl of Lenox in Scotland as is well known, and he Grandchild to the third Son and the heir of the Earl of Hartford, created by Henry 8. whose Sister he married 1537. and by Edward 6. made Duke of Somerset, and his Protector, who stiled himself (Edward by the Grace of God Duke of Somerset, Earl of Hartford, Viscount Beauchamp, Lord Seymour, Uncle to the Kings Highness of England, Governor of the Kings Person, Protector of all his Realms, Dominions and Subjects, Lieutenant high Treasurer, and Earl Marshal of England, Governor of the Isles of Guernsey and Jersey, and Knight of the most Honourable Order of the Garter, and bears Gules two Wings conjoined in Fess Or.) Yet all these Honours rather helped him forwards to hop Headless for Felony.

His third Son Edward was restored to the Earldom 1 Eliz. and this William his heir, and those near the Crown, in all Sovereignities, are needful to be narrowly look'd into for Marriage.

Queen Elizabeth did so, at a farther distance of danger, and her Father made it Treason in his time; I say, I should forbear farther mention, but that a Detractor begins at her Death in the Tower, (where she was imprisoned, though her Husband escaped,) and says, (That it set Mens Tongues and fears a work, that she went the same way) having almost in his last words before told the story of Overbury impoisoned in the Tower; by which he now inforces belief, (that her death was so done for the Kings interest) when in truth she died a Year before, in September 1615.

There happened occasion at the Common Pleas, to dispute the Kings power in Commendams, the Church being void and in his Gift, whether he might give a Commendam to a Bishop (either before or after his Consecration) during life or for years?

It was argued by Serjant Chibborn against the King,

That the translation of Bishops was against the Common Law: his Text was the Canons of the Council of Sardis.

That the King had no power to grant Commendams, but necessity.

That there would be no necessary, because no need of augmentation of Livings, no man being bound to be more hospitable than his means afforded.

And much more Arguments tending to overthrow the Kings Prerogative in cases of Commendams.

This case was to be farther argued in the Kings absence by all the Judges, which he thought to protract until they consulted with him; and so commanded his Attorney General to signify by letters his pleasure to all the Judges.

The Judges notwithstanding, at the day argue the case, and return Answer by Letter to the King, that they held those Letters to be contrary to Law, and such as they could not obey by Oath, and therefore had proceeded at the day appointed; setting down the case to be upon construction of two Acts of Parliament, 25 Edward 3. and of the 25 Henry 8. and now between Subjects for private interest and inheritance; that their Oath is, That in case any Letter come to them contrary to Law, they are not to obey them, but to proceed to Justice; and so they did the last Term, 27 April 1616. The Judges subsign, Cook, Herbert, Tanfield, Warburton, Snig, Alsham, Bromley, Crook, Winch, Dodderidge, Nicols and Houghton.

The King returns them Answer by Letter, Reporting himself to their own knowledge, his Princely care for Justice to be duly administered to his Subjects with all expedition, and how far he was from crossing or delaying the interests of private persons; but on the otherside, where the case concerned the high Powers and Prerogatives of his Crown, he would not indure to have them wounded through the sides of a private person; admonishing them of an ordinary custom lately entertained, boldly to dispute the high points of his Prerogative in a popular and unlawful way of Argument, not heretofore usual, making them sensible how weak and impertinent the pretence of their Oath was in a case of this nature; as if the founders of their Oath, his Predecessors, were so intent in their zeal, to be uncharitable, to make a weapon to wound their Successors; being an ordinary course to put off Hearings and Determinings amongst private persons, Termly, and commands them peremptorily not to proceed further in the Plea, till his return to London, there to receive his further pleasure by himself; your Oath being only for avoiding importunities to the Prince of Suiters in their own particular.

The King came to London, convenes them all to the Council Table, and himself takes in sum the parts of the Judges Letter, and their Errors in proceeding both in matter and manner: in matter, by way of Omission, as well as Commission.

When the Counsellor shall presume to argue his Supremacy at the Bar, and they not reprove his insolency; himself observing since his coming to this Crown, the popular sort of Lawyers, most affrontingly in all Parliaments, have troden upon his Prerogative, though neither Law nor Lawyer can be respected, if the King be not revered; and therefore it became the Judges to bridle their impudencies in their several

1616. *Annals* *of* *King* *JAMES.*
 ral Benches, especially the Courts of Common Law, who had inroached upon all other Courts; High Commission, Councils in Wales, and at York, and Courts of Requests.

For the Commission in matter, whereas their Letter excepted against his Majesties command to be against the Law, and their Oath; he tells them, deferring upon just and necessary cause is not denying or delaying of Justice, but rather wisdom and maturity; nothing more proper than to consult with the King where it concerns the Crown.

As for the manner, the Kings absence, before the Argument, and yet is resolved to return speedily; and the case though argued could not receive Judgment till Easter Term after, as the Judges confessed.

And for them to say, that the case was private between party and party; one of them is a Bishop, that pleads for the Commendam only by vertue of his Majesties Prerogative; and that they could not prove any Solicitations of either Parties for expedition.

And for the form of the Letter, it was undecent; besides to proceed and to return a bare certificate without giving reasons.

Upon this all the Judges fell down upon their Knees, acknowledging their Error, and craving Pardon.

But for the matter, the Chief Justice Cook entered into a defence, that the stay of his Majesty was a delay of Justice, and therefore against Law and their Oath; that as they meant to handle the Pleading, it should not concern the Kings Prerogative.

To which the King told him, That for them to discern the concernment of his Prerogative, without consulting with him, was preposterous; and for those of Law and Oath, he had said sufficient before; therefore he required the Lord Chancellors opinion therein, whether against Law and their Oath.

The Chancellor excused himself as to that of Law, referring it to the opinion of the Kings Council, whereupon the Attorney General Bacon said, That to put off the day was no delay of Justice, nor endangered their Oath; for the Kings reasons were only that it concerned his Prerogative, and required therefore a stay for a small time, and advised the Judges, whether this refusal of theirs did not rather endanger their Oath, which was to counsel the King when they are called; but to counsel after the matter is past, was a simple refusal to give him Counsel at all, and all the rest of the Council concluded with him.

The Chief Justice Cook excepted, that the Kings Council should plead against the Judges, being their duties to plead before them, not against them.

Whereunto the Attorney replied, That the Kings Council were by Oath and Office not only to plead, proceed, and declare against the greatest Subject, but also against any Body of Subjects or Persons; nay, were the Judges, or Courts, or House of Commons in Parliament, and concluded that the Judges challenge was a wrong to their Places, and appealed to the King who was firm for them.

The Chief Justice replied, He would not dispute with His Majesty; the King replied, Nor with my Council: so then whether you do well or ill, it may not be disputed.

The Chancellor gave his opinion with the King, and his Council.

Hereupon the positive Question was put by all the Lords, Whether in a case depending, which

the King might conceive himself concerned in Power or Profit, and requiring to consult with them, they ought not to stay proceedings? *Fac. 14.*

All the Judges submitted thereto, only the Chief Justice excepted, saying, When this case should be, then he would do his duty.

But the Chief Justice of the Common Pleas said, For his part he would always trust the Justice of the Kings Command.

But the day drawing nigh, the next Saturday, for Arguing the Commendams, the King desired the Judges to express, Whether they would then Argue upon the Kings general Power of granting Commendams, yea or no?

They all concluded not to draw into doubt his Power, but to insist upon the point of Lapse, which they conceived to be of a form different from former Commendams; and concluded to correct the insolencies of bold arguing the Prerogative.

Judge Doderidge concluded for the King, That the Church was void, and in his Gift, and he might give a Commendam to a Bishop, either before or after Consecration, during life or years.

The Judges being gone, the Privy Council resolved, That the Kings desire was not against the Judges Oath, nor against the Common Law to require; and all of them subscribed to the same.

This Dispute was publickly scanned, and censured in favour of the Judges, and on the contrary for the King; but the truth I have really extracted out of the Records of the Council Table, that you may thereby see the true scope of those times.

The State of Spain having little to do in Martial affairs, King Philip the third, now in Peace, thought to spend some time in Treaties, wherein he seldom failed of advantage. The late French King, Henry the fourth, had three Daughters, the one Married to the Duke of Savoy, which the Spaniards misliking to have those Neighbours lately so great Enemies, now to be link'd in love without his interest, conceived it good policy to indear the young King Lewis of France to a cross Match, to his Daughter Infanta Anna, and to Marry his Son Philip to the Princess Elizabeth, the second Daughter of Henry the fourth.

And thus those cross Nuptials might seem to cement the affections of the three States, lately so imbroiled in War, which no doubt either of them had good cause to accept; though it was said S. P. Q. R. Spain, Pope, Queen-Regent, had the chief hand to undo the young King.

For the Father Henry the Fourth had made Wars upon the Duke of Savoy, to recover the Marquisate of Saluses; and this King of Spain under colour to aid the Duke (his Brother-in-Law) sent him Horse and Foot of Spaniards; but the Peace concluded, by exchange of Saluses with the Countries of Bresse and Gex. The Spanish Auxiliaries being muzzled in warm Quarters, at Carboniers, Montemellion, Savillan and Pignorel, (the best places of Savoy and Piedmont) would not budge; no, though the Duke begg'd of them to be gone; but were absolutely commanded the contrary by Count Fuentes, Vice-Roy of Milan, and so staid until that Valiant Duke, in his danger very desperate, cut all their Throats. Spain, in policy to revenge, pieces with the French, to disjoyn Savoy, upon whom he had afterward many treacherous Designs; as that Plot

Spain and France match with Savoy.

Queen Regent.

Plot upon his Castle Nice (the Key of his Countries) when his Spanish Gallies lay at Villa Franca, to have seized all Savoy's Issue.

1616. And as it was usual with Princes in Peace and Amity to congratulate Nuptials, the Lord Hays was looked upon as the most proper for this Errand into France; in some measure he had the Kings Favour, his Affection not at all; for wise Kings know how to do the one, and yet hide the other; so Mystical things are Courts: This makes many men misjudge, That the Kings Friendship made everyone Favourite; and by often changing their Persons, was therefore held inconstant in his Passions.

This Lord, born a Gentleman in Scotland, by his bearing Coat-Arms, *Argent three Escalloons Gules; Supported by two Country-Swains, Armed Plough-Tailes, the Crest a Dove volant proper;* His Story was, That his Ancestors at Plough, with those Instruments their Geer, slew Malton, an High-Land Rebel, and discomfited his Train, for which Service they had so much Land (Barren Rocks) as a Pigeon, cast off the fist, flew over till she rested; and all this great Purchase would not keep him from seeking Livelihood in France, where he was bred no other than a *Gens d'Arms* to Henry the Fourth; but quitted that Service, in hopes of better preferment of his own Sovereign.

And over he comes to meet the King at his Entrance into England, upon recommendation of the French Liger in Scotland, who continued so here, and presented Hays upon former knowledge in France; this, and his other good parts (being well accomplished) hastened him higher in esteem than others of his Countrey, whose nearer attendance had merited more.

But to boot, he sought out a good Heir (the Lady Dorothy) sole Daughter to the Lord Denny, and to fit him forward, after Knighthood, he had honour, and was made a Lord; for reasonable Riches his Wife brought with her.

In grateful acknowledgment of his first Preferment, he Feasted the former Ambassador (being lately returned Extraordinary to this King) wherein he exceeded the Limits of an Entertainment, which for that time was excused, as a grateful Ceremony of a large Dinner.

The Scots were never very eminent with Neighbour Nations; what Credit they had, came by the French, to keep ballance with them and England; the increase might heretofore be hoped for, when the Union of these Crowns should afford the means to set them forth; and it was prudential in the King, to pick out one of his own, to give a Splendor to that Nation in our way of Peace and Courtship; especially, when all was done at the Masters cost; for Hays was ever reasonable poor, unless by repute of his first Match, which was not much while her Father lived; and by this, last he had less: the great Spirit of Piercy Earl of Northumberland, though a Prisoner then in the Tower, disdaining the Marriage, denied her a Groat to Beggarly Scot, as he called him.

This first Embassie was for no other end than to congratulate; for certainly he had no Commission nor Credential to make Scrutiny for Matching our Prince with the other Sister, she being then too young. Overtures were then thought on with Spain; and so it was advertised from Sir Dudley Charlton, Ambassador at the Hague, that there was a Fame spread of such as desire to weaken the Kings Correspondence with

that State, That his Majesty was on near Terms of Matching our Prince with Spain; and by an Adviso out of Spain, That this Match had been there debated in the Inquisition, and judged necessary.

And in truth the Lord Roffe was sent Ambassador thither (partly for that purpose) at this time also, upon the like Errand, to give Joy to that King, for the Counter-Match of his Son, and had his Instructions to feel the Pulse of that Court concerning the same; and both these Ambassadors sent away at the same time. It was remarkable how each of them strove for the Prize, to out-vie in the Vanity of these Voyages: the Baron to his utter undoing, having no other Helps but his own, when the other had it from the Kings Purse; and in truth for this purpose to put down the English; as in that great Feast at Essex-House, and many his Masquerades afterwards at Court; for he meddled not with the Tilt, as being no Sword-man; but in the other, and such like, he never scaped to act his part.

Amongst many others that accompanied Haies in this Expedition, was Sir Henry Rich, Knight of the Bath, and Baron Kensington, afterwards Earl of Holland, Natural Son to the then Earl of Warwick; he took his initiation of Expence from this Journey, & continued the practice afterwards to the weakning of his (long time) unsettled Fortunes, being forced through Custom of the Court, to follow the other in all his Fashions; and which infection, by after-custom, became his Disease also, and almost (not over-mastering, yet) over-shadowing his Natural Eminent Parts, with which his Inside was habited, and perspicuous to such as afterwards knew him.

If we deduce him from his Cradle, we shall find him, as it were, begotten to an Inheritance of true Nobleness and Courtly Grace, in more real Splendor than others, that seemed to appear compatible with him, they being only made so by hand.

His Life indeed was intricate, sometime struggling with the by-paths of Sovereign Favour, and afterwards of State-Affairs, which at last (and at worst) infected him with the Disease of the Times, more malignant in his Counsellors, and other his Confidants, than in his own Conscience, or inclination, and so drew him on by various disguises of Subtilty, with the composition of his good Nature, till the Remain of his Life was involved into Engagements unstable; the Effects whereof smothered him in the uncouth Deluge of Destruction.

The Sword being sheathed up in Scabbard, Peace and Plenty brought the Law into Esteem, the only over-ruling power to set men (even) by the ears, and make them the more quiet ever after.

But then Cases increased so common, that Conscience was troubled to reconcile them, and made a Quarrel of Justice it self, between Sir Edward Cooke Chief Justice of Law, and the Lord Elsmore, Keeper of the Conscience, who had the better of the Cause, to the others Ruine.

The Case was thus:

Sundry Citizens got Judgment in the Court of Common Pleas by a Jugling Trick, that staved off an opposite Witness; the Plaintiff nevertheless exhibits his Bill in Chancery against the Defendants, who sit out Process in contempt, and

refusing to answer, are committed to the Fleet, and for their Relief, exhibit their Bill in Star-Chamber against the Lord Chancellor *Elsmore*, Grounded upon the Statute of 4 Hen. 4. Cap. 23. That the Judgment given in the Kings Court shall not be examined in Chancery, Parliament, or elsewhere, until it be undone by Attaint or Error; and so thereby he had incurred *Præmunire*; and the Chief Justice *Cooke* interposed, and encouraged the Complainants.

The Chancellor acquaints the King, who sends to *Bacon Attorney General*, *Sir Henry Montague*, and *Sir Randal Crewe*, Serjeants at Law, and *Sir Henry Felverton*, Solicitor; These men Report back, That there hath been a strong Current of Practice and Proceedings in Chancery after Judgment at Common Law, and many times after Execution, continued since *Henry the Seventh's* time to this Day, in Cases where there is no other Remedy at Common Law, unto which the Judges are peremptorily sworn.

Court and
Cares of
K. James.

And with this Sentence on *Elsmore's* Side, the aged Statesman leaves the Seat of Deciding, and sets down himself to his Devotions, leaving the Seal to be born by *Bacon*; but the manner of the Dispose is mistold by the Pamphlet (who makes it the Chancellor's Heart-Break to be rid of the Charge) when in truth the Term come, and *Elsmore* sick, the King sent for the Seal by Secretary *Winwood*, with a Gracious Message, That himself would be his Deputy, and not dispose it whilst *Elsmore* lived to bear the Title of Chancellor; nor did any one receive it out of the Kings sight till he was dead, nor long after.

And because we may be assured of the King's Gracious Favour to that Grave Chancellor, see what he says to him in two Letters following, writ every Word with the Kings own Hand.

My Lord,

These shall first congratulate and thank God with you, for your Recovery and growing to Health again; for which I protest to God, I prayed every Morning and Eve, since you was at the worst, as often as I prayed for my self: And next, you shall be hereby informed how sensible I am of that Disgrace offered to that Court of mine wherein you sit, especially at a time so unseasonable; it cannot but be a Comfort to you to know, how every man censured the Partiality and Barbarity of that Action: and for my part, you may assure your self, it shall only be in your default of not informing me, if I do not upon this occasion free my self from the infection of any such inconveniences hereafter; I mean, of such Jarring betwixt my Courts of Justice; for I will wholly rely upon your Information and Advice, what course to take in the handling of this Business; assuring my self, that your Conscience and Care for my Honour and Service, will set me in a Course for making such an Example in this Case, as may settle good Government in like Cases hereafter; and so I bid you heartily Farewel.

Feb. 25. 1615.

New-Market.

JAMES REX.

Thus the King writes then; and continued unto this Grave Statesman such Gracious Favours and Esteems to the last of his Days; for

a Twelvemonth after this Letter, and not long before his Death he writes again.

Fac. 14.

To the Right Trusty and Right well Beloved, Our Chancellor of England.

My Lord,

The Letter I wrote the last year from the same Town unto you, proved so good a Cordial for your Health, as I am thereby encouraged to do the like at this time; and as I both hope and pray for with the like success: I cannot but be extremely sorry for your want of Health, but I confess I am more sorry for the evil conceit you have of your own strength, which makes me the more to presume upon the good Operation of this Physick of mine, since I am sure it cannot work more upon your mind than any other worldly thing. The Greatness of your Place, and the Ability which God hath given you to discharge it, to the Honour of God, and the great Benefit of the Commonwealth, it is a cause sufficient to stir you up to be careful of your own Health, and even to fight against Diseases as far as you can; but when you shall remember how ill I may want you, and what miss your Master shall have of you, I hope the Reason will be predominant to make you not strive with, but conquer your Disease, not for your own sake, but for his, of whom you may promise your self as much Love and hearty Affection, as might be expected from so thankful and kind a Master, to so honest and worthily deserving a Servant: And so praying God to bless this my Cure, I bid you heartily Farewel.

Febr. 9. 1616.

New-Market.

JAMES REX.

Hereupon, there was some appearance of his amendment, which the Prince congratulates under his own Hand.

My Lord Chancellor,

As I was very sorry, having understood of your Danger and Sickness, so I do much rejoice at the good appearance of your Recovery, which *Thomas Murrey* hath declared to me, and of the Affection and Care you have of my Person and of my Estate; for which you and yours shall ever find me most willing to give Testimony to the World, how much I respect those who are truly affected towards me; I hope by Gods Grace to give you particular by my self, and that God shall give you health and strength of Body and Mind, that the King, Queen, and I, with this whole Kingdom, may long enjoy the Fruit of your long, wise and religious Experience; which wishing from my heart, I end.

New-Market,

Febr. 18. 1616.

Yours,

CHARLES Pr.

These

These being the last Letters, and thus assured of the acknowledgment of his Masters Favour toward his Merit, he takes leave of this Life the fifteenth of March following, 14 Jac. 1616.

The Common Pleas, or *Communia Placita*, is the Kings Court; *Bancus Communis*, Anno 2. Edw. 3. cap. 11. so called, *Quia Communia Placita inter Suos*, or Controversies between common persons; it was now held in Westminster-Hall; but in ancient times moveable; as appears by *Magna Charta*, cap 11. and that upon grant of that Charter, the Court of Common Pleas was erected and settled, and at one place certain, viz. at Westminster, wheresoever the King lay; and that after that time all the Writs ran, *Quod sit coram Justiciariis meis apud Westmonasterium*.

Whereas before, the party was commanded by them to appear, *coram me, vel Justiciariis meis*, simply, without addition of Place: See *Glanville* and *Bracton*; the one writing in Henry the Seconds time, before this Court was erected; the other in Henry the Thirds time, who erected this Court. All Civil Causes, Real and Personal, are determinable (or were in former times) in this Court according to the strict Law of this Realm; and by *Fortescue*, cap. 50. it seemeth to have been the only Court for Real Causes. The Chief Judge thereof is called *Lord Chief Justice of the Common Pleas*, accompanied with three or four Assistants or Associates, who are Created by Letters Patents from the King, and are installed (as it were) upon the Bench by the Chancellor, and *Lord Chief Justice of that Court*. See *Fortescue*, cap. 51. who sets down all the Circumstances of their Admission; the rest of the Officers are these; the *Custos Brevium*, three Proto-Notaries, or principal Notaries, called also Pregnotaries, Chirographer, Filazers, in number fourteen; Exigencers four, Clerk of the Warrants, Clerk of the Juries, or *Jurate Writs*, Clerk of the Treasury, Clerk of the Kings Silver, Clerk of the Essoin, Clerk of the Outlaws.

Of the
Outlaws.
Common
Law what

The Common Law is so Ancient, we know not the Commencement: *Lex Anglia*, peculiar only (so some say) to this Land, of long time following the Conquest, evermore quarrelling for enjoyment of ancient Liberties, until Henry the Third allowed *English men English Laws*; and in his Ninth year granted the great Charter; which himself infringed, and thereupon followed forty years *Barons Wars*, (as History styles them) until in his fifty second year, that Charter was again reviewed and compiled, and solemnly sworn unto by succeeding Sovereigns.

The Ground of which binds the King *per legem terra*; and what is this *Lex terra*? *Leges Anglicanae fuerunt approbata consensu utentium, & Sacramento Regum confirmata. And Communis consuetudo Regni fuit Lex Terra.*

But in practice (say some) the Chancery is above this Law, and yet duly examined, that also is allowed *per Legem Terra*.

The Reason thus;

The Common Law grounded upon General Maxims, they might be too severe, or too lax; and therefore necessarily requiring Equity, *secundum & bonum, & sanam Conscientiam dirigenda*.

And this Chancery notwithstanding limited by Law, and erected by Law, although it seems above Law.

For no Judge hath Jurisdiction without some Grant or Commission out of that Court under Fac. 14. the Great Seal, which is intrusted to the Chancellor.

No Judge can hold Plea without Original Writ framed in Chancery, and by his appointment returnable before the Judges, and yet all these considered, the King, the Law, the Chancery agree together.

The Chancery must needs be erected subsequent to the Common Law, to relieve and supply the Law in some Cases, where the simple Subject was cozened by Craft, Ignorance, or also may offend without Malice.

Moses, in his Law, in divers Cases Political and Ceremonial, he could not decide (uncleanliness by touching the dead) but referred it to God.

The Name of this Officer is, *Dominus Cancellarius Anglia*, a Chancellor, as some would have the Etymon: do but query what he might Cancel? Some say it is, *Cancellare iniquam Legem communem; Judicare secundum Conscientiam*; but this is an Errour; Will the Law give power to deface her self that made it?

The Chancellor cannot stay the Course of Law, but only enjoin the person not to follow the Law; nor to cancel the Law; for notwithstanding this Injunction, if the party will sit out of contempt, and proceed at Common Law, the Judges cannot deny him.

Indeed this Officer hath his Name of Cancelling the Kings Letters Patents, so much of Honour to the Law, as the other way hath been Dishonourable.

The Natures of Letters Patents bind the King and his Successors, and all Subjects, though unfit or unjust; the Judges of Law are to judge them void, but cannot deface them nor the Seal; but the Chancellor, as a Judge of Law, may; (but not by his absolute Authority) by his ordinary power and course of Common Law, he is to Judge of them, and to hold Plea of them, and to call the Party interested by Process of Law, and so to repeal them by Judgment, and then cancel them; which no person can do but himself.

And this was done, *transversa linea circumducere vel conscindere aliquod Edictum, Decretum contra Principem, aut jus Reipublice impetratum*; which Cancelling is made with Lines drawn across like Lattices; and it is said that Judgment-Seats were of old compassed with Lattices, or Bars cross ways, Cancells to defend the Judges and Officers from the press of People, and yet not to hinder their view. Chancels were so divided from the Body of the Churches, and thereupon so called.

And the Lord Chancellor, and the Lord Keeper have one Power, by Stat. Anno 5. Eliz.

So then you see how, and for what he hath his Name.

And though his Authority be highest, yet it is given to him by the Law, and proceedeth in course of Law, not according to Conscience only, but Law.

That as all Justice runs from the Supream Power, so by the Chancellor to all other Jurisdictions.

A man complains of Wrong, or sues for Right in Chancery, from which Bill of Complaint issues a Precept commanding the Defendant to appear at a day; so then a man may not be sued before he have a Writ or Breve from the Chancellor, a singular regard to the meanest.

The

The very Writs of the *Chancery* are prescribed *Anno* by Law, and a Form Registered in *Chancery*, and 1616. a Form Registered in *Chancery*, and if not accordingly issued out, the Judges will reject them; Called in Law, *Avoiding of the Writ*.

His Authority to Judge, is of two sorts.

1. By Common Law, or Positive Law, *Potentia ordinata*, by Process, Pleading, Judgment, &c.

2. By *Potentia absoluta*, by Process according to the Law of Nature, viz. to send for the Party, to answer upon Oath, to examine; if he will not answer, yet the Chancellor cannot condemn him in the Cause for obstinacy.

In *Potentia ordinata*, Mispleading on either part may marr the Matter; and the Judgment must be according to Law, however the Equity of the Case fall out.

But if the Pleading be by Absolute Power, though the Party Misplead, if the Matter be good, the Judgment must be by Equity, and not as the Pleading; but either formally good or bad, or as the Law will in the Case.

The Question follows, Whether that Conscience whereby he is Chancellor, be to be *Simplex Conscientia*, or *Regulata*? viz. to be ordered by course of Court, and former Precedents; or, if no Precedents, whether Reason in *codem respectu*, may take cognizance of the Cause? viz.

A rich Father to suffer an honest Son to beg; or a rich Son *contrario*; the Chancellor cannot herein meddle.

Hereupon, we may conclude that his Authority Judicial, both *ordinata*, and *absoluta Potestas*, are limited by the Law of the Land.

For in the ordinary he is tied to the strict Rule of Law; and by the absolute; he is ruled (though not by the course of Law) yet he is to deal *per regulatam Conscientiam*; but in any Case, not to contradict what Law hath allowed.

But to conclude, his *absoluta Potestas*, by what means he should find out Truth, truly it is without limitation, only to be referred to his own Gifts, and the Grace of God that gives Wisdom.

Sir Francis Bacon succeeded Elsmore Lord Chancellor; though a wonder to some (so mean a man to so much preferment): he was then *Attorney General*; and as others by that place, and in the usual way of Preferment (time beyond memory) come to high Office of Judicature, either there, or to other Benches, so did he; but his misdeeds afterwards turned him out of all, and he died poor and private; see *An. 1621*.

And as his *Genesis* of Preferment came to the Chair of State, so the *Exodus* of Treasurer *Suffolk* in his Office, brought him to the *Star-Chamber*, and the Glory of the New Chancellor, Chairman there, to sit in censure upon him; and so, to set out himself in his Matchless Eloquence, which he did then by Sentence, as the Mouth of the Court, as all others had done; their Abilities affording them several ways and manners in that Court more particular, as their Qualities concern them to distinguish.

So here also the Chief Justice Cooke newly revived from the sad condition of his former Disgrace for his too narrow Inquisition into the Faults and Fall of *Somerfet*; he now finding the Fate of Court-policy final in this Lord, and his Tongue at liberty to speak what he lists, parallels this Lords Crimes with other such corrupt Treasurers, taking Precedents of all former Predecessors.

Even from *Randolphus de Briton*, who was

Sentenced to lose all Lands and Goods; but they were restored to him, and he Fined 3000 l. for misusing K. H. 3. Treasure. *Fac. 14.*

Such another was Treasurer of Ireland, *Petrus de Rivallos*, and of great Command, also High Chamberlain of England to Edw. 1. His Offences were, Bribes of all men, poor and rich, *Religiosis quam de Laicis*: Fined and Ransomed.

The like did the Abbot and Monks at *Westminster*, took out of that Kings Treasury there, *ad inestimabile damnum Regis & Regni*; for which these privileged Pretenders could not be exempt from Trial, and the Temporalities of the Abbey seized for Satisfaction; till which time of Payment they suffered Imprisonment.

Nay *Walter de Langton* Bishop of *Coventry* and *Lichfield* escapes not, Edw. 3. This Treasurer took Bribes then, though small; but a hundred pound of the Earl of *Montalto*, *ut amicus in agendis negotiis versus Dominum Regem*; let him escape Prison to do his business, and what was given was of free will, and *ex Curialitate sua*; yet in those days it amounted to Extortion.

But he had Additionals, having indicted *John de Engam* of *Trespass*, for the Mannor of *Fieby*, to which the King had Title, and imprisoned him; and when another Mannor was conveyed to the Bishop for Courtesies done *per diversas Curialitates*, Engam was set at liberty; but it seems the Bishops Plea would not serve his turn, That the King would rather punish by Imprisonment than Fine.

And those good Times accounted it Bribery.

Again, The Bailiff of *Oxford* was committed for Arrears of one Hundred pound in his Account, and the Mannor of *Caloot* conveyed to the Bishop for satisfaction; yet because he was of pure Devotion discharged by the Bishop, these Cases all three were condemned of Extortion and Bribery, and the Bishop soundly paid for it, by his Purse and Imprisonment.

In Ed. 3. He imprisoned *William Lord Latimer*, with Punishment and Fine; being in Commission to pay off the Kings Debts, he compounded for eight per Cent. and 30. for 40. By which, says the Record, he turned it upon the King to be a Bankrupt Compounder.

So the Baron *Nevil* bought the Kings debts of the Army, and though he pleaded that they forgave him the remainder freely, yet was he Fined.

Such like Examples as these were brought to raise the Offence of this Lord Treasurer, of himself as of high Birth, so most Noble, and without doubt disdaining to commit base Crimes; but whether the Guilt of Sir *John Dingly*, one of the Tellers in the *Exchequer*, an intimate Servant to the Secresies of *Suffolkes* Countess, or some necessity to make bold to borrow such Sums as his Fabrick at *Awdley-End* had need of, or the vain and monstrous Expence heretofore of that Family, all that could be (besides the Necessity of Court-Fate) cast in his Dish, was the imbezling the Monies lately paid by the States of the *Netherlands*, for the Redemption of the Cautionary Towns *Flushing* and *Brill*, and he Fined thirty thousand Pounds, and *Dingly* two thousand Pounds, the man deserving to pay for all, it being of his Designing.

But the Treasury was from thenceforth for some time trusted to Commissioners.

At *Midsummer* after the King comes to the *Star-Chamber*, then intending to settle his home affairs for his resolved Journey into *Scotland*, which began the next Spring; and therefore now the more

Anno 1616. to exalt the Seat of Justice, of which this Court was most eminent, he discharges his duty to God and his People in a most excellent discourse, the Character of his inward inclination to Justice and Piety.

His Majesties Speech at his first coming to the Star-Chamber.

HE begins with Scripture, 'Give thy Judgment to the King, O God, and thy righteousness to the Kings Son; the literal sense, upon the Prophet David and his Son Solomon, Godly and Wise; the mystical sense, upon God and Christ his eternal Son; Just and Righteous; from which imitation all Governments, especially Monarchies, have been established. Kings are properly Judges, and sit in the Throne of God, and thence all Judgment is derived from the King to his Magistrates; not to them Privative, but Cumulative. So the Counsel of Jethro to Moses, the Judges were deputed for easier questions, the more profound left to Moses; so all Christian Kings govern, whereby appears the near conjunction, God and the King upwards, the King and his Judges downward; the King to settle the Law of God, and his Judges to interpret the Law of the King.

Thus a fore principium, he comes to his Exordium.

1. Why he came not speak here in fourteen Years, as his Predecessors have done often, especially Henry 7. from whom the King is descended doubly to this Crown, and so desires to follow him in his best actions.

2. Why he comes now?

For the first, Though he had been an old King, when he came hither, and well practised to Government, from twelve years of age, yet here he resolved with Pythagoras to keep silence for seven years: that apprenticeship ended, the impediment was the choice of some worthy cause, betwixt King and some Subject, or Subject and Subject: the one might seem partial as for himself; the other oblique, in favour of a party.

But twice seven Years his whole Reign here brings him only to speak now publicly, concerning the Reformation of Judicature in Westminster-Hall; which heretofore he had in part delivered on private occasions.

Dividing his Charge.

1. To Himself.

2. To the Judges.

3. To the Auditory.

First, He protests that as Confirmation follows Baptism, so now he renews his Oaths of Coronation, in Justice and Law; the Common Law of the Land he never pressed to alter, but (as in the union of his Person) so he indeavoured it really, to conform Scotland to England; not this to that, anent the Prophecy of his Grandfather, Henry 7. That the lesser Kingdom by Marriage would follow the greater, not the greater the less; and therefore Married his eldest Daughter Margaret to James the fourth, the Kings great Grandfather, and so blames that aice opinion, that the union of Great Britain would alter our Laws, which he ever declined, as a maxim in matters of State and Policy, innovation and alteration makes it worse; that he was sworn to these laws; and to alter them, had been perjury

to him; Justice may be moderated by him, with mercy, but in matters of Justice he will be blind to partiality, to hasten Justice, never to delay.

He distinguishes the Law, the inheritance of King and Subject, to be determined by the common Law; set down by our fore-fathers and expounded by Learned Men in their Comments, and called Responsa Prudentum, or by Statute Law, and this is Law of Inheritance.

The other Law, Gods Law, governs all, Common and Municipal as dependents; and he complains of the neglect of Divine Laws, and disrespect to the Ministers of the Church, which is the most pure, and nearest the Primitive and Apostolical Church in Doctrine and Discipline of any in Christendom.

Next to this is the Civil Law, (the Law of Nations) it satisfies strangers, and his own Subjects in matters of Piracy, Marriage, Wills; which Law he divides, Civil and Canon, and complains of the contempt upon it; and concludes his own Charge, as to maintain, so to purge it from two corruptions, Incertainty and Novelty, to clear it to the people by advice of Judges, and to purge it of Niceties introduced by Judges themselves; and so as the Pastor takes the Sacrament himself, and then distributes; so he to them, least it be said, Turpe est doctori, cum culpa redarguit ipsum.

The Charge to the Judges consists of three parts, to do Justice, Generally, Indifferently, Fearfully; Generally, uprightly as to answer God and the King; and punishment from either; Indifferently, to all parties, King and Subject, Subject and Subject, without delay, partiality, clean and uncorrupt; Fearfully, not your own conceits, for you are no Law-makers, but Interpreters; Jus dicere, not Jus dare; for you have no Voice in Parliament, but to advise; and though some Laws are obscure and may be better known to you by Books and Presidents, yet their interpretations must be Subject to common Sense and Reason: Ratio est anima Legis, clear Law or solid Reason.

But where the formality hath no place, as in Denmark; the State is governed by written Law; no Advocate or Proctor, only the Parties plead, and Law is read, and so Sentence. They complain of our curious Wits, various Concepts, different Actions, and several Examples, which breed questions in Law; but if plain, it speaks it self, if otherwise (as inventions abound) they are to interpret and draw a good minor of natural Reason, out of a major of direct Law; and so will follow a true conclusion. Though common Law be a Mystery, and your interpretation be not understood, yet by reason of want of Logick and common Sense, it will be false: and as they are Judges and divided into Benches, so they must confer, debate, not single opinions, per emendata Suffragia; and thus in general to their Office.

As to their limits.

First, Not to inroach upon Prerogatives of the Crown; deal not in difficult questions ere you consult with the King and Council; otherwise it is to wound the King thorough the sides of private persons; and herein commends some of the Judges that of late rebuked and blunted the sharp edge, and vain popular humor of some pleaders at the bar for meddling therein. The mystery of the Kings power is not lawful to be disputed,

Anno 1614. disputed, which seems to wade into the weakness of Sovereigns, diminishes the mystical reverence of them that sit in the Throne of God.

Secondly, One Judicature not to invade upon others, as unfit and unlawful; and herein he enlarges himself, that besides Common Law there are Courts of Requests, Admiralty, President and Council of Wales, of the North, High Commission, and every Bishops Court, these shall keep their limits and bounds; so the Common Law shall not encroach upon them, nor they on that.

In Westminster-Hall, four Courts; two Civil, Common-Pleas, and Exchequer; two Criminal, Kings-Bench, and Star-Chamber: the Common-Pleas, is a branch of the Kings-Bench, being first in one Court, and after the Common-Pleas being extracted, it was so called, as Pleas of private Men; the other, the Exchequer for the Kings revenue, the principal institution thereof, and their chief study, and as other things come orderly thither, so to administer Justice.

Keep you within compass, give me my Right of private Prerogative, I shall acquiesce. As for the Prerogative of the Crown, it is not for a Lawyers Tongue, nor lawful to be disputed. It is Atheism to dispute what God can do, his revealed will ought to content us; so it is contempt in a Subject to dispute what a King can, or cannot do: the Law is his revealed will.

The Kings-Bench is the principal Court for Criminal Causes, and in some respects it deals with Civil Causes.

The Chancery a Court of Equity, and deals likewise in Civil; the dispenser of the Kings Conscience, following the intention of Law and Justice, not altering Law, nor *converso*; it exceeds all Courts, mixing Mercy with Justice: other Courts are only for Law, and where the strictness of Law might undo a Subject, there the Chancery tempers it with Equity, and preserves Men from destruction.

The Chancery, is independent of any other Court, only under the King, *teste me ipso*, from which no appeal; yet am I bound so to maintain others, as this, not to suffer wrong.

My Chancellor that now is, I found him Keeper of the Seal, the same in substance with the other stile: he is witness, my Warrant was to him to go on according to Precedents in time of the best Kings, and most Learned Chancellors.

The duty of Judges is to punish such as deprave Kings Courts, and therefore it was an inept Speech in Westminster-Hall, to say, that a *premunire* lay against the Court of Chancery; yet it should not be boundless, the King is to correct it and none else, and therefore the King was abused in that attempt, and now commands none presume to sue a *premunire* against it.

As all inundations are conceived prodigious by Astrologers, so overflowings of the banks of Jurisdiction is inconvenient and prodigious to the State; let there be a concordance and Musical accord amongst you, keep to your Presidents and Authenick, not controverted but approved by common usage of best Kings and most Learned Judges.

The Star-Chamber Court hath been shaken of late, and last Year had received a blow, if not prevented by a few Voices. He descants on the name Star, a glorious Creature, next in place

to the Angels, the Court glorious in substance, compounded of four sorts of persons; the first Fac. 14 two, Privy Counsellors and Judges, Wisdom of State, Learning in Law; the other two sorts, Peers and Bishops, to give Greatness and Honour to the Court; the other of Learning in Divinity, and the interest of the good Government of the Church; so Divine and Humane Laws, Experience and Practise in Government are conjoined in the proceedings of this Court.

The Kingdom without a Court of Equity, either by it self, as in England, or mixed in their Office that are Judges of the Law, as in Scotland; and here in England, where the Law determines not clearly, there the Chancery does, having equity, which belongs to no other Court, punishing Attempts, other Courts only facts: and where the Law punishes facts lightly, as in Riots or Combates, the Star-Chamber punishes in a higher degree, as in Combinations, Practises, Conspiracies; so being instituted for good, gives it the more honour.

Keep your Courts in harmony, Judges are Brethren, the Courts Sisters; the Muses to differ, breeds contempt to either, and disputes against each other, turns Pleas from Court to Court in circular motion, *Ixions* wheel; the reason of Multitudes of prohibitions, causes are scourged from Court to Court, like *Tantalus* fruit, near the Suiters lip, never to his taste; a delay of Justice makes Causes endless.

He tells them how he hath laboured to gather Articles, an *Index expurgatorius* of novelties crept into the Law; look to *Plowden's Cases*, and the old *Responsa Prudentum*; if you find it not there, then (*ab initio non fuit sic*); away with it.

To the Auditory he hath but little to say: as he hath confirmed his resolution to maintain his Oath, the Law and Justice of the Land; so he expects their duty in observances of the Law, and divides their submission into three parts. First, In general to give due reverence to the Law: this general he divides also into three.

Not to sue but upon just Cause.

Be content with Judgment to acquiesce as he will do, equal with the meanest Subject.

Do not complain and importune the King against Judgment; it is better to maintain an unjust Decree, than to question every Judgment after Sentence. As you come gaping for Justice, be satisfied with the Judgment; but in Bribes complain boldly; if not true from you, expect *lex talionis*; to accuse an upright Judge deserves double punishment.

Secondly, In your Pleas presume not against the Kings Prerogative or Honour; if you do, the Judges will punish you; if they do not, I will them and you. Plead not new *Puritanical* strains, to make all things popular; keep the ancient limits of Pleas.

Thirdly, Change not your Courts, as if to mistrust the Justness of your Cause, but submit where you begin. So he sums up all, the charge to himself, Judges, and Auditory; his excuse; why he came not till now? Why now?

And because of his custom to deliver a Charge to the Judges of Circuits; he tells them now also as they are Judges with him in that Court; so Judges under him, and his Substitutes in Circuits Itinerant to his people; a laudable custom to go to the people in their Counties, as they come up to them at Westminster-Hall; that you go to punish as well as to prevent offences;

Anno 1616. fences; charge the Justices of Peace their duties; take an accompt of them, and report their Services to the King; for the King hath two Offices; 1. To Direct, 2. To take an Accompt from them to this Chancellor in writing, and so to him.

Of these two parts, the *nisi prius* is proper to them, and the other necessary for him; therefore as Christ said, *hoc agite*, yet & *illud non omittite*; and commends the Office of Justice of Peace of high honour and repute.

They are of two sorts, good and bad, the good he will reward and prefer, being as capable of his favour as any about him whomsoever; the farther off in distance of place, the more deferred, and his providence must reach to the end of his limits; the good are industrious, the bad idle, contemplative Justices are of no use; and for the number, as many hands made light work, so too many make slight work.

As to the Charge, he will repeat what he hath said heretofore, *Lectio lecta placet, decies repetita placebit*; anent Recusants and Papists, my grief when they increase; there are three sorts of Recusants.

The first, such as will not be themselves, but their Wives and Families shall be; and they shall appear at Church sometimes, enforced by Law, or for fashion; these are formal to the Law and false to God.

The second sort are Recusants whose Consciences are misled, and therefore refuse the Church, otherwise peaceable Subjects.

The third are practising recusants, they will force all persons under their Law, and infect others to be as they are Recusants; these are men of pride and presumption.

His opinion can bear with the person of a Papist so born and bred; but an Apostate Papist he hates, such deserve severe punishment.

He is loth to hang a Priest for Religion, and saying Mass; but if he refuse the Oath of Allegiance which is meerly Civil, he leaves them to the Law, against whom it is no persecution, but Justice; and the like against those Priests that return from banishment; such also as break prison, they can be no Martyrs that refuse to suffer for their Conscience; Saint Paul would not go forth when the doors were opened, and Saint Peter came not out till led by the Angel of God.

Then he concludes with the ordinary charge against the numbers of Ale-houses, too frequent buildings in and about London; and also the extreme resort of the Gentry to the City, bids them countenance the Religious Clergy against all Papists and Puritans, and God and the King will reward their service.

Affairs of Scotland. Let us remind Scotland. It was eight years since the Marquess of Huntley had been excommunicate, upon hopes from time to time of his conformity and reconciliation; but increasing insolencies were lately committed, and as soon enlarged by the Chancellor, underhand favouring too much the Papists; the Church complains hereof to the King, the Marquess posts to England, to palliate his displeasure; but a Messenger meets him at Huntington, with command to return him home to Justice; yet here he staid until he receives new Authority to appear at Court, where he humbly submits and offers to communicate; but being contrary to the Canons before Absolution, a great debate followed how to ha-

zard him to the Church of Scotland, lest by the way he should recant; and indeed the King ever more endeavouring to rectifie his Conscience, and to recover him to be a Profelyte.

The adventure was thus pieced: the Bishop of Cathness now at Court, must consent in the name of the Scots Kirk, for the Archbishop of Canterbury to absolve him; and the form new devised so to do, in respect of the correspondency of that Church with England.

The Scottish Church hears of this, and interprets that act as an usurpation upon their Rites; which the King is fain to excuse in a long Letter to satisfy that curiosity; and lest he should seem to take upon him to palliate so great a presumption of himself only, the Archbishop also gave his Reasons in writing, without intrenching upon the independencies of so free, absolute, and intire Authority of Scotland.

And withal, Huntley come home, must supplicate that Assembly now convened at Aberdene, for their confirmation and his submission, which was solemnly performed.

And because it was about the end of the General Assembly; we shall shut it up with inserting such Articles as may enlighten the Reader to the knowledge of the Kings elaborate Care and Wisdom, in reducing a perverse Jurisdiction to this moderate issue, in conformity to the Discipline of the Church of England; by which we may conclude the evident signs and hopes of a full recovery in time from their peevish Hierarchy, which had been prosecuted in some measure; from the very time that this King took Government to himself, and brought it before his Death to a semblable conformity with England; and might so have prospered to perfection, had not their and our sins since set a period to us both.

1. For the more reverence of the holy Communion, the same should be celebrated kneeling, which always had been standing.

2. Not to be denied the Patient desperate sick in his bed, with three or four of Religious conversation to communicate with him.

3. The Sacrament of Baptism not to be longer deferred, than the next Sunday after the birth, and in necessity in a private House by the Minister, and publication thereof the next Sunday in the Church.

4. That the inestimable benefits received from God by our Lord Jesus Christ, his Birth, Passion, Resurrection, Ascension, and Sending down the Holy Ghost, having been commendably remembered at certain days and times by the whole Church of the World; every Minister upon these days should therefore commemorate the said benefits upon those set days, and to make choice of several pertinent Texts of Scripture to frame his Doctrine and Exhortations there-to.

And because Confirmation after Baptism stuck in their Stomachs, and indeed the King was unsatisfied therein, terming it a meer hotch-potch, and not clear to his apprehension; but yet thus much was concluded, that seeing the act of Confirmation of Children is for their good Education most necessary, being reduced to the Primitive integrity; the Minister shall Catechize them after eight years old, to rehearse the Lords Prayer, the Belief, and Ten Commandments, with Answers to Questions, in the small Catechism, used in the Church; and that the Bishops in their Visitations should bless them

with Prayer for their increase of Grace and
Anno 'continuanee of Gods heavenly gifts with
 1616. 'them.

So much was done indeed, and presented humbly to his *Majesty*, with some reasons why the same being novel to them, were not as yet inserted with the *Canons*; which the *King* did not then otherwise press, as resolving to effect his desire, at his coming personally into that Kingdom, when his presence should satisfy with reasons all scrupulous aversion.

About this time happened that difference in the family of Sir *Thomas Lake*, one of the Secretaries of the State, between his Wife and Daughter, and the Countess of *Exeter*, which involved him and his into ruine.

Sir Thomas Lake's Story. This *Lake* was a learned Gentleman, brought up under Sir *Fr. Walsingham*, (that subtle Secretary of State) as *Amanuensis* to him; and after good experience of his deserts was recommended to Queen *Elizabeth*, and read to her *French* and *Latine*, in which Tongues she would say, that he surpassed her Secretaries, and was so employed all her time; for he was reading (as to quiet her Spirits) when the Countess of *Warwick* told him, that the *Queen* was departed.

But not long before she received him Clerk of her *Signet*, and he was chosen by this State in that Place, to attend King *James* from *Berwick*; and so sufficient he was, that the *King* made use of his present service in some *French* dispatches, by the way that he came hither; which indeed Secretary *Cecil* had reason to resent, as too much trenching on his Office.

And therefore craved leave of the *King*, that he might not attend beyond his Month, to prejudice the other Clerks; which was excused, and he kept still at Court.

These sufficiencies of his enabled him in these times of gaining, with much repute and direct honesty to purchase large possessions.

And now the place of Secretary was joyned in two Principals, Sir *Ralph Winwood* and him: and so he continued with honourable esteem, until malice and revenge, two violent passions overruling the weaker sex, concerning his Wife and Daughter, involved him into their quarrel, the chief and only cause of his ruine.

He had by his Wife Sons and Daughters, his eldest Married unto Baron *Rosse*, (in right of a Grandmother) the Son of *Thomas Earl of Exeter*, by a former Venter; this *Baron* therefore, and upon *Lakes* credit, was sent Ambassador extraordinary into *Spain*, *An. 1611.* in a very gallant Equipage, with hopes of his own to continue *Liege*, to save charges of transmitting any other.

In his absence here fell out a deadly feud ('tis no matter for what) between the Lady *Lake* and her Daughters Stepmother the Countess of *Exeter*, which was particularly described in a Letter, and sent from *England* to *Madrid* in *Spain*, which was shewed by the Person to whom it was writ, to my Lord Ambassador there.

A youthful Widow this Countess had been and Virtuous, the Relict of Sir *Thomas Smith* Clerk of the Council and Register of the Parliament, and so she came bedfellow to this Gouty, Diseased but Noble *Earl*, and that preferment had made her subject to envy and malice.

Home comes the Lord *Rosse* from his Ambassie, when he fell into some neglect of his Wife and

her kinned, upon refusing to increase allowance to her settlement of Jointure, which was promised to be compleated at his return. *Fac. 14.*

Not long he stays in *England*, but away he gets into *Italy*, turn'd a professed *Roman Catholick*; being cozened into that Religion here by his publick confident *Gondamore*.

In this his last absence, never to return, the Mother and Daughter accuse the Countess of former incontinency with the Lord *Rosse*, whiles he was here; and that therefore upon his Wives discovery he was fled from hence and from her Marriage-bed; with other devised Calumnies, by several designs and contrivements to have impoysoned the Mother and Daughter.

This quarrel blazened at Court, came to the *Kings* Ear, who as privately as could be, singly examined each Party; the Countess with tears and imprecations professes her innocency; which to oppose, the Mother and Daughter counterfeit her Hand to a whole sheet of paper, wherein they make her with much contrition to acknowledge her self guilty, crave pardon for attempting to impoyson them, and desire friendship for ever with them all.

The *King* gets sight of this, as in favour to them, and demands the time, place, and occasion when this should be writ; they tell him, 'That all the Parties met in a visit at *Wimbleton*, (the *Earl of Exeter's* House) where in dispute of their Differences she confessed her guilt; desirous of absolution and friendship, consents to set down all under her own Hand, which presently she writ at the Window, in the upper end of the great Chamber at *Wimbleton*; in presence of the Mother and Daughter, the Lord *Rosse* and one *Diego a Spaniard*, his confiding Servant.

But now they being gone, and at *Rome*, the *King* forthwith sends Mr. *Dendy* one of his Sergeants at Arms, (sometimes a *Domestick* of the *Earl of Exeter*, an honest and worthy Gentleman) post to *Rome*; who speedily returns with *Ross* and *Diego's* Hands, and other Testimonials, that all the said accusation, confession, suspicions and papers concerning the Countess, were notorious false and scandalous; and confirm it by receiving the *Eucharist*, in assurance of her Honour, and his Innocency; besides several Letters of her Hand, compared with this Writing, concluded it counterfeit.

Then the *King* tells the Mother and Daughter, that this Writing being denied by her, their Testimonies, as Parties, would not prevail, without additional witnesses.

They then adjoyn one *Sarah Wharton*, their Chamberers, who, they affirm, stood behind the Hangings, at the Entrance of the Room, and heard the Countess read over what she had writ; and to this she swears before the *King*.

But after a Hunting at *New Park*, the *King* entertained at *Wimbleton*, and in that Room, he observes the great distance from the Window to the lower end, and placing himself behind the Hangings (and so other Lords in turn) they could not hear a loud voice from the Window; besides, the Hangings wanted two foot of the ground, and might discover the Woman, if hidden behind: the *King* saying, *Oaths cannot deceive my sight*; and the Hangings had not been removed in that Room in thirty years before.

Nay more than all these, the Mother and Daughter counterfeit a Confession in Writing, of

of one *Luke Hutton*, that for forty pounds the Countess should hire him to poyson them; which man, with wonderful providence was found out, and privately denies it to the King.

Anno 1616.

And thus prepared, the King sends for *Lake*, whom in truth he valued, tells him the danger to imbarque himself in this Quarrel; advising him to leave them to the Law (being ready for a *Star-Chamber* Business).

He humbly thanked his Majesty, but would not refuse to be a Father and Husband; and so puts his Name with theirs in a cross Bill; which at the hearing took up five several days, the King sitting in Judgment; but the former Testimonies and some private Confessions of the *Lady Rosse* and *Sarah Wharton*, which the King kept in secret, made the Cause for some days of Trial, appear doubtful to the Court, until the Kings discovery, which concluded the Sentence, pronounced upon several Censures, *Lake* and his Lady Fined ten Thousand pounds to the King, five Thousand pounds to the Countess, fifty pounds to *Hutton*, *Sarah Wharton* to be whipt at a Carts Tail, about the Streets, and to do penance at *St. Martins Church*; the *Lady Rosse* for confessing the Truth and Plot, in the midst of the Trial, was pardoned by the most voices, from Penal Sentence.

The King (I remember) compared their Crimes to the first Plot of the first Sin in *Paradise*, the *Lady* to the *Serpent*, her Daughter to *Eve*, and *Sir Thomas* to poor *Adam*, whose Love to his Wife (the old Sin of our Father) had beguiled him; I am sure he paid for all; which, as he told several, cost him thirty Thousand pounds, the loss of his Masters Favour, and Offices of Honour and Gain; but truly, with much pity and compassion at Court, he being held an honest man.

History of the A.B. of Spalato. Discontent among the Roman Prelates, put the *Archbishop of Spalato*, *Mark Antonio de Dominis*, to seek his Peace against that See, by sundry overtures unto several Princes in Italy, and other where, Spanish and French; at last he becomes tainted with some Opinions Heretical to them, which either he believed, or took up such Tenents for the present time, to prepare him a fitter Profelyte hereafter; and finding no sure footing from the Fury of the Pope and Conclave, he steals over into England; and to please the King, pretends Conversion by his Majesties Works of Controversie, and quarrels with *Bellarmino*; however, it was thought fit to bid him welcom, and to prefer him to the Deanery of *Windsor*; and for better Support, to the Mastership of the *Savoy*.

This next Count *Gondamore*, the Spanish Lieger, who intending to tempt him (as the Devil does his Creatures) with a bosom-sin, that which they love, had intelligence of his innate disposition to Avarice; with this he tampers afar off, and with leave of his Master, invites him to turn again, from this so mean Allowance, and take Preferment in the Conclave, to be Spains Pensioner there (as almost all are) with this assurance of a Cardinals Cap, he was cozened into the Court of Inquisition, and so to *Gael*, where he ends his Days with grief, and died a Protestant Professor, in malice, say some, to the Papists, or rather of no Religion at all, as others.

Marquefs d'Ancre murdered in France. The late sudden Murder aforefaid of *Henry 4.* of France, left the Sovereignty to *Lewis* his Son, and his Minority to be supported by his Mothers Regency; and she in miscarriage, through too

much affection to her Favourite the *Marquefs d'Ancre* (a Mechanical Florentine, her Country-man) occasioned the Princes of the Blood to seek their Freedom by force, which lasted not long, after their several imprisonments; for the quarrel rising high, and *D'Ancre* busied abroad, they plotted there by a bold Captain of the *Gens d'Armes de Vurry*, and effected upon *D'Ancre*s Person with a single Pistol, at the instant when he returned to the Palace, the *Louvre* in *Paris*, and his Corps had no other Balm for their Burial than his own Blood, being dragg'd about the City by the Peoples rage, till the disjointed Limbs were left for Ravens.

King *Lewis* was young, and engaged before in his Mothers Quarrel; but this Accident taking fire, as the Princes would have it, soon won their weak Sovereign on their party, and in policy, perforce, he owned their Actions, as the most convenient Justice, for quieting the differences; and so the Government taking hold on this occasion, turn'd to the other side, and had the better of the Queens Faction; she being afterwards led up and down the Kings Army under oversight, as a Prisoner, but shewed to the People, as if reconciled to her Son, the chief Mover, having paid the Account upon the execution of his Person.

This for the present, which lasted by Fits for some years, as her Faction took breath, until that excellent Engineer of State-Policy, Cardinal *Richelieu* had put her into a Jealousie of her own safety at home, and so opened a Gap whereby (as in stealth) she might get loose out of the Kingdom; but Sovereigns leaving their Subjects, are seldom sent for again; and after much turmoil and tampering with several States and Italian Tricks, she ended her days very poor in Germany, in the City of *Collen*.

And *Richelieu* successful in all his Policies, settled that Nation to his Death in their due submission to Sovereignty, which broke out afterwards, Anno 1652. into like Examples of former Miseries.

The Blessing of Peace and Plenty enthroning this our King, resolved him for a leafurely Expedition into Scotland, in the opening of the last Spring, which was not performed this Summer-Season, partly to make good his Promise, when he took leave of his Native Countrey, to give them a Visit after some time of settlement in his New Inheritance; and in some policy it was hastened now to be out of the way of Address from the Emisaries of the French (that unstable State) now in the height of Dissention, whilst King *James* and his Court were thus refreshed from Affairs and Business here, in as much Prudence and Splendor as the consideration of this Journey was necessary to the Design, which an Historian (with his Pasquil-Observations) spends in Ridiculous Riot.

But it was indeed by his Presence to warm those cold Countreys with the Beams of Majesty, and with his Precepts to warn that Rebellious Nation of their Feuds, by example of their old French Friends fresh Miseries, to settle the Spirits of the Factionous Presbytery, in obedience to Episcopal Hierarchy; to pass some Bills and Acts of Parliament, to regulate the exacting powers of some Officers in trust, to give Grace to the humble, and content to all.

And forthwith a Proclamation was advised in Scotland, and there Published of a King Solomon-like instinct, 'to visit that Kingdom, and therein

gave them assurance, not to alter the Civil and Ecclesiastical Estate, but by Reforming Abuses in the Church and Commonwealth, and advised them to all Accommodations to bid him and his Welcom.

These Directions were accompanied with others of State, and amongst them, for repairing and orderly adorning his Chappel, and Officers sent out of England with Necessaries, and some Portraits and Pictures of the Apostles, Carved, for the Pews and Stalls; but the People exclaim at such Sights, *That such Images were to be set up; the Organs were come before, and after comes the Mass,*

King dis-
pleased.

The King was angry at their Ignorance, and sent them word to distinguish between Pictures intended for Ornament and Decoration, and Images erected for Worship and Adoration; resembling such men to the Constable of Castile, who being to swear the Peace concluded with Spain, and to be performed in the Kings Chappel, where some Anthems were to be sung, desired that Gods Name might not be used therein; otherwise he would be content with any thing else: So the Scots-Kirk can endure Dogs, Bears and Bulls, nay, Devils-Dressings, to be figured in Churches, but not the Patriarchs nor Apostles.

He came to Berwick in May, and there it was advised to Prorogue the Parliament to June 13. which gave the King time to progress through the Countrey, making his Entry in the Special Burghs and Towns, after the most Magnificent manner; and was welcom'd with all the Expressions of Cost and Glory that ever that poor Nation had been put unto, that some Effects might seem to make good the Scots Rants of their gude Countrey.

And because it hath been since surmized that nothing was acted there in order to the Service of that Nation, we shall trouble the Reader with some Particulars.

Parliam.
called, &c.
Kings
Speech.

The King enters their Parliament with Rules for establishing Religion and Justice, and a regard to the Ministers of both; for notwithstanding the many years Profession of Reformation, numbers of Churches remained unplanted, and those that were, wanted Maintenance, advising that Commissioners might regulate a local Stipend to each Minister.

He remembered them of his continual care and pains heretofore and since, for placing Justices and Constables to preserve the Peace, and execute Laws, which he said had been neglected by some, by the small regard shewed unto them, from others of higher Rank. But as he would have them know such Officers to be of Honourable Esteem, so none could deserve better from his hands, than those that countenanced them; and those others Enemies to the Crown and Quiet of the Kingdom.

That he had long endeavoured to Civilize men from their barbarous Customs, having made some progress, by remove of the persons, or by extinction of their Feuds, and in place thereof, established Civility and Justice; and to his Lives end, he would never leave to do his best endeavours, until he might say of Scotland, as one of the Emprors said of Rome, *Inveni lateritiam, relinquo marmoream.* Indeed the Countrey affords more of Stone than Tile-shard,

Articles
about Reli-
gion.

They came to Vote Commissioners upon the Articles of Religion; whom the King commends, they refuse: and evermore Officers of State are suspected partial for the King; and therefore

they admit but of three; The Chancellor, Treasurer, and Clerk of the Rolls.

Fac. 15.

They begin with the chiefest Article, *That whatsoever should be concluded by the King and the Bishops in Matters of external Polity, should be an Ecclesiastical Law;* not that the King was against the Advice and Assistance of a competent number of the Grave and Learned Ministers; but to be over-ruled (said he) as in your former General Assemblies, I shall never agree; the Bishops must rule the Ministers, and the King govern both in matters indifferent, and not repugnant to Gods Word, and so that Article was Formed and Passed.

Hereupon the Ministers mutinie, that their Discipline should be formed to all the Ceremonies of England, and Struthers in his next Sermon, condemning all those Rites, prayed God to save Scotland from the same Sin; and thus set on, they frame a Protestation to the King in Parliament.

Ministers
mutiny &
Expostu-
lations.

First, Against that Article, and therein if Remedy be not provided, they shall be forced to other Effects, for Freedom of their Church, and Discharge of their Consciences.

Their Reasons they reduce into Arguments.

1. Their Reformation, That the purity in Doctrine, Sacraments, Discipline and Order thereof hath been acknowledged rather as a pattern to be followed by all Reformed Churches of Europe, than now to be put to seek it from such as never attained to it.

2. That their General Assemblies formerly established to constitute and make Canons, will be utterly overthrown.

3. That hitherto their Church, nearest the Divine and Apostolical Institution, and so have lived long without Schism and Rent, may now by introducing Novelties, be miserably overthrown.

4. That his Majesties Gracious Assurance by his Letters this last Winter against all alteration of Religion, and so hath been intimated in Pulpits, when Rumors were dispersed of intended Conformity with England:

These they pray may be sufficient to warn the King and Parliament, not to oppress their poor Church, and give grief to Millions of men, that otherwise would rejoyce at his Majesties presence; and so they resolve, that rather than submit, they are prepared to incur Censure, and oppose.

This Protestation they commit to the most mad-headed man amongst them, one Hewet; but some of the wiser sort fearing the Success, desire the Archbishop of St. Andrews to suppress it.

He meeting Hewet, desires to peruse it, and blaming the man, keeps the Writing, the other seizes the Paper; and thus striving in the next Room, the King hastily comes out, and sternly fronts the Fellow; who falls down upon his Knees, and craves pardon for the Protestation, professing never more to meddle therein.

But the Bishops had warning to summon some principal Ministers, and with them to meet him at St. Andrews, July 10. where the King greets them.

How great my Care hath been for the Church (saith he) since I had Authority and Power to perform it, your Consciences cannot chuse but confess

Kings
Speech.

Anno 1617. 'confels it; I need not tell you, I seek no thanks, 'God knows my Heart, for true Worship of 'him, and decent Order in the Church. Whilst I 'resolved on this Journey to visit you, I gave 'you warning to insert some Articles into the 'Acts of your Church, those were Anniversary 'Commemorations of Christ's Blessings to man; 'as, his Nativity, Passion, Resurrection, Ascension, 'and Descent of the Spirit; another, for private 'use of both Sacraments; a third, for Reverend 'Administration of the Communion; and a fourth, 'for Catechising and Confirming Children by 'Bishops: I was Answered, that they had not 'been moved in any of the Churches Assembly; 'and so I was silent, and lately desiring by my 'Prerogative, to be declared, in making Eccle- 'siastical Laws, ye Mutined, and protested 'against me; but I pass all, amongst many other 'wrongs frequent from you.

'The Errand I have now, is to know your Ar- 'guments, why the same ought not to be granted: 'Reason shall ever guide me; and if my De- 'mands are so Just and Religious too, I will not 'be refused, nor resisted; and upon that, Browing 'upon them with a full eye, Majestical and Stern, 'they all fell down on their Knees.

'The King went on; It is a Power innate, a 'Princely special Prerogative which Christian 'Kings have, to order and dispose external 'things in the outward Polity of the Church, 'as we with our Bishops Advice shall think fit. 'And Sirs (said he) for your approving or dis- 'proving, deceive not your selves, me you shall 'not; I will have my Reason not opposed.

They sub- mit seem- ingly. They were all become new men, and humbly besought they might confer, and so return an uniform Answer; which, in two Hours space produces a Petition for a General Assembly; where- in all his Majesties Articles being proponed, they might with common Consent be received; I, saith the King, but what Assurance have I of their consenting? They protested that they saw no reason to the contrary.

'But if it be otherwise, and your Reason now 'be none of theirs then, the Articles refused, 'my difficulty the more; and when I shall hereaf- 'ter put my own Authority in use, I shall be 'Pulpited a Tyrant, Persecutor; Ye were wont so 'to do.

All cried out that none durst be so mad.

'Yet Experience tells (says he) that it hath 'been so; therefore unless I be sure, I shall not 'grant your Assembly.

They craved the Archbishop of St. Andrews to Answer for them, but he refused; having been formerly deceived. At length they procured leave to Assemble in November next at St. Andrews.

Afterward revolt. Simson, that Subscribed to the Protestation, writes to his Brethren those Articles, which he calls *Tricas Anglicanas*; the Letter-Carrier was Catherwood, who, for his Insolency to the Kings Face, was committed, and after banished; and Simson sent to Edinburgh-Castle, where he lay till December,

And so the King returns to England, by the West-parts, and at Dunfries had his Farewel-Sermon by the Bishop of Galloway, which made the Hearers heavy at their hearts.

The King gone home, the Assembly met, but willingly would have delayed their Conclu-

sion of the five Articles, till they might inform their Flocks of the equity of them; and so they went away: which the King considers as an high Contempt, and Breach of their Promise; and commands the Bishops of St. Andrews and of Glas- cow, precisely in their own persons to keep Christ- mas Day next, Preaching upon Texts according to the Time, and to discharge all Modification (advance) of Stipends to any Minister for a year, unless only such as have submitted to the Articles, and in affection to the Kings Ser- vice.

The Ministers thus curbed, and the Northern men being come up to Edinburgh for their Sti- pends, complain of their Brethren, their pride and insolency, supplicate the Bishops to intercede and mitigate his Majesties Displeasure; which they did, and procured Letters from the King, for allowance of their Stipends. And Mr. Sim- son was now released, professing his hearty Re- luctancy for opposing his Majesty; setting his Hand to a Supplication which himself framed, with all submission, but to their Assemblies or Synods (his being to the Council) he sets out an Apologetick, glossing upon each Word of his Con- fession, and concludes, 'That whatsoever frailty 'or weakness had befallen him heretofore, he ho- 'ped now to be like Peter, *Qui ore negavit, & corde confessus est*, and never to betray the Lords 'Cause with Judas.

The Jesuites do even so, play fast and loose; neither Tongue, Hearts nor Hands can bind them against their mental secret purposes; and yet there being some hope, that Matters might amend for the Church, and their frequent Synods pro- paring for their better Obedience, the Bishops procured the Kings consent to another General Assembly to be at Perth, in August the next year.

This Royal Progress of Pleasure into Scotland and back again, gave leisure to the King, and ad- vantage to all Attendants, for preferment of their persons, or other satisfaction for their Services, by the Freedom of their Masters Bounty, both to Scots and English.

Especially to our new Favourite, now of two years growth in the King's Affection; this man, Rife of the Duke of George Villiers, of an Ancient Family in Leice- ster-shire, and bears Arg. on a Cross Gul. five Escalops Or. His Father Sir George Villiers begat him 1592. upon a Second Venter, Mary Beau- mom, of Noble Extraction; whom for her Beau- ty and Goodness, he married: By his first, he had but one Son, rising no higher in Honour than Knight and Baronet; his Disposition not Court- like; and therefore enjoying perhaps the great- er Greatness, Self-Fruition; yet in time he had preferment to the Government of Ulster Pro- vince in Ireland: The other Sons were three; and in order of Birth, not of Preferment, John was Viscount Purbeck; George Duke of Buckingham, Christopher Earl of Anglesey, and one Daughter, Susan Countess of Denbigh.

We are told (that he came over by chance from his French Travels, and sought prefer- ment in Marriage with any body; but mist of a Match for want of an hundred Marks) and so pieces him from the Court (like the Story of *Dametas* his *Caparisons*) borrowing of each one by piece-meal, to put him forward for the Kings Favourite.

But the Truth is thus; his Mother, a Widow, was afterwards married unto Sir Thomas Com- pson, whose Brother the Lord Compson, by chance falling

Anno 1617. falling upon a wonderful Match for matchless Wealth, with the Daughter and Heiress of Sir John Spencer, Alderman of London, and her Father then lately dead, this Lord was Master of all; which was more than credible, and so might be enabled bountifully to set up a Kinsman, without other Help or Alms of the Parish.

It was plotted long before, and Villiers sent for to the same purpose, by practice of some English Lords, to ballance with the Scots, who, by the help of the last Favourite Somerset, and others of great affection with the King, had the better of the poor English.

There had been a private Entertainment of a Supper at Baynards Castle, by the Family of Herbert, Hertford, and Bedford, and some others; by the way in Fleetstreet, hung Somerset's Picture, at a Painters Stall; which, one of the Lords envying, bad his Foot-boy sling Dirt on the Face; which he did, and gave one passing by, occasion to ask his Companion upon what score that was done? He told him this Meeting would discover; and truly that person waited near and opportunely, and so was acquainted with the Design, to bring in Villiers, who was entred before.

He had need to be well Back'd against enough that envied his Nearness, and aimed by any affront to discountenance him, until he made them know that his Courage overmastered his Sweetness; for having bought the Place of Cup-bearer to the King, and taking the upper end of the Board at Dinner, before some other Waiter, which was not his due, was told of it, and so removed; nor was it done with overmuch kindness; for indeed the other was Somerset's Creature; who urging a second Incivility, Villiers gave him a Box o'th' Ear; for which the Custom of Court condemned him to have his Hand cut off, and which, Somerset, as then Chamberlain, ought to prosecute the Execution of; which he did; and here the Kings Pardon, without any satisfaction to the other party, made him suspected a Budding Favourite, who was indeed raised with, or by Somerset's Ruine; so drew his friends compartners in his Fall; being then as one cast out of the Passions of the King.

We shall find him come up by degrees, and to stand firm in favour, to the Death of this King, and his second Master till his Assassination.

The King minding to shew his own Power to raise him from nothing; and his Will to advance him for nothing, though others envy him; yet his Affection was enough to hold up his Head; he waited hard and close his first years Rising; but having removed all the whole Line of Somerset's Links (his Wives Interests, the Howards) being boldly fixed in his Masters Favour, he would adventure to take leave, but not too long, to be absent; and so by degrees inured the King from his Custom of overtiring his Favourites, and at last fortifies himself, by raising Outworks, if in case of assault, his own Marriage with an Heir, the Daughter of the Earl of Rutland, Rich and Honourable, twisting himself and his Issue by Inter-Marriage with the best and most Noble.

For indeed the Brouse-Boughs cut down or removed, to plain the Stem, our Favourite appears like a proper Palm; besides the discerning Spirit of the King, who first cherished him, through his innate Virtue, that surprized all men. Henceforth Preferments came thick upon him; for the next St. Georges Day after Initiation, brought him Knight Bachelor, and Gentleman of the

Bed-Chamber; at New-years-time, Master of the Horse, and Knight of the Garter; and that Summer, in August 1616. Baron of Whaddon, and Viscount Villiers; the beginning of the next year Earl of Buckingham, and Privy Counsellor; and this Summer in Scotland, sworn there also Counsellor of that State; at Christmas after (that Favours might be Recorded Acts of Time, and of Affection also) he was Created Marquess Buckingham, and Admiral of England; Chief Justice in Eyre, Master of the Kings-Bench-Office, and Steward of Westminster (Places of profit) and Constable of Windsor Castle; the largest was Duke of Buckingham, sent unto him by Patent into Spain; and last of all, Lord Warden of the Cinque-Ports: And so have we Blazoned him at once with all these Titles, which came to him in time heretofore and after.

These Accumulations might no doubt astonish the Conceit of Sir A.W. The hearts of Princes once dilated with Affection, cannot be satiable in the exercise of any narrow Bounty or little Affection; Choice and Love begets the Gift, which Act becomes fomented, even to be in love with their own giving, and so to excess.

And thus have we put together this great man, who was pieced up by degrees and times.

He had many Kindred; for his Family was ancient: Heraldry might Blaze as large Fields of his Pedigree as need concern any Subject to prove, were a man preferred to Pencil his Life, which I take holdness but to touch with Shadows.

These were dispersed by Time into several Matches with the Gentry; and what strange or new Device was it in him to raise them that were near in Blood by Noble and Worthy ways, as he did! He made his two Brothers Peers, his Mother and Sister Countesses; the one by Patent, the other by Marriage: The rest of his Kindred, by his Countenance, got means to live like their Births; being a Race handsom and beautiful; I mean, the Females, descending of Villiers or Beaumont, either Matched with Peers, or with the Sons and Heirs of Earls, or with Knights of plentiful condition; for he did not much strengthen his Subsistence in Court; but stood there on his own feet; the most of his Allies rather leaned on him, than he shouldered up by any of them hereafter, during this Kings Reign; wherein his Actions are successively remembered.

But concerning his Mother, made a Countess, there are in England three sorts of Honourable Women; by Creation, Descent, or Marriage.

1. H. 8. Created Anne Bullen Marchioness of Pembroke, before he Married her; so was Susan Widow, the sole Daughter of the Baron of Abergavenny, Created Baroness De la Spencer. Camden 63. 6. So also was the Lady Compton, Wife of Sir Thomas Compton, Brother to the Lord Compton, made Countess of Buckingham, with the Fee of Twenty Pound per Annum, 18 Jac. and also the Lady Finch, a Widow, Created Viscountess of Maidstone, 21 Jac.

2. Noble Women by Descent, or to whom Dignities descend as heirs, are said to be Honorable by tenure; or those heirs whose Ancestors were seized of an estate descendable to them in their titles of Dukedom, Earldom or Baronies, or heirs to Ancestors summoned to the Parliament.

3. And lastly, Noble Women are those Married to a Lord or Peer of the Realm, though themselves but in the state of Gentry.

Knights Wives are not of the Nobility, they are stiled Ladies by the Courtesie of England, but not

Raises his Kindred by Matches.

not in Courts of Judicature. So much for Noble Women.

Anno 1617. In the Kings return out of Scotland, the people took occasion to complain of common, and to petition in particular, that the freedom of Servants and Labourers was extreemly enlaved by their Masters, pretended zeal and sanctimony against Idolizing (as was pretended) of such days as ancient custom from general Councils, and the Church of England reformed, even to that time had appointed to be kept holy; whereby after the Solemnizing of Divine Service, the Servants and Workmen were not usual to discompany from their accustomed moderate Pastimes, such as the most rigid (heretofore) could not justly but admit.

The King not sooner affected to his own sports, that the sense of the peoples sufferings might take advantage by his Example, and so of liberty in the like (for much of his most serious affairs were shadowed from the Vulgar, nay from the observing Politick, by his own publick Pastime.)

Recreations for Servants on Holy-day. Zealots displeased. But in truth it came to be a business of consequence, to consider how the intemperate zeal of our then rigid Reformers, (to countenance their own design of deforming) strook at higher powers through the peoples sides in many matters, so in this case.

For at first, these pure conceited Men quarrelled at the name of the *Holy Seventh day*, called, as of old, *Sunday*, which they would have named *Sabbath*; and thereafter would have it observed Levitically, so strict, as not to gather sticks.

This being discussed in some Counties, the people forbore their Recreations; then the Reformers took the like exceptions against the peoples lawful pleasures and Holy days; and at last against all sports and publick pastimes, exercises, innocent and harmless, such were Leaping, Dancing, Running, or any mastery for to Goal or Prize, May-pole, or Church-ale, as debauched idle Persons.

In some of these pastimes several Counties excelled, and to entertain community with their mirth, the Court progresses took delight to Judge of their Wagers in their Journey to Scotland; which the people observing, took occasion to themselves to petition the King in his return for freedom, and leave to be merry.

And thus by this means, an Authors *Monstrum horrendum*, the Church-mans *Maskarado* was begotten and brought to allowance by Command, in print, to Justifie the people in their lawful pleasures, though upon the Sunday after Service.

Earl of Shrewsbury dyes. This year died *Edw. Talbot*, the eighth Earl of *Shrewsbury*, without issue, and therefore it descended upon *George Talbot*, son of *John Talbot* of *Grafton* Esq; by *Katherine* his Wife, Daughter of *Sir Will. Peters*, heir male of *Sir Gilbert Talbot* of *Grafton*, second Son of *John Lord Talbot*, second Earl of *Shrewsbury*, after the Death of *Gilbert* and *Edward* Earls of *Shrewsbury* without issue male, who was this next year 1618. admitted by King James the ninth Earl.

But this Man dying also without issue, the inheritance descended upon the Children of *John Talbot*, Brother to this *George*, which *John* dyed and left issue *John* the eleventh Earl, 1652. he bears Gules, a Lion rampant, in a Border engraied, Or.

Sir Walter Raleigh troubled, and the cause thereof. Sir *Walter Raleigh* wearied with long imprisonment, and having there spent his time well in the History of the World, made his Petition

more passable to the King, whose love to Learning granted him now at last his liberty; and not long after gave him leave to wander after a design to the Western World, where he had been in several *Climates* before; the common World wondering at this Mans wit, who had a way to break Jests, though to hazard his Head again; for in a jeer, he said, *That his whole History had not the president of a Kings chief Prisoner to purchase freedom, and his bosom-favourite to have the halter, but in Scripture, Haman and Mordecai*, meaning himself and *Somerfet*: to which he was told that the King replied, *He might dye in this deceit*; which he did: *Somerfet* he saved.

But in truth he had a reaching and roving mind from his first rise, and thereafter but a mean fortune, which he meant now to make up out of Adventurers purses, for Gold mettall, from a Mine in *Guiana*, one of the Countries of *America*; upon no other ground to win belief but a pound of the Ore which he had from thence by the Hands of Captain *Kemish* his ancient Servant.

The King wondering at this man, why to hazard his future fortune upon the nice dispute with the King of *Spain*, whose Territory he must invade at his own peril of success; but yet gave him leave with his liberty, so be, that he broke not the Kings bands of Amity, which he had strict Rules and Order to observe.

The French *Liege* had been very earnest for his enlargement, with much affection to his deserts, and some design of policy against *Spain*, wherein they two waded so far as that the discovery came to the Kings Ears (not without intrenching (by the by) upon his Majesties honour) and several Commissions from *France*, presented to him to fit him for that purpose; wherein he was warily watch'd, till it should ripen for further Trial, and at the worst, back-friends were to be put aboard, to bring him back again.

And having got Commission, and thereupon a company of his own Country-men, they imbarck with him in Voyage thither, with a compleat Fleet of twelve Sail, and landed at *St. Tomazo*, a Town of the *Spaniards*, killed five hundred men, sacked and burnt it; of five of their Fleet it may be said, as of the old saying, *They went up the River, and so came down again*; for the design being the River *Orenoque* in *Guiana* to discover the Mine, at the Foot of a Mountain; up in the Countrey they were opposed by the Inhabitants, *Spaniards* and *Natives*, and so returned to their Company.

This Expedition was grounded at the first only upon *Kemish's* information: the miscarriages that might happen were always cunningly resolved to light upon him, for satisfaction of the Adventurers to answer it to the King: his intent was never to return but by his own management, and the obedience of his Company over whom he had Commission of Life and Death. He dreamed of nothing less than of a prosperous Journey.

And now to frighten *Kemish*, *Raleigh* threatens him with the Kings displeasure, which to avoid, says the Historian, the poor man pistols himself, and so no tales could be truly told. Hist. Great Brit.

He dead, the most minded and forced their own and his return home, which he intended any where else; and so some of their scattered Ships with him, more like a Prisoner than Commander, came safe to *Kingsale* in *Ireland*, from thence

Anno 1617. thence to *Plymouth*, where no sooner on shore, but he is taken into custody of Sir Lewis Stukely, Vice-Admiral of *Devon*, and conveyed to *London*, and so to the Tower, with whom he deals for a sum of money presently delivered to him to escape with him into *France*: Stukely yields to all, accompanies him by Water, whereby the way to *Gravesend* (the design of Stukelys treachery in that, and so is prospered with him, being hanged afterwards for clipping Gold) they were seized, and he brought into the Tower; and not many days after commanded to the Kings-bench-bar at *Westminster*, before the Lord Chief Justice Mountague, where he was questioned upon the Records of his former Arraignment at the City of *Winchester*; and in Answer to that he was asked, What he had to say to his sentence to dye like a Traytor?

His short defence of being lately intrusted by the Kings Commission over the Lives of some of his Liege people, was soon replied unto as insufficient, and he had Judgment to dye the next day by the favour of the Ax; which he said (smilingly touching it) Was a sharp Medicine, but a sound Cure of all Diseases; as it proved to him then in this *Ague fit*, in the Palace-yard at *Westminster*, Octob. 1618.

It was indeed common discourse then that Raleigh knew of no Mine, nor was Kemish assured that the pretended Mine was of Gold, but that the piece of Ore which he presented to Raleigh in the Tower was falsified by dissolving some Gold therein; and he a better Chymist than Kemish for that purpose; that both of them designed it so to be, thereby cozening the World to get credit, and afterwards to deceive the King to purchase his liberty.

But when Kemish came safe from the supposed mountain, without Mine, whom Raleigh expected should miscarry in the way, and none but he could discover the deceit; then was he destroyed by Death, but by whose Hand it may be suspected, not by himself.

And truly these reports were more than a false visard to outface the Truth of his Merit in that action, and thereby to weigh down Raleighs miscarriage.

At his Death he endeavoured to clear some points which he knew lay on the deck against him, his disloyal words to the King. Undutiful language from Subjects of Sovereigns take deeper root than the memory of evil deeds; so did the Marshal Byron which cost him his Head. Essex once told Queen Elizabeth, That her conditions were as crooked as her carcase. *Manei altâ mente repositum.*

He said, His accuser was a base runagate Frenchman and perfidious, being sworn to secrecy, yet he betrayed.

Secondly, To have had often plots with France. He confessed, That he had been often solicited from thence, and that he endeavoured to escape thither at twice, and the last time being as got far as *Wolwich*.

Thirdly, That the French Agent came often to him with Commissions from his Master, but it was not accepted.

Much he said of these as to the publick, and of more things as to private, which he did deny but Traversed.

So then there were other businesses of a second charge and confederacy, which made him liable to a new Tryal; for Treason is so comprehensible, as to take in even circumstances, and out of

them to make such conclusions as the Jealousie of State shall interpret either for safety or revenge. *Fac. 15.*

But the prudence of the King would not hazard more, having sufficient upon the old score; and because he could not in Law be Judicially called to accompt for his last actions; his former Attainder being the highest and the last work of the Law, whereby he was *Civiliter Mortuus*, the King was enforced (except Attainders should become priviledges for all subsequent offences) to execute him upon the former.

And concerning Sir Walters recovery of Queen Anne infirmity, for which she should beg a Boon, viz. (the re-examination of Lord Cobham by four Earls and three Counsellors) it being urged by an Author in the innocency of his cause, and ingratitude of the King.

Mr. Sanderson will Answer, to my knowledge, by the relation of some Ladies of her Bedchamber, and of her Surgeons and Physicians now living, That she was never cured of her Disease, but by death that ends all maladies. We are told that Sir Walter set out his design to the King, who discovered it to the Spanish Lieger Gondamore, the Country, Town, Men, Ships, Ordinance, and all, and he posted it to Spain, thence to the Indies, before that Raleigh could get out of our River; and yet for all these tidings, supplies were not come to defend the Town *Tomazo*.

We will confess that all these exceptions may be had under Sir Walters Hand, purposely so writ by him, to excuse the weakness (or wickedness) of the event; for the truth is, the design though hatcht in a corner, was published on the house top, to procure Contributors; otherwise he must conclude them Madmen or Fools, nay, I can, faith he, produce it under his Hand and Seal, with a blank (for he left a hundred) for other Adventurers to follow him, for which each one gave fifty pounds to his Lady; and therein was set down as much as our Historian fathers upon the King, or Gondamore.

And that his own Conscience was satisfied that he deserved death, before he was brought up Prisoner from *Plymouth*, and so to endeavour his escape from Trial, see but the close of his own Letter to *Buckingham*.

It was (faith he) the last severe Letter from the Lords for my speedy bringing up, and the impatience of dishonour that put me in fear of my life or perpetual imprisonment, which animated me in my late, and too late lamented resolution to escape, if his Majesties mercy do not pity my age, and scorn the advantage of my guilt; if his Majesty does not make differences in offences, proceeding from a life-saving natural impulsion, without ill intent, and those of an evil Heart.

And if that your Lordship do not vouchsafe to become my intercessor, whereby your Lordship shall bind a hundred Gentlemen, my kindred, to honour your memory; and bind me for all the time of my life, which you shall beg for me, to pray for your prosperity; and to remain,

Your Lordships most
humble Servant

W. RALEIGH.

As to the value of that worthy Gentleman (from whose descent of blood, one faith, he was no stranger) certainly we may yield to him as much

much or more than is described by his Character, but then those excellencies (natural Wit, better Judgment, and plausible Tongue, &c.) might in his long time of recess by imprisonment, (through disuse of men and business) become uncertain grounds to Fabrick such designs as the natural man (not supplied with inward Grace) usually aims at, and therein is mostly deceived; such was he, his fate, and fall.

This year the King creates by Patent four Earls, Sidney Earl of Leicester, Compton Earl of Northampton, Cavendish Earl of Devonshire, and Rich Earl of Warwick.

Having paid the price, a good Sum for their Honours, so earnest some are, and so ambitious of preferment, as what they cannot get by merit, they covet to purchase with money; an infection newly crept into the distribution of Honours, not usual here with former Sovereigns.

The miserable condition of sinful man in sundry examples of these present and of former times, should mind us hourly to beg of God preventing Grace, lest we fall into temptations of sin and Satan; such have been the calamities of ages past, at present are, and will be to come; Histories of Theft, Rapine, Murther, and such like.

One of wondrous note happened at Perinin in Cornwall, in September, a bloody and unexampled Murther, by a Father and Mother upon their own Son, and then upon themselves.

A strange Murder.

'He had been blessed with ample possessions and fruitful issue, unhappy only in a younger Son; who taking liberty from his Fathers bounty, and with a crew of like condition, that were wearied on Land, they went roving to Sea; and in a small Vessel Southward, took booty from all whom they could Master, and so increasing Force and Wealth, ventured on a *Turk*-man in the *Streights*, but by mischance their own powder fired themselves; and our Gallant trusting to his skilful swimming, got a shore upon *Rhodes*, with the best of his Jewels about him, where offering some to sale to a *Jew*, who knew them to be the Governor's of *Algier*, he was apprehended, and as a *Pyrate* sentenced to the Gallies amongst other Christians, whose miserable slavery made them all studious of freedom; and with Wit and Valour took opportunity and means to murder some Officers, got aboard of an *English Ship*, and came safe to *London*, where his Majesty and some skill made him Servant to a *Chyrurgion*, and sudden preferment to the *East-Indies*, there by this means he got money, with which returning back, he designed himself for his native County *Cornwall*; and in a small Ship from *London*, sailing to the West was cast away upon the Coast, but his excellent skill in swimming, and former fate to boot, brought him safe to shore; where since his fifteen years absence, his Fathers former fortunes much decayed, now retired him not far off to a Country habitation, in debt and danger.

'His Sister, he finds Married to a *Mercer*, a meaner match than her birth promised, to her at first appears a poor stranger, but in private reveals himself, and withal what Jewels and Gold he had concealed in a Bow-case about him; and concluded that the next day he intended to appear to his Parents, and to keep his disguise till she and her Husband should meet, and make their common joy compleat.

'Being come to his Parents, his humble behaviour, suitable to his suit of cloaths, melted the old couple to so much compassion, as to give him covering from the cold season, under their outward roof; and by degrees his traveling Tales told with passion to the aged people, made him their guest, so long by the Kitchen fire, that the Husband took leave and went to bed, and soon after his true Stories working compassion in the weaker Vessel, she wept and so did he, but compassionate of her Tears, he comforted her with a piece of Gold, which gave assurance that he deserved a lodging, to which she brought him, and being in bed shewed her his girdled Wealth, which he said was sufficient to relieve her Husbands wants, to spare for himself; and being very weary, fell fast asleep.

'The Wife tempted with the Golden bait of what she had, and eager of enjoying all, awakened her Husband with this News, and her contrivance what to do; and though with horrid apprehension he oft refused, yet her pining fondness (*Eves* enchantments) moved him to consent, and rise to be Master of all; and both of them to Murder the man, which instantly they did, covering the Corps under the cloaths till opportunity to convey it out of the way.

'The early Morning hastens the Sister to her Fathers house, where she with signs of Joy, enquires for a Saylor that should lodge there the last Night; the Parents slightly denied to have seen any such, until she told them that it was her Brother, her lost Brother, by that assured scar upon his Arm, cut with a Sword in his Youth, she knew him; and were all resolved this morning to meet there and be merry.

'The Father hastily runs up, finds the mark, and with horrid regret of this monstrous Murther of his own Son, with the same knife cut his own throat.

'The Wife went up to consult with him, where in a most strange manner beholding them both in Blood, wild and agast, with the instrument at Hand, readily rips up her own Belly till the guts tumbled out.

'The Daughter, doubting the delay of their absence, searches for them all, whom she found out too soon, with the sad sight of this scene, and being overcome with horror and amaze of this deluge of destruction, she sank down and died, the fatal end of that Family.

'The truth of which was frequently known, and flew to Court in this guise: but the imprinted Relation conceals their Names, in favour to some Neighbour of repute and a kin to that Family.

'The same sense makes me silent also.

We have heretofore heard of the Constitution of the *Dutch-Netherlands*, their favour to *Vorsinus* and his Heresies, preferred at *Leyden* 1611. where he had a way of Wit and Cunning to work into peoples dulness; led on by countenance of sundry the powerful Ministers of the *Provincial States*; that now his Tenets were Preached for *Orthodox*, and believed as Gospel, being mixed with those of *Arminius*, whose repute (following his Death) *Vorsinus* took up, and for the Masters sake, were misnamed *Arminianism*, then of a dozen years growth; infecting the *Reformed Churches*, almost in each Countrey published in Print, or fetcht from thence by Taint of young Students.

E

King

Anno King James took care to prevent both, by burning the one, if they came hither, and forbidding the other not to go thither.
1618.

Peace and plenty with them bred up these Schisms into as many Factions, the old way to work designs and changes in State, both of the *Gown* and of the *Sword*; the one mightily Mastered by the Wisdom of *Barnevelt*, the other commanded by the Power of the Prince of *Orange*: This *Barnevelt* was worthily Descended, and well Bred; his Travels abroad, and his Counsels at home, which his great age, seventy years, gave time to ripen for excellent Advice in the Magistracy, and Council in the Army, improved by five Embassies abroad, and thirty two Leaguers at home.

And it is Counsel to some, whether Conscience or Ambition over-ruled his last Actions; but he made himself Head of a Faction, which got the name *Arminians*; a common custom with opposers to colour their own designs by laying Infamy, or at least scandal upon their Adversaries; and this did the Prince do to destroy *Barnevelt*, for Envy and Fear. The other finding the pulse of the people to beat in a high Fever of that Disease, was forced for the present to tack on that side; where he was sure to have Hearts and Hands to keep him up, in a desperate State, otherwise to be overwhelmed in the deluge of destruction.

Thus in some condition to balance the Prince with assistance of several the *Provincial States*, of his Opinion and Jealousie; that if the power of the Prince, *Generalissimo* of their Armies, were not limited, his Greatness would ere long increase without Controul; and therefore by way of Counsel (for pretended good of the Commonwealth) they did Confederate to leavy new Companies, far from view or suspicion of the Prince, whom *Barnevelt* kept close to business of the publick Council, with the States General; and so it was not discovered until *Midsummer*, but then perfectly understood: the Prince in secret, with his Kinsman Count *Ernest*, and the best of his confidence, leaves the Court at the *Hague*, gives intelligence of his design to Colonel *Ogal* Commander of the Garrison at *Utrecht* (the place of the others greatest strength) who on the sudden receives them in; surprizes the Town and that State, in close Council, and at Hand had the Garrisons of *Arnhem*, and others to Master that part, and so other places of Force, whom he suspected had favour with *Barnevelt's* Faction.

The Con-
spiracy
supprest.

The success of this sudden expedition gave such Authority to the Prince, that being returned in Martial manner, he seized *Barnevelt*, *Grotius*, *Hogenbert*, and other confederates at the *Hague*, and committed them to Prison, upon pretence of Treason. His Power with the Army, and Interest with the States, might do this and more.

Conspira-
tors seized
and sen-
tenced.

Not long after *Lydenburgh*, Governour of *Utrecht* imprisoned, stabs himself to the Death with his Trencher-knife; being assured that no innocency would prevail against force and malice; yet *Hogenbert* and *Grotius*, had sentence of miserable mercy, and perpetual imprisonment; the last of them got loose, being conveyed out in a Chest, which his beloved Wife plotted for his escape.

Barnevelt had Friends with the State, and a strong Faction with the People; and though his Sentence pronounced him to the *Scaffold*,

yet it lasted a long dispute, ere they brought him to the *Block*, which was not effected till May the *Fac. 16.* next year; his Sentence indeed made his Crimes Capital, as Author and Accessary of all former distempers in State, sum'd up to the height, and sufficient to hang a thousand.

The multitude of Believers begin to murmur, to appease them and prevent muteny, a *National Synod* was held at *Dort*, accompanied with sundry able Divines of several reformed Churches; King James in principal sent thither, Doctor *George Carleton* Bishop of *Landaff*, Doctor *Joseph Hall* then Dean of *Worcester*, Doctor *John Davenport*, Professor *Revis* in the University of *Cambridge*, and Master of *Queens Colledge* there; Doctor *Samuel Ward*, Regent of *Sidney Colledge* in *Cambridge*, and Doctor *Bialcunquala* Scotch-man, (in particular to give honour to that Nation) but in Truth, and in esteem they are all of them, (and so other foreign Divines of this Assembly) men of incomparable Learning in the Mystery of Religion; but where appeared no opponents, the Dispute found the less difficulty, and their conclusions for the present silenced the Pulpits.

Yet private men took pains to search the distinction, and as opinion (the rule of Conscience) binds every own; so from thence and since *Arminism* hath its increase; the Divines of *England*, not being obliged to their opinions at *Dort*.

For first, This Synod was Foreign and National, and therefore as a Synod could not bind us in *England*, unless it had been ratified, and imposed by Publick Authority here at home.

Secondly, It was not an *Episcopal Synod*, neither was any Bishop president of it, or Actor in it, (*quatenus Episcopus*) and therefore it was rather Assembly of private Divines than *Ecclesiastical Synod*, according to the rules of ancient *Ecclesiastical Discipline*.

Thirdly, Our Divines concur not absolutely in Judgment with the *Netherlands* in all their *Synodical Conclusions*.

For concerning that Article of Redemption, they write, pag. 204. *De mortis Christi pretiosissimo merito, ut nec primitiva, &c.*

The reverend Divines of *Great Britain* in these words, deliver four things.

- I. That they accord with the primitive Church touching the Articles of universal Redemption.
- II. That the promises of the Gospel ought to be proposed universally to all men.
- III. That whatsoever is offered or promised in the name of Christ, to any person in the Church, is truly intended by God to be given unto them, in such sort as his Word and Promises do outwardly sound.
- IV. It is consequent upon the former, that the Work of Redemption in respect of Christ his oblation and intention therein, is common to all mankind, although many by reason of their impediments do not actually receive them.

Now this resolution of our Divines accordeth with the Articles and Doctrine of the Church of *England*; but none of the Foreign Divines of that Synod were of the same Opinion, for they restrain the Redemption of Christ, both in application and Gods intentional offer meerly and only to the Elect.

The *Belgick Confession* is wholly confirmed by the

Brittish
Divines
dissent
from the
Synod, &
in what
points.

the Synod of Dort, as appeareth in the Book of the Synod, pag. 329. But the 30, 31 and 32. Articles of this Confession teach, That the Presbyterian Discipline is of Divine Institution, and that all Ministers have equal Authority and Jurisdiction, and consequently condemn Episcopal Government, and the Ecclesiastical Polity of our, and all other Churches, which embrace not Calvin's Platform of Lay-Elders.

The ancient Custom of Convocating Synods, or Meeting of Divines, for composing Differences in Religion, and Reformation of corrupted Discipline, was from the very four Apostles Meeting at Jerusalem, concerning the Gentiles observing Moses's Laws; and from that example in a Province or City, the Primitive Bishops Assembled at several times for 200 years then following.

The Peace and Unity of the Church in Constantine's time, gave ease for many Churches to communicate over the whole Empire; and was called in his time the Holy Synod; & not long after, the General and Oecumenical Council, though the Empire was divided into Eastern and Western; and afterwards amongst the Grecians, from the Assembly of the five Patriarchs, and in those Kingdoms from the Unity of States obedient to the Pope in Ecclesiastical Causes, which till the fifteenth Century of years, so continued quiet, unless in that of John Huss, and Jerome of Prague, from the Doctrines of John Wickliff in England.

In the Time of Richard the Second, King of England, who Married Anne the Daughter of Wenceslaus King of Boheme, and though he had no Issue by her, yet the Conversion of Boheme from Popery, may not unfitly be stiled the Issue of her Marriage; for they that brought her hither, carried over Wickliffes Works, Anno 1382. to John and Jerome; so then England was Grandfather of Reformation, Boheme the Father, and Germany the Son; their Doctrines were against the Popes Supremacy, as Antichrist; they condemned Transubstantiation; he Translated the Bible into English, and was Buried in Leicester-shire; the first man that suffered the Fire of English Martyrdom, at forty five years of Age.

About the Year 1500. appeared the first occasion amongst the Waldenses near the Alpes, in some Cantons called Picards; but both of them then rather despised than feared; their Disciples were called Sub utraque, receiving the Sacraments with the Cup, and with the Bread against the Papists; but their Opinion of long time was rather amongst themselves, than communicable.

In 1517. began Martin Luther, an Hermite Frier in Saxony, that Covent being usually employed to Publish the Popes Indulgences; he spoke against the excessive Abuse of the Pardons, in Ninety five Conclusions, at Wittenburgh, which John Thekel a Dominican opposed in others, at Frankford; in Brandenburg, by Ecchius also, and Prierius.

And also Controversie increasing in Matter of greater importance, they were fain to strengthen their weak Arguments with the Popes Authority, as being the chiefest in the Church, and not able to err.

Martin proves him inferiour to a General Council, which he craves, as most needful; whereupon he was cited to Rome the next year; but in favour remitted to Examination of the Popes Legate, Cardinal Cajetan, at Ausburgh in Germany; who could not convince him; and in such Policy, back'd by some Princes, he appealed from the Popes Bull to a General Council.

The same Occasion of Indulgences collected at Zurich provoked Zuinglius a Canon, to oppose Samson a Franciscan, who Preached for their Pardons.

These Reformers and their Writings were Examined and Condemned by the Universities of Lovain and Cullen; and the more opposing, the more increasing; the Pope remitted the Dispute unto some Cardinals, Prelates, Divines and Canonists; and their Books were condemned, and burnt; and the Popes Bull resolving it, the Effect followed first at Lovain and Cullen.

Luther and his Scholars did the like by the Popes Bull and Decretals at Wittenburg, and justified it by a long Manifest to all the World; and this caused a Diet at Worms, which examined him; and his Answer moved the Elector and others to favour his Doctrine; but was Condemned as notorious Heretical by Imperial Edict; and by example, so did the University of Paris.

Henry the Eight, King of England, born a Second Brother, and therefore bred a Scholar, designed for the Archbishop's See of Canterbury, writes a Book against Luther, and had his Reward and Title of Defensor Fidei; though upon consideration (the Papists say it) of Lust and Policy, turn'd Reformer also.

The like Dispute and Measure had the Doctrines of Zuinglius and the rest; and so these Differences increasing, did necessitate another Diet at Norembergh; where Disputes against the Reformers, increased Complaints against the Courtiers of Rome, and were reduced into Centum Gravamina, and at the Diet at Spire as many more.

The horrid Plots between the Princes and the Popes, and general Distraction of Germany, and other parts of Christendom, and by the Seeds of the Reformed Religion. At last, to amend all, or make it worse, the Pope was forced to consent to call a General Council at Trent.

The Elector of Saxony, and five Princes more opposing the Emperors Decrees, and fourteen principal Cities adhering, they protesting against it by Manifest, were now first called Protestants, as from the Reformed Doctrine of Luther, and the rest with him.

At the Diet at Ausburgh, the Protestant Princes, fifteen, and thirty Cities, prefer their Confession of Faith of Luther, called from the Place, Augustan; the Cities also of Zuinglius Doctrine, Presented their Creed, differing only in the Eucharist; and at home were opposed by their Neighbour-Roman Cities, and quarrelled it by War; wherein Zuinglius, in the Head of a Company, Sacrificed his Life; for whom Oecolampadius, a Minister of Basil, of the same Opinion, dies for grief: And from these of the Cantons, came the Name of Gospelers.

The horrid Troubles, Discords and Disputes amongst Christian Princes, from the Seeds of Reformed Churches, controverted by several Quarrels and Armies, and referred to several Diets, Colloquies and Meetings in Germany, it was then at last resolved of the H Oecumenical Council of Trent, (as the Roman Catholics call it) opening at Trent,

Fac. 16.

Reformation in England and other Countries

Trent Council assembled.

in December 1545, in the time of Pope Paul the Anno Third, Charles the Fifth, then Emperor, Henry 1618, the Eight King of England, and Francis the First, of France, and ended Anno 1563. Eight Bishops of Rome lived and died during that Treaty of eighteen years.

Our Countreyman *Cimpian*, that Apostate, writes to the *Universities*, in that Councils Comendations.

'The Synod of *Trent* (saith he) the older it waxeth, the more it will flourish. Good God! what variety of Nations, what choice of *Bishops* of the whole World, what Splendor of Kings and Commonwealths, what Marrow of Theologies, what Sanctity, what Weepings, what Academical Flowers, what Languages, what Subtilties, what infinite Readings, what Riches of Virtues and Studies did fill up that Majestical Sacred Place! And the like.

Paolo
Suavio.

And so they amused the After-Age with a counterfeit Value of that Council, until that an *Italian* compiled a Work of the particular and ordinary Acts of that Council, wherein their Practices to maintain the power of the Court of Rome, and to hinder the Reformation of that See is plainly expressed: An excellent Work, written in the time of King James, and Translated then into *English*, 1618; if there were no deceit in the Writer (as I have heard it pretended) as that underhand he was a *Protestant*, and so partial; which yet is not very probable.

At this time was that able Minister the Count Gondamer Lieger Ambassador for the King of Spain in England; and after that it pleased God to bereave King James of the Hopes of Great Britain, Prince Henry, his Eldest Son, he was, as a good Father ought to be, very attent upon a fit Match for his Son Prince Charles, and Heir of his Crowns; a most Virtuous and Accomplish'd Prince as any then Europe had. There had been some Overtures before, in the Life-time of Prince Henry, of a Match with Spain; but that proving abortive for want of Sincerity on the Spaniards part, the Duke of Lerma makes another Offer to Sir John Digby, then Resident in Spain, for a Marriage with Prince Charles; which, as is well known, failed afterward on the account of the Spaniards unhandsome dealing in that Matter; they still treading in the same dilatory and trifling way with King James, though he very fairly and uprightly Treated with them, yet they had Designs on that King, which they never were able to accomplish; such were, to procure such Favours for the *Papists* here, as were inconsistent with the King's Laws and the safety of his Kingdoms, as shall more particularly hereafter be made appear in the Sequel of this History. I very well know that unhandsome Reflections have been made upon that Prince, not only by Sir Anthony Welden, but a later Author; 'That this King affecting the Name of a King of Peace, and Peace-maker, as his chief Glory, had designed, what in him lay, the settling of a General Peace in Europe, and the reconciling of all Parties; and professed, that if the *Papists* would leave their King-killing, and some other grosser Errors, he was willing to meet them half-way. Moreover, he was ever zealous for the Honour and Height of Regal Majesty, and to maintain the Glory of it in his Suc-

cessors; 'twas his chief desire and care to match his Son with some Prince of some most high Descent, though of a different Religion. Fac. 16.

Though God be thanked for it, this great King lived and died a sincere Christian and Protestant, as 'tis well known to the World; But the latter of these Authors had a Design in that his Work before-mentioned, though he pretends only to give an account of matter of Fact; yet, as any wary Reader will observe by the Thread that runs through his whole work, that he was very partial and warped in his whole work, as I hope to make to appear to the world upon occasion, in my Travels through the Annals of His and His Successors Reigns, so far as our Intendment lies.

King James his Advice to his Ambassador was, That he should, if possibly he could, sound the Inclinations of the Spaniard in the matter, and give him an Account of it; which he did, by advising the King to be cautious herein, lest it prove a meer Device of the Court of Spain, on purpose by them set on foot to defeat the Treaty with France, which at that time was in hand, in order to a Marriage with that Crown also.

Gondamer manages the Treaty on the part of Spain, but with Caution and Reservation, and I may add Insincerity also: he was a person very acceptable to King James, on the account of his facetious way of Address, which was very grateful to our King's Humour; but never as yet as the Historical Collection saith, prevailed mightily upon him any ways to do any thing disadvantageous to his real Interest and Estate; for that Author doth very unhandfomly reflect on the Prudence and Discretion, as well as Sincerity in his Religion, as before of his Prince, in representing him either less a Protestant or a Statesman than he really was; as if (forsooth) the Cunning of Gondamer was able to work any thing upon King James, either to the disadvantage of the Established Religion in England, or the King's real Interest in Affairs there; for though the Event were otherwise, yet Sir John Digby's Assurances from the Court of Spain, and other concurrent Motives were so fair, and seemed so reasonable that the Articles afterwards so qualified, and sent over to England were here under Debate, and were brought to that Issue, that the King thought fit to acquaint a select Number of his Council therewith; who having heard the Report of the former proceeding, delivered their Opinion, That they found very probable ground for him to enter into a publick Treaty, with as much assurance of good success as in such a case might be expected. Whereupon Sir John Digby, by Commission under the Great Seal, was authorized to treat and conclude the Marriage; and because the matter of Religion was in chief debate, those qualified Articles that were brought out of Spain, were sent back, Signed with the King's Hand; who added something to them by way of clearer explanation: They were to this effect:

That the Popes Dispensation be first obtained by the meer Act of the King of Spain.

That the Children of this Marriage be not constrained in matter of Religion, nor their Title prejudiced in case they prove Catholics.

That the Infanta's Family, being Strangers, may be Catholics, and shall have a decent place appointed for Divine Service, according to the use of the Church of Rome; and the Ecclesiasticks and Religion

Articles
Religion
agreed
upon be-
tween
Kings
England
Spain.

Religious Persons may wear their proper Habits.
 Anno 1618. That the Marriage shall be Celebrated in Spain by a Procurator, according to the Instructions of the Council of Trent; and after the Infanta's arrival in England, such a Solemnization shall be used, as may make the Marriage valid, according to the Laws of this Kingdom.

That she shall have a competent number of Chaplains, and a Confessor, being Strangers; one whereof shall have power to govern the Family in Religious matters.

In the allowing of these Articles, the King thus express'd himself:

Seeing this Marriage is to be with a Lady of a different Religion from Us, it becometh Us to be tender, as on one part, to give them all satisfaction convenient; so on the other, to admit nothing that may blemish Our Conscience, or detract from the Religion here established.

The Articles which afterwards were agreed upon for the French Match, which afterwards succeeded, and with which the Parliament, as shall afterwards be made appear, were so well pleased with, were for substance the same; but the *Historical Collection* takes no notice of this, but goes on in his accustomed way with his Tragical affrightments and mormo's.

The people of England having yet in memory the intended Cruelty of 88, and hating the Popish Religion, generally loathed this Match, and would have bought it off at the dearest rate; and what they durst, opposed it by Speeches, Counsels, Wishes, Prayers; but if any one spake louder than his Fellows, he was soon put to silence, disgrac'd, and cross'd in Court-preferments; whereas in Spain and Flanders, Books were penn'd, and Pictures Printed, to disgrace the King and State; for which the English Ambassadors sought satisfaction, but in vain. The Roman Catholics desired the Match above measure, hoping for a moderation of Fines and Laws, perhaps a Toleration; yea, a total Restauration of their Religion; for they gained more and more Indulgence by the long-pun Treaty: The Articles of Religion were long hammered upon the Spanish Anvil, enlarged and multiplied by new Demands without end.

True it is, as is well known in all Treaties of this nature, that the Papists ever endeavoured to get themselves some ease from our Laws, and the same they endeavoured afterwards, after the Match with France, with which the whole Kingdom was so well pleased; yet what they gained hereby, the *Collection* doth not tell us; neither indeed was it any thing more than the Release out of Prison of some of their Priests, and not things of so high a nature as those which the *Collector*, most partially, I had almost said invidiously there mentioneth:

That the Wall of this Island, the English Navy, once the strongest of all Christendom, now lies at Road unarmed, and fit for Ruine; Gondomar [as was the common voice] bearing the King in hand, that the furnishing of it would breed Suspicion in the King his Master, and avert his mind from this Alliance: Moreover the Town of Flushing, the Castle of Ramakins in Zealand, 2nd Brill in Holland, which were held by way of Caution from the United Provinces, to insure their dependency upon England, the King resolved to render up, as being merely

Cautionary, and none of his propriety: He rid his hands of those Places, to prevent Requests and Propositions from the King of Spain, who claimed Propriety in them, and Gondomar put hard for them, being accounted the Keys of the Low Countreys: Such was the Kings care and contrivance to keep Faith with those Confederates, and not offend Spain; and to render this a politick Action, it was urged, That the advantage of those Holds was countervail'd by the vast Expence in keeping them. Howbeit, the power of the English Interest in that State was by this means cut off and taken away; and the Alienation between King James and the United Provinces, which appeared in latter times, and was nourished by Bernevelt, the Head of the Arminian Faction, and a Pensioner of Spain, is now increased by the discovery and observation of these late Spanish Compliances.

And here again I must appeal to the Fidelity and Ingenuity of that *Collector*, whether these things which he gives in as the Consequences of this proposed Match were matters of Fact and History, which he pretends were the only Matters he proposed to entreat of, or whether they were not, as the Reader will see, the designed Warping of the *Collector*. Some of these things he mentioneth, we must confess, did afterwards happen; but here Gondomar must be the Robin-Good-Fellow, and the Spanish Match the Natural Cause of the afore-mentioned Effects. But this his *Paralogism* amounts herein to no more than this, *Socrate ambulante coruscavit*.

In the next place, saith the *Collector*, 'The Conde Gondomar, an active subtil Instrument, to serve his Masters ends, neglected no occasion tending thereunto, which he mainly shewed in the Particular of Sir Walter Rawleigh, wherein he put forth all his strength to destroy him, being one of the last Sea-Commanders then living; bred under Queen Elizabeth, and by her flesh'd in Spanish Blood and Ruine. He did first underwork his Voyage to Guienna, which seemed to threaten loss and danger to the spreading power of Spain in the West-Indies; and after his Return with misfortune, he pursued him to death. In the beginning of the Kings Reign, this Gentleman, with others was Arraigned and Condemned for Treason; 'twas a dark kind of Treason, and the Vail is still upon it. The King had ground enough to shew Mercy; which some of that condemned party obtained. After many years Imprisonment, Sir Walter Rawleigh, desirous of Liberty and Action, propounded an American Voyage, upon the assurance of gaining a Mine of Gold in Guienna. The King hearkened to him, and gave him power to set forth Ships and Men for that Service; but commanded him upon his Allegiance, to give under his hand the Number of his Men, the Burden and Strength of his Ships, together with the Countrey and River which he was to enter. All this was done, and came so timely (saith the *Collector*) p. 5. as if the King had been a party in the Contrivance, to Gondomar's knowledge, that Advertisement was sent to Spain, and thence to the Indies, before this English Fleet departed out of the Thames, The Action proved unfortunate, and the Mine was inaccessible; the Spaniards at St. Thomas opposed their Passage up the River; and this engaged them to assault the Town, which they took, sacked and burnt. Gondomar hereat incensed, with

Gondomar contrives the death of Sir W. Rawlei b. an enemy of Spain.

Anno 1618. with a violent importunity demanded the reparation of this wrong; and the Spanish Faction urged, that this irruption might make a Breach both of the Match and Peace with Spain. The Kings fears kindled his wrath; he disavowed the action; and to prevent the like for the future, put forth a severe Proclamation. Hereupon the Storm of Passion ceased, and Raleigh knowing nothing, but that he might appear in England with safety, put in at Plymouth, and was no sooner Landed, but by secret intimation, understanding his danger, sought to escape beyond Sea, but was taken in the Attempt, brought to London, and recommitted to the Tower; and at length his Life was offered up a Sacrifice for Spain; but not upon such Grounds as the Ambassador had designed; for he desired a Judgment upon the pretended Breach of Peace, that by this occasion he might sily gain from the English an acknowledgment of his Masters Right in those Places, and hereafter both stop their Mouths, and quench their heat and valour. But the late Voyage was not brought in question, only his former Condemnation was revived; his Arraignment at Winchester many years before was now laid open, and he at the Kings Bench demanded, Why Execution should not be done upon him according to the Sentence therein pronounced? Raleigh answered, That the Kings late Commission gave him a new Life and Vigour; for he that hath power over the Lives of others, ought to be the Master of his own. This Plea was not accepted, but the former Judgment took place; and accordingly he lost his Head upon a Scaffold erected in the Old Palace at Westminster.

The Truth is, Sir Walter had been an old Servant of Queen Elizabeth, and had had some particular Differences with some Servants that came from Scotland with King James, and was not pleased with the Times on that Account, and was somewhat male-content.

While Spain and England were thus closing, the Fire brake out in Germany between the States and Princes Protestant, and the House of Austria: These Commotions involved and drew along the Affairs of most Christian Princes especially of the two Potent Kings now in Treaty. The Catholick Cause, and the Lot of the House of Austria, engaged the King of Spain, who was the strongest Branch of that Stock. King James must needs be drawn in, both by common and particular Interest; the Religion which he professed, and the State of his Son-in-Law, the Elector Palatine, who became the principal part in those Wars, and the most unfortunate.

The Clouds gather thick in the German Sky; Jealousies and Discontents arise between the Catholicks and the Evangelicks or Lutherans of the Confession of Ausburg. Both Parties draw into Confederacies, and hold Assemblies; the one seeking by the advantage of Power to encroach and get ground, the other to stand the ground, and hold their own. The potency of the House of Austria became formidable. The old Emperor Matthias declared his Cousin German, the Arch-Duke Ferdinand, to be his adopted Son and Successor, and caused him to be chosen and Crowned King of Bohemia and Hungary; yet reserving to himself the sole exercise of Kingly power during his Life.

The Jesuites Triumph in their Hopes of King

Ferdinand; the Pope exhorted the Catholicks to keep a Day of Jubilee, and to implore aid of God for the Churches high occasions. To answer this Festival, the Elector of Saxony called to mind, that it was then the Hundredth year compleat since Martin Luther opposed the Popes Indulgences, which was the first beginning of Protestant Reformation. Whereupon he Ordained a Solemn Feast of three Days for Thanksgiving and for Prayer to God, to maintain in peace the purity of the Word, and the right Administration of the Sacraments. The Professors of the Universities of Lipsick and Wittemberg, the Imperial Towns of Frankford, Worms, and Noremburg; yea, the Calvinists also observed the same Days of Jubilee against the Romish Church; and much Gold and Silver was cast abroad in memory of Luther, whom they called Blessed.

In these times the Emperour wrote Letters, both to the Elector Palatine, and to the Protestant Provinces, and States of the Empire, then Assembled at Hailbrun, advising them to acquiesce in what was done touching the Designation of his Adopted Son to the Empire, to observe the Golden Bull (the Magna Charta of the Empire) and the Matter of it concerning the Electoral Bonds, and to dissolve their League. The Protestants in their Answer, acknowledged the good will of the Emperour their Chief, and shewed, That the Catholicks had oppressed them, contrary to the Pacification; and having sought Redress in vain, they were compelled to use means of preserving Publick Tranquility, according to the Laws. That their League and Union, consisting only of Protestant Germans, was a known practice in the Empire, and not against the Golden Bull, and tended not to a separation from his Imperial Majesty; but the Catholicks made their League with Strangers, and declared a Stranger Chief over them, was objected as irregular by the other Party.

The Count of Thurne, and other Defenders Evangelick, with the Estates of Bohemia, Assembled at Prague, to advise of Publick safety, and conservation of Privileges. The Emperour required his Council held at the Castle of Prague, to oppose and hinder this Assembly, which he said was called to raise Sedition, and to plot against his Person and Government. Nevertheless, in all their Publick Worship, the Evangelicks prayed to God to confound the Emperours Enemies, and to grant him long to Live and Reign over them in Peace and Justice; but this in pretence of what after appeared.

The Bohemian Troubles took their first Rise, as the Evangelicks said, from the Breach of the Edict of Peace concerning Religion, and the Accord made by the Emperor Rodolph, whereby the Protestants retained the free Exercise of their Religion, enjoyed their Temples, Colledges, Tithes, Patrimonies, Places of Burial, and the like; and had liberty to build new Temples, and power to chuse Defenders to secure those Rights, and to Regulate what should be of Service in their Churches. Now the stop of Building certain Churches on Lands within the Lordships of the Catholick Clergy, (in which places the Evangelicks conceived a Right to Build) was the special grievance and cause of Breach, as they pretended.

On the Twenty third of May, the Chief of the Evangelicks went Armed into the Castle of Prague, entred into the Council-Chamber, and opened

Fac. 16. tion, the Catholicks keep a Jubilee, and the Protestants another in memory of Luther, each provoking the other to jealousy.

An Assembly of the Protestants and States of Bohemia at Prague.

The first occasion of the troubles of Bohemia.

An open Act of their Rebellion.

A War in Germany.

Both Parties, Protestant and Catholicks grow jealous, and each enter into a League.

The Emperor Matthias adopts his Cousin German Ferdinand.

For Joy of his Adoption.

Anno 1618. opened their Grievances; but enraged by opposition, threw *Slabata* the Chief Justice, and *Sme-
fontius*, one of the Council, and *Fabritius* the Secretary, from an high Window into the Castle Ditch; others of the Council temporising in this Tumult, and seeming to accord with their demands, were peaceably conducted to their own houses. Hereupon the Assembly took advice to settle the Town and Castle of *Prague* with new Guards; likewise to appease the people, and to take an Oath of Fidelity, they chose *Directors*, Governors, and Counsellors Provincial to govern affairs of State, and to consult of raising Forces against the enemies of God and the King, and the Edicts of his Imperial Majesty. They banished the Jesuits throughout all *Bohemia*: Moreover, to defend their own cause, and to give an account of their late proceedings, and present posture, a Declaration was drawn up, and sent, with Letters, to the Estates of *Moravia*, *Silesia*, and *Lusatia*, and to all the Princes and States, their Allies, throughout the Empire, with request of aid in case of need. They declare to this effect.

Bohemians put forth a Declaration.

That they had indured infinite Injuries and Afflictions, by certain Officers, Ecclesiastick and Civil, and by the Jesuits above all others, who sought to bring them under the yoke of Popery, rebuked them with the names of Hereticks, heaved them out of places of Dignity, provoked the Magistrates to pursue them with Fire and Sword: That their Ministers were banished, and their Charges given to Roman Catholics. The Senators of *Prague*, who were Evangelicks, were evil intreated, and divers persons persecuted for Religion, under pretence of Civil offences. And whereas in case of difference touching the Agreement and Edict of Peace, the Estates of both Parties were to hear and judge; their Enemies procured Commands from the Emperor to bear them down before a due hearing: Their lawful Meetings to advise and seek redress, were declared to be manifest Sedition and Rebellion, and themselves threatened with loss of Estates and Lives.

The Emperor dissatisfied with the Declaration.

This Declaration they sent likewise to the Emperor, with a submissive Letter, asserting their own Fidelity, and praying for the removal of those evil Counsellors, that threaten so much danger to his Majesty, and his Kingdoms. This very usual in attempts of this nature. The Emperor herewith was no way pacified, but charged them with an evil design, required them to lay down Arms, and to make no more Levies, but to live in peace as becometh faithful Subjects: Upon which terms he promised to disband his own Souldiers, to forgive what was past, and to protect all that will obey him.

He publishes a Manifesto.

This prevailed nothing, but the breach grows wider. The Emperor published a Manifesto in Answer to the Apology of the *Bohemian* States, and wrote Letters to the Electors, Princes, and States of the Empire, with high Aggravations of the violence offered at *Prague* to his principal officers, against Divine and Humane Rights, the Constitutions of the Kingdom, and the Customs of all Nations, without hearing, without summoning, without any form of Process; yea, without giving a moment of time to Repent,

or make Confession, or receive the Sacrament, which is never denied to the worst offenders. Fac. 16. This they had done to *Slabata* and *Smefontius*, as before.

Forthwith a pernicious War, and all confusion breaks out. The Emperor raised Forces under the conduct of divers Commanders, of whom the chief were Count *de Buquoy*, and Count *d'Amptere*. The Evangelicks raise two Armies under Count *de Thurne*, and Count *Mansfelt*. *Moravia*, *Silesia*, and *Lusatia*, with all the Estates Protestant, Germans, and Neighbours of *Bohemia*, (very few excepted) assist the Evangelicks with Counsel, Men and Money: likewise the Prince of *Orange*, and the States of the *United Provinces*, promised to aid them with their Forces. The Electors and Princes Protestant favouring the *Bohemians*, whose Countrey the Imperialists destroy with Fire and Sword, perswade the Emperor to stop the rage of Civil War, (so they call'd it,) the success whereof is doubtful, and the end ever miserable. The Emperor propounded an Arbitration of these differences by the Elector of *Mentz*, and the Duke of *Bavaria*, Princes Catholics; and by the Electors *Palatine* and of *Saxony*, Princes Protestants; and *Pilsen* should be the place of Treaty: The Evangelicks consent to the Arbitration, but dislike the place, where the people were wholly Catholics, and followed the Emperors Party; besides, the *Directors* had designed the besieging of it. New actions of War made the overtures of Peace more difficult: Several Armies were now raising throughout *Bohemia*, and the neighbouring Provinces: As yet the Elector of *Saxony* stood Neutral; the Duke of *Bavaria* cast in his lot with the Emperor, whose Estate was then every where embroiled.

Amidst these distractions, the House of *Austria* made no small improvement of their interest in the King of *Great Britain*, who in the hot pursuit of the *Spanish Match*, was earnest to oblige them. And the *Spaniards* made shew, that on their part, nothing under Heaven was more desired, than this Alliance; and in their Discourses magnified the King, Queen, and Prince of *England*. For the state of their Affairs did press them hard, if not to close really, yet at least to fain a pressing towards it. For the French administr'd cause of discontent; the Truce with the *United Provinces* was near expiring; but above all, they took to heart the *Bohemian War*, and resolv'd to set the main stock upon it: Wherefore the King of *Spain* gave commandment, that his Treasure should be gathered together for the *Infanta's* vast Portion, being no less than *Two Millions*, and gave hopes of payment of half a *Million* beforehand, as was desired, and with himself all dispatches seemed to pass freely. But his Ministers, say some, (particularly the Collector, but gives his Reader no satisfaction in the proof of what he wrote, only gives the World an account of a Letter wrote, as he saith, from a great Minister of State to Mr. *Corsington*, his Majesties then Agent in *Spain*, which, for clearer satisfaction, you have here at large) were suspected either not to intend it at all, or not so soon as was pretended.

Good Mr. *Corsington*, I doubt not, but that before these come to your hands, you will have heard of the receipt of all your former Letters: These are in answer of your last of the Eighth of *October*, wherein you advertise of the arrival of the *Conde Gondomar* at *Lerma*, and of his

Both Parties Aim.

K. James engages not in these troubles, flattering himself with the Spaniards seeming forwardness to effect the Match.

Anno 1618. his entertainment by that Duke. It seemeth unto us here in *England*, that he hath gone but very slowly in his journey; and divers (seeing how long time he hath spent in the way) do make conjecture, That it proceedeth from the small affection that he judgeth to be there, towards the effecting of the main business; saying, If the *Ambassador* were assured, that his Master did so really desire the speedy effecting thereof, as is pretended, he would have made more haste homeward; and that it hath not been sincerely intended, but meerly used by that State as an amuzement to entertain and busie his Majesty withal, and for the gaining of time for their own ends: and this is muttered here by very many, but, I hope, we shall, ere long, receive such an account from thence of their proceedings, as will give sufficient satisfaction. For my own part, I must confess, I am not yet well perswaded of their intentions; for, if there be either *Honor*, *Religion*, or *moral Honesty* in them, the Protestations and Professions which I have so often heard them make, and you likewise daily advertise hither, are sufficient to perswade a man, that will not judge them worse than *Infidels*, to expect sincere dealing in the business; and whensoever I shall perceive that they go about to do otherwise, I must confess my self to have been deceived, as I shall ever be on the like terms, while I deal with inmost care; but withal, I shall judge them the most unworthy and perfidious people of the World, and the more, for that his Majesty hath given them so many testimonies of his sincere intentions toward them, which he daily continueth, as now of late, by the causing Sir Walter Rawleigh to be put to death, chiefly for the giving them satisfaction: whereof his Majesty commanded me to advertise you, and concerning whom, you shall by the next receive a Declaration, shewing the Motives which induced his Majesty to recal his mercy, through which he had lived this many years a condemned man. In the mean time, I think it fit, that to the Duke of *Lerma*, the Confessor, and the Secretary of State, you do represent his Majesties real manner of proceeding with that King and State; and how for the advancing of the great business, he hath endeavoured to satisfy them in all things, letting them see how in many actions of late, of that nature, his Majesty hath strained upon the affections of his People, and especially in this last concerning Sir Walter Rawleigh, who died with a great deal of courage and constancy; and at his death moved the common sort of people to much remorse, who all attributed his death to the desire his Majesty had to satisfy *Spain*.

Further, you may let them know how able a man Sir Walter Rawleigh was to have done his Majesty service, if he should have been pleased to employ him; yet to give them content, he hath not spared him, when by preserving him, he might have given great satisfaction to his Subjects, and had, at command, upon all occasions, as useful a Man, as served any Prince in Christendom: And on the contrary, the King of *Spain* is not pleased to do any thing, which may be so inconvenient unto him, as to lessen the affections of his people, or to procure so much as murmuring or distraction amongst them: And therefore it is to be expected, that, on his part, they answer his Majesty, at least with sincere and real proceeding, since that is all they are put to, the difficulties and hazards being indeed on his

Majesties side. And truly, I should think it fit, that not by way of commination, but, as it were, out of zeal to the Peace and Amity betwixt these two Crowns, you did intimate to the Duke and the other Ministers, how impossible you held it to have peace long continued betwixt their Majesties; if in this business, wherein so much hath been professed, there should be found any indirectness. But herein you must be cautious and temperate; for as on the one side, you and I well know, that this stile most perswades with them, so on the other side, the decency and *buen termino* that is to be observed betwixt great Princes, will hardly admit of Threats or Revenge for a wooing Language. But this, I know, falleth into so discreet a hand, that I little fear the handsom carriage of it. And I hope, that before these Letters arrive with you, we shall hear from you, in such a stile, that this advice of mine shall be of no use. I pray you be very earnest with the Conde Gondomar, that he will not forget to negotiate the liberty of Mr. Mole, for whom, I hope, (now my Lord Rosse is dead) for that which you and I know, it will not be so difficult to prevail. You may put him in mind, how when Father Baldwill's liberty was granted unto him, although he could not absolutely promise Mr. Mole's release, yet he then faithfully protested, he would use the mediation of the Duke of *Lerma*, and of the Kings Confessor, and of that King, if need were; and that he would try the best friends he had for the procurement of his enlargement, wherein you may desire him to deal effectually, for that there is great expectance that he should proceed honourably and really therein. I myself likewise will use all the means I can for his relief; for it is a thing which is very much desired here, and would give a great deal of satisfaction.

As touching *Osulivare*, it is very fit that you let them know, that the report of the honour they did him, hath come unto his Majesties ears, and that although they will alledge, that in the time of Hostility betwixt *England* and *Spain*, it may be he did them many services, and may then have deserved well at their hands, for which they have just cause to reward him; yet since by his Majesties happy coming to these Crowns, those differences have had an end, and that there is a perfect League and Amity betwixt them, his Majesty cannot chuse but dislike, that they should bestow upon him any Title or Dignity, which only or properly belongeth unto him towards his own Subjects; that therefore he would be glad that they would forbear to confer any such Titulary Honours upon any of his Subjects without his privity. This you shall do well to insist upon, so that they may understand that his Majesty is very sensible, that they should endeavour to make the *Irish* have any kind of dependance on that State.

I would desire the Reader to take notice that the forgoing Letter, as to its value and reputation must rest solely upon the Credit of the Collector Mr. Rushworth.

Queen Anne died this year at Hampton-Court, Nov. 17. and was thence brought to her Palace at Denmark-house in the Strand. The common people, who were great admirers of Princes, were of opinion, that the Blazing-Star rather betokened the death of that Queen, than that cruel and bloody War,

War, which shortly after hapned in *Bohemia*, and other parts of *Germany*; but indeed and in truth whether of one or the other, or perhaps and more probably of neither, is left to others to judge.

The Kingdom of *Bohemia* for many hundred of years past was Elective, which may be proved from their Chronicles, from many Bulls of the Emperors, and from diverse other Examples and Antiquities. Many practises had been used to hinder the free Election, but never managed with more wiles than now.

Ferdinands
undue
practices
to be King

Matthias the Emperor two years before, had adopted *Ferdinand* his Uncles Son his Successour, but not to meddle with Sovereignty of a King, whilst *Matthias* lived: however, *Ferdinand* thus far set forward: himself makes way to the Dignity of *Boheme*, and to prevent discovery from the incorporate Confederate Provinces, who have Voices in the Election, he calls a *Parliament* forthwith, only of the States of *Boheme*, with expresse denunciation, that in the Assembly, nothing should be consulted, but the choice of a new King. The Electoral Provinces, nor their Deputies, nor Ambassadors, not being present, the Assembly was not legal.

The best of the States of *Boheme* therefore refuse to appear; against whom was denounced such threats, as frightened them with hazard of their Heads, and so was procured a pretended Election, (for the present) and his Coronation assented, by the main party, *Catholicks*.

The Crowning Kings in the life of another, was of late a sure policy, to unite those Kingdoms in the *Austrian* Family, contrary to the ancient custom of free Elections, which now, neither State durst oppose.

To this end therefore; and to suppress all future free Elections, (the Palladium of the Kingdom) *Ferdinand* secretly compacts with the King of *Spain*, without consent of the States, and before his Election, or pretence to any interest.

That the King of *Spain*, his Posterity, and Heirs, for want of Issue male of his Father's *Austrian* Line, should succeed him in that Kingdom, contrary to the established Rules of Politicians, (that no elected King hath power to alienate, without consent of the States) this succession exposed them to the loss of all, and Religion also, and enabled him to enfeeble strangers into each Province, and into the inheritances of those Royally descended, high-born, illustrious Families; and by which, as was then suspected (and since came to pass) he should easily seize the Dignity of the Crown Imperial, and so abolish the foundation of the Golden Ball and Form of Empire.

This while, the aged Emperor keeps Court at *Vienna*, King *Ferdinand* at *Gres* in *Stiria*: the Government of *Boheme* continues in such Counsellors as *Matthias* left there, chosen Ministers *Catholick*, who with the Archbishop of *Prague* endeavor to suppress the Protestants.

Prote-
stant Prin-
ces seek
redress.

The States Protestants assemble themselves to redress these injuries, backt with some Forces which they brought with them, and were opposed by the Emperor's Faction, whom they overmastered and flung his Chief Justice *Slabata*, his Secretary *Fabritius*, and others out of a Window of the Castle, down into the Court; and being done in choler, excused by Apology to the Emperor.

But on they go, raise force, and banish the Jesuits, and others of that Faction, whom they load with Complaints.

The Emperor as forward, commits the command of two Armies unto Count *Buquoy* and *Dampiere*. Fac. 18.

The Protestants counter-force with two Bodies, severally under the Prince of *Anholt*, and under Count *Thorn* and *Mansfelt*, skirmishing with different effects. Emperor in arms also

Some Princes, King James and others, interpose Mediations: and *Ferdinand* complains of the *Bohemians* obstinacy.

They remonstrate former undue Elections, and allege:

That between a conditional King and his Subjects, there are reciprocal obligations; the one Obedientia, the other Promissa. Their grievances.

That he received the Scepter of the States, with thankful remuneration, and Royal grace to all; to satisfy the desire of every one, and to deserve their love, and swears not to meddle with Government whilst *Matthias* lives.

Notwithstanding he maintains the Wars of others, against the *Bohemians*, *Moravians*, and *Silesians*, and raised *Terra Maria*, against the *Bohemians*, sent for his own Army out of *Sterea*, and pronounced the Protestant States of *Boheme* Traitors and Rebels, and declared himself Enemy to them all.

That he banished the old President *Cesal*, directs all Councils, corrects the Decisions and Decrees Imperial, disposes the actions of *Buquoy*, as King and Lord of all, and disinclines all means of Peace with Ambassadors of all Provinces, who met at *Prague*, carefully consulting to recover Peace.

That conditional elective Kings receive their Royal Authority upon Oaths, their Sovereign power, *Ex pacto, non ex jure*: from the Subjects by concessions upon Covenant; not by Succession nor descent, as other Kings, who are so before they swear to their Subjects, and do swear because they are Kings, but are not Kings because they swear, the one born a Prince without his Subjects, the other made and given to be a King. Kings Election and Succession distinguished.

The Oath of Elective Kings is, *Et si (quod absit) in aliquibus Juramentum meum violavero, Nullam mihi incola Regni, omniumque dominorum uniuscujusque gentis, obedientiam prestare debebunt.*

And the Chancellor usually tells them.

Quandoquidem viderunt Ordines, Majestatem regiam pactis conventis stare nolle, non debere, ait, ipsius Majestatem in malam partem interpretari, si Ordines obedientiam ipsius Majestati renuncient.

These things thus a doing, the old Emperor *Matthias* dies, and *Ferdinand* now King of *Hungary* and *Boheme*, and adopted Heir of the Empire, meets at *Frankford* (by Summons) with the three Electors, *Mentz*, *Collen*, and *Trevours*; the other three *Silesia*, *Moravia*, and *Lusatia*, failing in their persons, sent their Representatives only, and so the Council chose him King of the Romans, which the State of *Bohemia* disclaim, and of his being Elector as King of *Bohemia*, he never actually possessing the Crown. Their dissensions could not lessen his Election to the Empire, yet they swore never to receive him their King. Matthias dies, Ferdinand succeeds Emperor.

King James much troubled at these interruptions of *Germany* took himself to be much concerned in the hazard of the Protestant party, and the peace and danger of the Reformed Church, and therefore sent *Hay*, Viscount *Doncaster*, Ambassador extraordinary to mediate with the Emperor and *Bohemians*; but to little purpose; The Emperor by means avoiding to receive him, K. James how concerned.

Anno 1620. knowing his errand, being to palliate what was grown too high for his Reconciliation, and removed his *Guests*, when *Doncaster* came but near him; so whilst King *James* hunted at *New-Market*; his Ambassador coursed the *Hare* in *Germany*, but his business, through the crudity and raw initiation, took not the effect.

Ferdinand fearing the Success of *Engagements*, insinuates with the *German* Princes, and had possessed the Duke of *Bavaria*, and others.

Palsgrave
Elected
King of
Bohemia.

The poor *Bohemians* in this strait, and finding King *James* an Intercessor, thought it policy to bring him into the List; for having published their Declarations and Reasons, pronounced the Election of *Ferdinand* to be invalid and null; and the States of that Kingdom, and other Provinces, Elect by this Title, *The most Gracious, and the most Mighty Prince Lord Frederick, Count Palatine of the Rhine, and King of Bohemia*.

In the mean time King *James* consults with his Council, diversly affected to this Design of taking or refusing. Amongst them, see what our Archbishop *Abbot* sends to Secretary *Norton*, not being able to come to Council.

Good Master Secretary,

Archbishop
Abbot's Letter
to
Norton.

I Have never more desired to be present at any Consultation, &c. My humble advice is, That there is no going back, but a countenancing of it against all the world, with ringing of Bells, and making Bonfires in London, so soon as it shall be certain of the Coronation. I am satisfied in my Conscience, the cause is just, having rejected that proud and bloody man, making that Kingdom not Elective; and when God hath set up the Prince a Mark of Honour to all Christendom, to propagate the Gospel and protect the distressed, I dare do no other, but to follow where God leads.

It is a great Honour to our King to have such a Son to be made a King, and me thinks I do in this, and that of Hungary, foresee the Work of God; that by piece and piece the Kings of the Earth that give their Power to the Beast, shall now leave the Whore to Desolation, as St. John saies.

Our striking in will comfort the *Bohemians*, Honour the *Palsgrave*, Strengthen the Union, bring on the Dutch, stir up Denmark, and move his two Uncles, Prince of Orange and Duke of Buillon, together with Tremvile a rich Prince in France, to cast in their shares, and Hungary I hope will run the same fortune, and for money and means to support the War, Providebit Deus. This from my Bed; and when I can stand I hope to do better service.

Sept. 12. 1612.

Geo. Cant.

Some regret there was in the *Palsgrave* (as well might be) to act without the consent of the King of Great Britain, and whilst his Ambassadors were treating a Peace; but by perswasion of the Prince of Anholt, the Earl of Holloch, and Baron Done, with other their intimates, he was at length intreated to accept of that golden Bait, a Crown, which was given to him freely, not without some regret, though by others, such a Bit would be swallowed with damnation it self.

His Coronation.

And this was hastened upon him in Aug. 1619. and his entrance into Prague the last of October, and his Coronation four days after. But instantly posts the Baron to King *James* in excuse of all, either of too hasty acceptance, and neglect of his fatherly advice.

King *James* ever averse from such undue Precipitations, for affections of the people to be engaged at their pleasures, and to be a President to dispose of Sovereignty already established; utterly refuses *Done's* Address, for a time, but dispatches Ambassadors to the Emperor, and to the States of the League and Covenant, not meddling with his Son in Law to advise or neglect him.

Of this errand two are sent in joint Commission to Boheme, Sir Richard Weston (after Lord Treasurer) and Sir Edward Conway, not long after Secretary of State. *Ferdinand*, upon the News of his New Rival in the Kingdom, hastens this Proscription against the *Palsgrave*.

Embassadors sent from England to the Emperor.

We *Ferdinando*, &c. To all Electors, Princes, &c. But especially to the subjects of Frederick Count Palatine of the Rhene, Elector, &c.

Palsgrave proscribed.

That Frederick Count Palatine of the Rhene, hath made himself Head of that perfidious and rebellious crew of our Kingdom of Boheme, wherefore we proclaim him guilty of High Treason, and Iterate Proscription, and of all the penalties, which by Law and Custom are depending thereon. We conclude him out of Our and the Imperial peace, and are firmly resolved to execute the said penalties upon him, as against one publicly proscribed an Enemy and Adversary to us, and the Empire. Commanding you under pain of Life, not to give him Aid, Succor, Assistance, Money, Provision, Munition, openly or covertly,

And whoever is in pay, his Complices or Helpers, to forsake his service, and that the States dependant, Alliances, Subjects, and his Vassals, shall not yield to him Obedience, nor partake to him of his Crime, but to forsake him and Assist us, to reduce him, the Rebellious Frederick, to obedience. And we absolve ye his Vassals from his Protection, and from your Oath into our Grace and Favour, and whoever disobey this our Command, we declare him and them guilty of High Treason, and Iterate Proscription, so well as himself.

Given at our City Vienna, &c. 1626.

And now each Party take the field; The Duke of Savoy for the Imperial Ban, with Twenty five thousand Men reduced *Lusatia*. The Prince of Anholt General, and Holloch Lieutenant General for Boheme, and with these (evenly powered) the War went on in that Kingdom.

War on both sides.

And to make it famous through the Western World; *Spinola* forms an Army in Flanders, under Spains interest, but for that purpose, which King *James* suspected, and to be assured, sent to Sir Thomas Edmonds his Ambassador at Brussels, to enquire (for the truce of Spain and the Netherlands continued) but *Spinola's* Commission was sealed up by the Spanish subtilty, not to open till the March of the Army of Twenty thousand Foot, and Five thousand Horse, which proved fatal to the Palatinate.

Spinola raises Forces in Flanders.

The Spirit of the English began to bustle, Sir Horace Vere being here, and somewhat rusty since the Peace with Spain, associating his Nephews the Earls of Oxford and Essex (young and daring Spirits, saies one) indeed so young they apprehended no danger, and so ignorant they knew not how to avoid it. Oxford the eighteen Earl, and Lord High Chamberlain without intermission, from Ambry de Vere High Chamberlain to Henry the first, Portgrave of London, and Lord Chief Justice of England, Descended from the Earls of

So does Oxford & Essex in England. Hist. Great Britain.

Guisne

Guifure; the surname from Vere a Town in Zealand, his Son Ambry created Earl of Oxford by Anno 1620. Henry 2. and High Chamberlain.

The eighth Earl after him, was by Richard 2. created Duke of Ireland during life, and bore for that honour quarterly before his own Coat, three Crowns Or, a border Argent; his own being quarterly Gu. and Or, upon the first a Mulletary.

This man now was lately returned home from Travel in hope to recover his former debaucheries, but how improved, implicate credit was to expect the Tryal.

As for Essex then, he only buoyed up by the people, upon his Fathers score, which we have told before.

But mad they were made by Our younger Brothers to fight, and a Regiment only was raised, not I believe imagined for any goodly effects, but to bandy with the King's Wildom, who though not forward in this unjustifiable quarrel, yet not without counsel to act for the future.

How madly some men urged the Kings interest, seeming so hasty, as to do the work at their own charge? But being connived at, to try their intent, the good Earl of Essex had fifty brave fellows pinn'd upon him to pay them their pensions, besides his compleat number of his own company. These two brave Captains with the rest, raw-souldiers, adventured without fear under (indeed) the fame and fortune of that Right valourous, and truly expert man of Arms, Sir Horace Vere their Colonel, who must needs endure with patience, the toil he had to make them good Souldiers.

Their march and action in the expedition.

Convoyd by Hen. of Nassau.

Spinola had got the start, yet the English got over, ere he took leave of the Arch-Duke, but they followed at a distance, somewhat in danger to go too near; and in August both Forces were marching, the English had passage over the Rhine, by conduct of Prince Henry of Nassau, with two thousand Horse, and four hundred Musqueteers. But ere they came there, our raw English droop'd with eating Honey, and lost not the Nick-name for some years after. Ninety four with Tents, Truncks and Luggage were left at Bac-rack, and they and the Town lost to Spinola, by former example of all other that had stood in his way, and with no more pains than his sudden summons. And had done so to all the English, if his Design to snap them had not miscarried by the boisterous stream of the Rhine, which wet his Waggon of Ammunition, and some of his Field-pieces disordered, and so escaped they to Franckford, the 24 of September. Then to Darmstat, a Town of Bohemia, and to Hissen, where Prince Henry and the Dutch, take leave of the English and return home to Holland.

Joyns with the Princes of the Union

And here they joyn with fifteen hundred Horse of the Princes of the Union and march to Reims, the nether Town of the Palatinate; and the third of October joyn with the Army; four thousand Horse, and six thousand Foot. Spinola at hand frightened them with a charge, but night afforded no light to fight, the next day to quarters for a Week, where the new Wine in the Must, grapes and fruits brought crudities upon their weak stomachs, till Spinola led them a Dance for Digestion as far as Keyfers-Luther; and the weather cold, the Nights long, disposed their necessities to several Garrisons, and the Forces of the Reformed Princes cooped up to their several places, whilst the Enemy carved to himself of the whole Countrey, the good

English went thither to fight, and so came home again.

Fac. 18.

In this mean time the two Generals encounter, Anhalt for Bohemia, had the better, and scattered Bucquoys main Body, this was in the Spring. But in Autumn it fell out otherwise, for whilst Spinola and the Princes were hunting each other on the Hills, the Duke of Bavaria joyns with Bucquoys and Tilly. Anhalt and Mansfield got between them and Prague, but the Enemy breaks through, and routs the other into confusion and flight.

Anhalt and Holloch, the first that fled to the King of Bohemia at Prague, and the next morning the ninth of November, they all fly for succor, the King and Queen with both our Ambassadors, Weston and Conway, as far as Linburgh, in their way to the Netherlands, and the Ambassadors by safe conduct returned back to Bohemia, where the conquering business took up more time than to spend with leasurely disputes, and so they came home again.

The next Spring the Princes of the Union submit to the Emperor, so does Anhalt, who is received into favour, and made one of his Generals. Mansfield not so capable, and being put to his shifts, doubles his brave Spirit with the necessity of his Fortune, hurrying several Countries with Forces of fourteen thousand men, for almost two years after, till he constrained them to offer him peace, which he accepted.

Whilst King James sends to the Emperor by Sir Henry Wootton a Man fitted for Negotiation by his often employments to several States and Princes, and thus qualified he hath his Commission, passes by the Duke of Lorraine into Germany (for I find not he had any Credentials to him) only confers the King's Christian intents, as one cumbred with the sad events of the German Troubles on this side; and the French intents on the other, and so not improper for the King to study the passages of both.

And out of his particular Commission to others, Duke of he frames general Arguments to him, of the King's innocency in the beginning of the Bohemian business, and his impartiality ever since, and so rendred his Master the first Mediator therein, being tyed in the conscience of a Christian King to prosecute the same, and in it peace to all.

The Duke, a cunning and subtle Prince, told him, that the Princes of the Union would assure him, how his affections were in the cause, more he could not get out of him.

His next was to the Arch-Duke Leopold (of the Austrian family,) to him he had Letters, and tells him, That King James was clear of all foreknowledge or counsels in the business of Bohemia, and also of the Palgrave's preceding practice, till it was laid upon him:

That his Master continued equal to both parties, and was troubled, that there should be so great preparations for invading the Nether Palatinate, being the Patrimony of the King's Descendants, no way commixt with the Affairs of Bohemia.

Perfwades the Arch-Duke, as a Personage of Power to keep those that were in action, from such precipitation, as might preclude all mediation of accord.

He was answered, with the Arch-Dukes protestation; that he believes the King's cleanness, but of the Palgrave he much doubts, accusing him of practice with the Bohemians, at the Emperors Election at Franckford, and more foully (said he) to introduce the Turks into Hungary.

And conceived, the Marquess *Spinola* might have some aim upon the *Lower Palatinate*, assured the Emperors inclination to accord, but never without restitution of the usurped Kingdom; a loss not of easie concoction, especially by the *Palatine* his Subject.

And excused the Emperors levies, for that there were likewise some *English* forces, designed towards that place out of *England*, which was no fair way, if King *James* intended a Treaty.

It was replied by *Wootton*, That true it was, the Kings people, and some of the Nobility, had taken *Alarm*, upon a voice of that Invasion, and voluntarily meant to sacrifice themselves in that action; but without the Kings concurrence of money or command.

And being ask'd; he answered, he had no particular form of Accord to propose to the Emperor, for the King thought it necessary, to dispose the affections on both sides; and so collect some measure of agreement without spending the honour of the King in vain Treaties.

Then to the Community of *Strasburgh* and *Ulme*, who professed themselves in Neutrality, for it might be uncivil (they said) to offer their Counsels, where such Kings imploy their Wisdoms and Authority; they would only contribute their prayers.

The Duke of *Wittenburgh* made large professions towards the King of *Bohemia* (as he called the *Palatine*) of whose clearness from practice, he could vindicate; for visiting him presently upon his Election, he found him perplexed even to tears for to accept of the Kingdom, he was lyable to suspicion, as to ambition: and if he refused, he feared the people would call in more than Christian aid, to the effusion of much blood. And professed that no Prince of the Empire, should exceed his affection to defend the *Palatinate*, with all his power by bond of confederacy, and reason of State, lest any Stranger should neighbour him.

He had likewise Commission to the Duke of *Bavaria*, whom he found in actual arms about *Liniz* in the Upper *Austria*, and the Emperor at *Vienna*, with no success in those Messages.

Yet still King *James* hoping that time it self, and the experience of vexation, might in some degree mollifie their affections, better to digest difficulties, he never refused by Ambassies to both sides, and to all other the intervenient Princes and States, to attempt that high work of Peace first; and then afterwards of Restauration of the *Palatinate*, by other wayes and means.

The times when these Negotiations set forward, were usual in the Kings progress or retirements from *London* to his Sports (as was conceived) but they were then chosen abroad for better leasure of business, even then when Kingdoms were in dispute. An art he had thus to cover his weightier Meditations, for most of his Dispatches were concluded in his hunting journeys.

Prince *Charles* now grown man; the King had disposed to a Treaty for his Marriage with the *Infanta* of *Spain* (some while since) and Sir *Walter Aston* sent thither Lierger to sit correspondence, and now conceived not improper to induce the restauration of the *Palatinate* by that means.

However, it may be observed the evil success of all our former meddling with that Nation in matters of Marriages, so malignant, and disagreeing withours.

Let us ravel back to the memory of the *Black Prince*, a person of the greatest performance that Christendom can parallel. Yet in his voyage to *Spain* to settle *Don Pedro*; besides their monstrous ingratitude and perfidy to him then, caused also that miserable revolt in *France* by his absence, which lost us our Inheritance there, and his health ever after, his body either corrupted by the Air, or by their Drugs impoisoned.

And indeed their Matches with the Heirs and Princes of this Crown, for above six score years, having been no where else (except the second Marriage of *Henry* the eighth) were always unhappy,

Prince *Arthur*'s sudden death, left his Widow to his wicked Brother, with whom God was less pleased, as the Match was more unlawful; and therefore not a Male was left of their race, only one Daughter, in whose short Reign of six years, was more bloodshed for the true Religion, than for the false in sixty years, and she adventuring to Marry there also, this discontented Nation fell into Insurrections, Treasons, *Wiat*'s Rebellion, and therefore her Husband *Philip*, suspecting the future effects, forsook her; who lost *Calis* to the *French* in six dayes, that the *English* had enjoyed 200 years; but altogether, broke her heart, and she died.

Now to parallel these foreign Marches with those at home to our own Subjects, the first being by *Edward* the fourth, and the last with *Henry* the eighth, from which two, Gods blessing brought forth two *Queens Elizabeths*; such instruments of his Glory, Peace in the Land, and Religion in the Church, as never could produce greater examples of Happiness to *England*, until this of King *James*, who brought hither them both with him.

In *Flanders* an Army of 30000 is levied. To the King of *Englands* demand of the cause of such great Preparations, the Marquess of *Spinola* answers, That he received his Commission sealed up with this injunction, that it should not be opened till his Levies were compleated and had rendezvouz'd. Some Aids, under Sir *Horatio Vere*, were sent to the *Palatinate*; the Forces of the Emperor becoming very numerous by the supplies that joyned them, from several Countries and Provinces. The Protestant States of the Upper and Lower *Austria*, upon the *Bavarian* Armies approach, renounce their League with the *Bohemians*, and submit to the Emperor, the Rights and Priviledges of their Religion being secured to them. The *Bohemian*'s call in *Bethlem Gabor*, and fortifie their Frontiers; the Emperor in the mean time calls upon the Elector of *Saxony* to assist him in the Execution of the Ban against King *Frederick*, who would upon the *Palsgraves* entreaty stand Neuter, but enters *Lusatia* with an Army, whiles *Spinola* prevails mightily in the *Palatinate*, and by reason of the slowness of the Protestant supplies coming in to the King of *Bohemia*'s succor, the Principal of the Union are disheartned, and the Union ready to be dissolved, whilest the *English* are drawn into several Towns in the *Palatinate* for their Winter Quarters, the *Spaniards* roave about in the *Palatinate*, and Protestant Princes retire into their own Countries.

The Truth is, King *James* was now in great straits what to do, he never approved his Son in Laws act to take the Kingdom of *Bohemia* upon him; and was unwilling on the other hand to see his Children devided of their natural Rights; he advises his Son to overtures of Peace, yet so as

Anno
1620. if they should not be hearkned too, to provide to assist him in the Wars, by the Raising of money by the way of Free gift, which he did, by directing his Letters to diverse Earls, Viscounts, Bishops and Barons, as followeth.

Oct. 25. **Y**OU may formerly have heard how the Palatinate, being the ancient Heritage of the Count Palatine, His Majesties Son-in-Law, and to descend to His Majesties Grand-Children, is now invaded by a Foreign Enemy; many principal Towns are surprized, a great part of the Countrey in the possession of Strangers, and the Inhabitants forced to take an Oath against their Natural Prince. Whereupon His Majesty, out of Considerations of Nature, Honour and State, hath declared Himself in the course of an Auxiliary War, for the Defence and Recovery of the same; and the occasion being so weighty and pressing, hath moved His Majesty, by the general advice of Us His Council, to think of some course for provision of that Nature, as may serve as well to the maintenance and preserving of the present Succours already sent, as for the re-inforcing them out of those Countries, as the occasion of the War shall require: And for that the swiftness of the occasion would not permit a Supply by other means for the present, so readily as was needful, we have all concurred to begin with our selves, in offer of a voluntary Gift unto His Majesty, for the advancement of the present Occasion; nothing doubting, but that your Lordship being a Peer of the Kingdom, will cheerfully and readily follow the Examples of us begun. And if there were much alacrity and readiness found in the Nobility and others, to contribute at the motion of His Majesties Son's Ambassador, at what time the Palatinate was not invaded, neither had His Majesty declared himself; you will much more, and in a better proportion do it, now these two weighty Motives do concur; and so nothing doubting of your Lordships readiness herein, we bid, &c.

To the Marquess of Winchester, Earl of Cumberland, Earl of Derby, Earl of Northumberland, &c.

A Letter of the same import was written to the Lord Mayor of London; but the Fatal Battel of Prague decides all; where the Imperial Forces under the Command of the Duke of Bavaria and Buquoy on the 8th. of November, being Sunday, utterly ruined the whole Army of King Frederick; they mutinying and refusing to fight for want of Pay, though he had it by him; and it became a Prey to his Enemies by the loss of the Battel; after which the King and Queen fled, and Count Mansfield, who joyned not with the Prince of Anhalt, King Frederick's General, fights manfully, and with a flying Army became a continual vexation to the Emperour, harrassing his Countries, and forcing Contributions every where.

The King of England hearing of the King of Bohemia's Overthrow, by the Earls of Oxford and Essex, newly returned from the Palatinate, calls his Council together, to consider what is fit to be done in this affair.

At the Court at Whitehall, Jan. 13.
1620.

Present,

Lord Archbishop of Canterbury.
Lord Chancellor.

Lord Treasurer.
Lord Privy Seal.
Lord Steward.
Lord M. Hamilton.
Lord Chamberlain.
Earl of Arundel.
Earl of Kelly.
Lord V. Doncaster.
Lord V. Falkland.
Lord Carew.
Lord Digby.
Mr. Treasurer.
Mr. Secretary Naunton.
Mr. Secretary Calvert.
Mr. Chanc. of the Exchequer.
Master of the Rolls.
Master of the Wards.

Fac. 18.

HIS Majesty being resolved to make some Royal Preparations for the Recovery and Protection of the Palatinate, being the Ancient Inheritance of His Majesties Son-in-Law, and Grand-children, did in His High Wisdom think meet to appoint some persons of knowledge and experience in the Wars, to consider of, and give their Advice in such Propositions as shall be made unto them by the Board, for the better expediting of that Service. To which purpose, the Earl of Oxford, and the Earl of Essex, the Earl of Leicester, the Lord Viscount Wilmot, the Lord Danvers, the Lord Calfield, Sir Edward Cecil, Sir Richard Harrison Knights, and Captain Danbingham were called to the Table, and made acquainted with His Majesties pleasure, That they or any five or more of them, together with Sir Hor. Vere, & Sir Edw. Conway Knights (if they return into England while this Committee doth continue) shall undertake this Service, and have their Meetings and Assemblies in the whole Council-Chamber here in Whitehall, touching the affairs above-mentioned: And that, for their better assistance, they call unto them such others of experience, whose advice and opinion they shall think fit to make use of in their several Consultations, upon such things as shall be so referred unto them from the Board. Which they are to prosecute without intermission or delay. And they shall make report of their Opinions, which is to be done in writing under five of their hands at least.

An Order at the Council Table for recovering the Palatinate.

The Particulars offered to their Consideration, are these.

First, What proportion or number of Men, as well Horse as Foot, with Munition, Victuals, Shipping and Treasure will be sufficient for that Enterprize.

And Secondly, By what time it will be meet, that their Forces be in readiness: And where the Arms, Munition and Victuals may be best provided; with such other Circumstances as are incident to any of these Heads.

For the better direction herein, Mr. Secretaries will acquaint them with such Intelligences as they have received, touching the strength of the Enemies Forces now in the Palatinate.

Moreover, the King, to encourage the Princes of the Union, and to keep them in Arms, sent them 30000 Pounds; yet withal, resolved to treat for a Peace; and dispatch'd Sir Edward Villers

Villers into *Silesia*, to fetch the *Palsgrave's* Submission to the Emperor, upon Conditions to be conceived according to equity and conveniency.

Never did the *Spaniards* more flatter King *James*, than after the Defeat at *Prague*. They affirm, that he shall ordain, according to his pleasure, in the *Palsgrave's* Restitution, and be obeyed: That the *Infanta's* Portion was preparing, and that the Pope was obliged to grant the Dispensation, from whom they resolve to take no denial. *Cottington*, the Agent in *Spain*, now attesting the honesty of *Gondomar's* Dispatches hither, and cryed him up for a cordial man, and well deserving his Majesty's favour.

The *Spanish* Ambassador's Instructions received from the King his Master, were as followeth, but must be taken entirely upon the Credit of the Historical Collector. p. 18.

Private Instructions to the *Spanish* Ambassador into *England*.

Besides that which I enjoin you in your general Instructions given you for *England*, whither I send you to reside, I thought good to advertise you apart by themselves of the chiefest things of importance, which you shall there negotiate, and endeavour to further and advance.

It is well known, that I have desired and endeavoured to favour the Cause of the *Catholicks* of that Kingdom, and to further it to their best advantage, as well in the time of the Queen deceased, who did so much prosecute and oppress them, as since the time that the present King hath succeeded; yet that calamity still continues upon them, by reason of the ill offices done unto them by the *Puritans* and *Protestants* (of whom the greater part of that Kings Council doth consist:) Howbeit, because it is a thing that I could not well urge or press, without breeding Jealousies, and so cause thereby a greater harm to the *Catholicks*, I have proceeded on my part with that wariness and dissimulation as is fit.

D. A. shall inform you of what hath passed in this matter, as also in what estate things are at this present, and how you shall govern your self for the time to come, according to the Orders given unto him, whose example we wish you to follow. And of this take special heed; That although it be believed, that we may be very confident of the Trustiness of those *Catholicks*, by whose means the business of the rest is undertaken, that they will be secret; notwithstanding; lest any *Heretick* shall come in the name or shew of a *Catholic*, only to make some discovery; it shall be fit, that in all Speeches you shall have with them, concerning that which shall touch the *Catholicks*, that you tell them, how much I desire to see them freed from those pressures, under which Queen *Elizabeth* put them, and that God would inspire the King's heart, that he may reduce himself to the obedience of the *Roman-Catholic* Church; and advise them to endeavour to win the King unto them, by shewing themselves good, and Loyal, and obedient Subjects, in temporal Duties, and not to meddle in any thing against his State; that by their deeds he may see what security may be expected from them, and may also bind himself to favour them; these being things that no way contradict the observing the *Catholic* Religion, and are due from them to the Dignity of their King and Natural Lord: And for the same reason they ought to abstain from all ill practices, or unfitting Speech or Actions against his Person

as, is said, some heretofore have used; especially seeing no good hath, or can come thereof, and thereby they shall justly provoke him against themselves; and by holding this course, they shall win the King's good will, and the Peace shall be preserved, and by the Peace by little and little, be won and attained that which is desired. By this manner of proceeding, it is certain, there can come no inconvenience: But in case that this your manner of dealing shall come to the King's knowledge (as possibly it may) it will breed a great Obligation of Brotherhood and Friendship between us, when he shall see that I carry my self in this sort in his affairs; and consequently will be the more confident of our Amity, and will thereby be induced the better to subdue all Malice in them that shall endeavour to periwade the contrary. And therefore you shall have a special care to do this dexterously, in due time and season; and to inform your self very particularly from the said *D. A.* concerning those with whom you may deal confidently, and how far you may trust the *Negotiants* for the *Catholicks*; though you shall do well alway to proceed with the afore-said caution and wariness.

You shall understand from the said *D. A.* what *Pensions* are allotted to certain *Ministers* of that King, and to other persons: It will be necessary to inform your self thoroughly of all that concerns this Point, and that you know both the *Persons* and *Pensions*, to serve your self of them, and to make the best use of them in all occasions that shall be most behoveful for your better direction in the businesses given you in charge, and all others that may be offered of consequence, seeing the said *Pensions* were appointed to that end.

Whatsoever of the said *Pensions* you shall find unpaid for the time past, *D. A.* is to discharge, and you shall undertake for the time to come, telling every one what his Pension is, to the end they may be deceived of no part thereof by the Third person, who conveys it unto him; and let it be punctually paid at the days, that their good payment may bind them to persevere, and do their service punctually; for the which you shall be furnished with all that shall be necessary. And have a special care to advertise me, how such Persons employ themselves in the things that shall occur, disguising their names in such manner as *D. A.* doth.

Above all, you must take great care to dive into the estate of the Affairs of that King, what his Treasure is: In what Estimation he is with his Subjects, and what correspondence and good meaning there is betwixt them how the *English*, *Scotch*, and *Irish* stand affected among themselves, & one towards another and towards their Neighbours, and how they are bent against me, &c. my Common Estates, or any of my particular Kingdoms; whence they draw their Intelligences, and particularly what Amity and Correspondency that King entertaineth with *France*, and with the *Netherlands* of *Holland* and *Zeland*, and with the *Venetians*, and upon what Causes it is founded, what Matters they treat of, what Designs they have in hand. All which is very necessary to be known; for the attaining of which, *D. A.* will open unto you some ways, which you must follow, besides those which your self shall discover. And you shall advertise me of whatsoever you shall understand and learn, governing your self in all Occurrences with

with that wariness and discretion, as your zeal
Anno to my service doth assure me of.

1620.

These were the Arts of Spain, to corrupt divers in the Court of England.

Buckingham and his Dependants followed the King's inclinations, The Duke of Lenox, Marquis Hamilton, and William Earl of Pembroke, disliking the King's course, did not contest with him, but only intimated their dissent.

It was said of Gondomar, that when he returned into Spain, he gave in his account of disbursements for Pensions given in England (amongst others) to Sir Robert Cotton 1000*l.* a person of great integrity, and one who was ever averse to the House of Austria. Which Sir Robert getting notice of by the English Agent, then in Spain, demanded reparation; which was obtained; but with a *Salvo* to the Ambassadors Honour, the Errour being said to be committed by a Dependant upon the Ambassador, and not by himself.

The King being jealous of uncontrolled Sovereignty, and impatient of his Peoples intermeddling with the Mysteries of State (a thing very usual, but of evil consequence both in his, and the subsequent times) had fallen into a great dislike of Parliaments; which, while Justice and due Subjection sway their Actions, are a Princes greatest as well as highest Councils. And many of his Ministers perhaps, fearing an Enquiry into their own actions, might suggest to him, that he might better furnish himself by those ways of Monopolies, &c. and the Match now in Treaty, than by Subsidies, usually accompanied with the Redress of Grievances. Nevertheless, he was now minded to call a Parliament, conceiving it might be of special use: For he observed the affections of the People to be raised for the recovery of the Palatinate; and then concluded, that those affections would open their Purse to the supply of his wants; and the Treaty with Spain would effect the business, without the expence and troubles of War, and the good accord between him and his People would quicken the Spaniard to conclude the Match. And accordingly Writs were issued forth to Assemble them the 30th of January. In the Calling of this Parliament, he recommended to his Subjects the choice of such Members as were of the wisest, gravest, and best affected people, neither superstitious, nor turbulent, but obedient Children to this their Mother-Church.

The Protestant Union continually declined, by the gradual falling away of the several Partakers. The Elector of Saxony reduced the remainder of Lusatia. The Province of Moravia, upon the approach of Buzoy, seeing the Count de Lathiere came not in to their succor, prayed that they might enjoy their Priviledges in matter of Religion, and be received into the Emperor's Grace and Favour: which submission was well received at Vienna. Likewise the States of Silesia failing of assistance from the Elector Palatine, were constrained to make their peace.

The Palatine propounded to the Elector of Saxony an Overture of Peace; declaring, That he took the Crown upon him to preserve the Protestants in the free exercise of their Religion. The Saxon replied, That he had no way to make his Peace, but to renounce the Kingdom of Bohemia, and the Provinces incorporate, and

to beg the Emperor's pardon. Afterwards the Elector Palatine goeth to Brandenburg, and then to Segenburgh, where there was an Assembly of Princes and States Protestant, to oppose the Exploits of Spinola. In the mean while, Count Mansfeld stirs in Bohemia, pillages several Towns, and the Goods of all those that cried, *God save King Ferdinand.*

The Relation of England to those Affairs of Foreign States, had caused a general liberty of Discourse concerning Matters of State; which King James could not bear; but, by Proclamation, commanded all, from the highest to the lowest, not to intermeddle, by Pen or Speech, with State-concernments, and secrets of Empire, either at home or abroad; which were no fit Themes or Subjects for vulgar persons, or common Meetings.

On the Thirtieth of January, the Parliament began to Sit, and the King is said by the Collector to have made this Speech following to the Parliament; but the Speech is not the Kings, but a Hodge-podge of the Collectors; the true Speech of His Majesty followeth the other of the Collectors.

MY Lords Spiritual and Temporal, and you the Commons, *Cui multiloquio non deest peccatum?* In the last Parliament I made long Discourses, especially to them of the Lower House: I did open the true thoughts of my heart; but I may say with our Saviour, *I have piped to you, and you have not danced; I have mourned, and you have not lamented.* Yet as no mans actions can be free, so in me God found some Spices of vanity, and so all my Sayings turned to me again without any success. And now tell the Reasons of your Calling, and this Meeting, apply it to your selves, and spend not the time in long Speeches. Consider, that the Parliament is a thing composed of a Head and a Body, the Monarch and the Two Estates; it was first a Monarchy, then after a Parliament. There are no Parliaments, but in a Monarchical Governments; for, in Venice, the Netherlands, and other free Governments, there are none. The Head is to call the Body together; And for the Clergy, the Bishops are chief, for Shires, their Knights; and for Towns and Cities, their Burgesses and Citizens. These are to treat of difficult matters, and to counsel their King with their best advice, to make Laws for the Common-weal: And the Lower House is also to petition their King, and acquaint him with their Grievances, and not to meddle with their King's Prerogative. They are to offer supply for his Necessity, and he to distribute in recompence thereof Justice and Mercy. As in all Parliaments, it is the King's Office to make good Laws (whose fundamental Cause is the Peoples ill Manners) so at this time, that we may meet with the new Abuses, and the incroaching Craft of the times: Particulars shall be read hereafter.

As touching Religion, Laws enough are made already. It stands in two points; *Perswasion* and *Compulsion*: Men may perswade, but God must give the Blessing. Jesuites, Priests, Puritans and Sectaries, erring both on the right hand and left hand, are forward to perswade unto their own ends; and so ought you the Bishops, in your example and preaching; but *Compulsion* to obey, is to bind the Conscience.

There

Anno 1620. There is talk of the *Match* with Spain; but if it shall not prove a furtherance to Religion, I am not worthy to be your King: I will never proceed but to the Glory of God, and content of my Subjects.

*-Buckingham.

For a Supply to my Necessities; I have reigned eighteen years, in which time you have had peace, and I have received far less supply than hath been given to any King since the conquest. The last Queen, of Famous Memory, had one year with another above a hundred thousand pounds *per annum* in Subsidies; and in all my time I have had but Four Subsidies, and Six Fifteens. It is ten years since I had a Subsidy; in all which time I have been sparing to trouble you: I have turned my self as nearly to save Expences as I may; I have abated much in my Household-Expences, in my Navies, in the Charge of my Munition; I made not choice of an old beaten Souldier for my Admiral; but rather chose a young man, whose Honesty and Integrity I knew, whose Care hath been to appoint under him sufficient men to lessen my Charges, which he hath done.

Touching the miserable Dissentions in Christendom, I was not the Cause thereof; for the appeasing whereof, I sent my Lord of *Doncaster*; whose Journey cost me Three thousand five hundred pounds. My Son-in-Law sent to me for Advice, but within three days after accepted of the Crown; which I did never approve of, for three Reasons.

First, For Religions sake, as not holding with the Jesuits disposing of Kingdoms; rather learning of our Saviour to uphold, not to overthrow them.

Secondly, I was no Judge between them, neither acquainted with the Laws of *Bohemia*. *Quis me Judicem fecit?*

Thirdly, I have treated a Peace, and therefore will not be a Party; yet I left not to preserve my Childrens Patrimony; for I had a Contribution of my Lords and Subjects, which amounted to a great Sum. I borrowed of my Brother of *Denmark* Seven thousand five hundred pounds to help him, and sent as much to him as made it up Ten thousand; and Thirty thousand I sent to the Princes of the Union, to hearten them. I have lost no time; had the Princes of the Union done their parts, that handful of men I sent had done theirs. I intend to send, by way of perswasion, which in this Age will little avail, unless a strong hand assist: Wherefore I purpose to provide an Army the next Summer, and desire you to consider of my Necessities, as you have done to my Predecessors. *Qui cito dat, bis dat. I will engage my Crown, my Blood, and my Soul in that Recovery.*

You may be informed of me in things in course of Justice; but I never sent to any of my Judges to give Sentence contrary to Law. Consider the Trade, for the making thereof better; and shew me the reason why my Mint for these eight or nine years hath not gone. I confess I have been liberal in my Grants; but if I be informed, I will amend all hurtful Grievances: But who shall hasten after Grievances, and desire to make himself popular, he hath the Spirit of Satan: If I may know my Errors, I will reform them. I was in my first Parliament a Novice; and in my last there was a kind of Beasts called *Undertakers*, a dozen of whom undertook to govern the last Parliament,

and they led me. I shall thank you for your good Office, and desire that the World may say well of Our Agreement.

In this Parliament the Commons presented Sir *Tho. Richardson* for their Speaker.

My Lords Spiritual and Temporal, and you the Commons,

IN multiloquio non deest peccatum: said the wisest King that ever was; and this Experience I have found in my own person; for it is true, that there have been Sessions of Parliament before this time, wherein I have made many Discourses to the Gentlemen of the Lower House, and in them delivered a true endeavour of my heart: But as no mans Occasions, be they never so good, can be free from censure, in regard of the Excellency required to make Perfection; so it may be, it pleased God, seeing some vanity in me, to send back my Words as Wind spit into my own face. So, as I may truly say, I have often Piped unto you, but you have not Danced; I have often mourned, but you have not lamented: But now I have put on this resolution for the few dayes that are left me in this World, wherein I know not how far I have offended God, and if it may please you especially of the Lower House, to apply this Rule unto your selves, you may find the more fruit.

Now to the Errand of your being called hither; for entring whereunto the more easily, I will begin with the general Condition of a Parliament, not to instruct you, whom I suppose not to be ignorant, but to refresh your Memories; and first what a Parliament is: It is an Assembly compos'd of a Head and a Body. The Monarch is the Head, and the Body is the Three Estates; which are called in all Monarchies a Parliament, which was Used and Created at the first by Monarchy; for Kings were before Parliaments; who, as soon as they had settled a Form of Government, and were willing that their People should be guided by Laws, called a Parliament: I know there are divers sorts of Foreign Parliaments, some more, some less in number: But I leave them; only this I would have you to observe, That it is a vain thing for a Parliament-Man to press to be popular; for there is no State or Parliament without a Monarchy; so the Grizons, Swisses and Low-Countries, which are governed without a King, have no Parliaments, but Councils and Assemblies. This I put you in mind of, that you serve under a Monarch, and that you must stand or fall with it.

Now consider, First, Who calls you: your King, Secondly, Whom he calls; the Peers, who in respect of the eminency of their Places and high Honours, have an interest therein by Birth and Inheritance, because they are to assist the King in his greatest Affairs. In the next place is the Church, the Clergy; yet not all of them, but the principal Heads thereof, the Bishops, whose Holiness of Life doth claim a priviledge in Advice, and respect of their Baronies: also the Knights stand for the Shires, and the other Gentlemen for the Burroughs; of these is the whole Body compos'd. Thirdly, Why you are called; viz. To advise the King in his urgent Affairs, to give him your best advice in such Errands as he shall ask of you, or you shall think fit to ask his Advice in. The King makes Laws, and ye are to advise him to make such as may be best for the good of the

the Common-wealth: There is another Cause also, viz. The House of Commons is Called, for that they best know the particular Estate of the Country; and if the King shall ask their Advice, can best tell what is amiss, as being most sensible of it, and also petition him to amend and redress. You are the Authors of sustenance also to him, to supply his Necessities; and this is the proper use of Parliaments. Here they are to offer what they think fit to supply his wants; and he is in lieu hereof to afford them Mercy and Justice; and this is that I boldly say, and am not ashamed to speak it, That all People owe a kind of Tribute to their King, as a thankfulness to him for his Love to them; and where there is this Sympathy between the King and his People, it breeds a happy Parliament.

Thus much of the general Condition and special Use of Parliaments in this Kingdom. Now I come to the particular Causes which moved me to call this Parliament.

First, As in all Parliaments, the King must have a special care to make good Laws; for ex malis moribus bonæ Leges oriuntur: For the elder the World grows, men become the more wise, the more crafty, and the more sinful, and therefore the more need to make new Laws for new Crimes. And here I am in a large Subject, yet because of my intended Brevity, I will speak of no Particulars, but hold it best to leave it to the Times wherein you should both see and read them.

First, For Religion there are Laws enough, so as the true intent and execution follow; The Maintenance of Religion stands in two points: 1. Persuasion, which must precede; 2. Compulsion, which must follow; for as all the World cannot create a new Creature, be it never so little, so no Law of man can make a good Christian in heart, without inward Grace; but the Minister must persuade, and leave the success to God; and if there were not so many Priests and Jesuites, there would not be so many perverted to ill; yet it is not enough to trust to a good Cause, and to let it go alone; likewise the busie Puritans, do but see how busie they are in persuading the People. But God forbid that I should compel mens Consciences, but leave them to the Law of the Kingdom; for the Rumor that is spread, that I should tolerate Religion in respect of this Match, which hath been long intreated with Spain for my Son; I profess I will do nothing therein which shall not be honourable, and for the good of Religion: The Trial which you have had of my Works and Writings, wherein I have been a Martyr, tortured in the Mouths of many idle Fellows, may give you ample testimony of my Integrity, in such a sort, as I hope you trust the Wisdom of your King so far as that I will never do one thing in private, and another thing in publick: But if after this my Declaration, any shall transgress, blame me not if I see them severely punished.

Now the main Errand, to speak truth, which I have call'd you for, is for a Supply of my urgent necessities; ye can all bear me witness I have Reigned 18 Years among you; if it be a fault in me, that you have been at peace all this while, I pray you pardon it; for I take it for an honour to me, that ye should live quietly under your Vines and Fig-trees, eating the fruit of your own Labours, and my self to be a Just and Merciful King to you; ye have not been troubled with pressing of men with a thousand Inconveniencies, which the disaster of War produceth; and yet within these 18 years I have had less Supplies than many

Kings before. The last Queen (of Famous Memory) was so far supply'd in her time, as it grew to an annual Contribution; which by Computation came to 135000 l. a year at the least. I had never above 4 Subsidies, and 6 Fifteens; I challenge no more desert than She; but sure I am, I have governed you as peaceably the time since my Supply hath been, as if Women with Child, que decem menses fastidia Menstris, who, after ten Months Longing are delivered of their Burden; but I have travailed ten years, and therefore now full time to be delivered of my wants. I was ever willing to spare you till now, It is true, Two Arguments were used in other Parliaments against Supplies; first, That many Subsidies had been given by them, and therefore they required a time of Respiration; which Objection is now taken away: The other was, That my Treasure was confusedly governed by me; so as some did not stick to say, that they would give me all they had, were they sure it should come into my Purse: Now you have seen Trial of my late Care in two Years last past, in looking into the Particulars of my Estate, wherein I must confess that I have found my Revenue, as Job's Friends, forsaking me. In my Household Expence I have abated 10000 pound per Annum; in the Navy I abated 25000 pound per An. and shortly hope to abate 10000 pound more in mine Ordinance; I have brought mine Expences from 34000 l. to 14000 l. and yet was loth at first to think that things were so much out of order; but at the last, by means of the information of some private honest Gentlemen, I was induced to enter into a particular Survey; and herein, such was the Love of my young Admiral to me, as he took the only Envy of all upon my self for my sake; and though he be but young, yet I find him true in Faith, and an honest man, who hath had the better success in all the rest; he took under himself divers Commissioners, as a young Commander should do, the better to preserve him from Errors, and then sought no reward, but my good Service; yet went nevertheless through all with great diligence and happy Success; and therefore I hope the Kingdom shall say I have a true care of my Estate, not taking from others by violence House or Land, but governing my own with good Husbandry: And now I took your Supply not to fall into a bottomless Purse.

The next Cause of your Calling is for an urgent necessity; the miserable and torn Estate of Christendom; which none that hath an honest heart, can look on without a weeping Eye. I was not the Cause of the beginning thereof (God knows;) but I pray God I may be a happy Instrument of a happy ending the Wars in Bohemia, I mean, wherein the States expell'd the Emperour, and chose my Son-in-Law their King: I was requested at first by both Sides to make an Agreement between them; which cost me 30000 l. in sending Doncaster on an Embassie for that purpose. In the mean time they cast off all Allegiance, and chose my Son, who sent to me to know whether he should take the Crown upon him or not; and yet within three days after, before I could return my Answer, took the Crown on his Head; and then I was loth to meddle in it at all, for three Reasons.

First, I would not make Religion the Cause of Deposing Kings. I leave that Cause to the Jesuites, to make Religion a Cause to take away Crowns.

Next, I was not a fit Judge between them; for

for they might after say to me, as he said to *Anno* Moses, Who made thee a Judge over us? And my *1621.* self would not be content that they should judge whether I were a King or not.

Lastly, Because I had been a Medler between them, and then to determine my Son might take the Crown upon him, had been unproper; and yet I left not off so far as Nature compell'd me, to admit his Good, I permitted a voluntary Contribution, to preserve the Palatinate, which came to a great Sum; for that purpose I borrowed also 75000 l. of my Brother of Denmark, and now have sent to him to make it up 100000 l. and all this have I done with the Charge of Ambassadors, and otherwise; which have risen to an infinite Sum, which I have born my self, and hath cost me above 200000 l. in preserving the Palatinate from invading, finding no hope of the rest, besides 300000 pound, and besides the voluntary Contribution; and I am now to take care for a worse danger against next Summer; albeit I will leave no travail untried to obtain a happy Peace; but I thought good to be armed against the worst time, it being best to intreat of Peace with a Sword in my Hand. Now I shall labour to preserve the rest; wherein I declare, that if by fair means I cannot get it, my Crown, and Honour and All shall be spent with my Sons Blood also, but I will get it for him: And this is the Cause, for all the Causes of Religion are involved in it; for they will alter Religion where they conquer, and so perhaps my Granchild may suffer, who hath committed no fault at all. There is nothing done without a speedy Supply, and his dat qui cito dat; wherefore I hope you will no more fail me now, than you have done my Predecessors. In this I must trust your Cares; and I think if a man could see all your Hearts in one Face, it would testifie a general Acclamation of this my Motion. Consider who it is that moves you; your King, and his care of Reformation, and the Charges which he hath discharged, besides 40000 l. of late in the Piretical War, and consider if I deserve not your respects.

For your parts you may be informed of something fit to be required of Me for matter of Justice, I never directly nor otherwise desired the contrary; for which purpose I have chosen Judges of the best Learning and Integrity that I could; and if they prove unjust, I will not spare them. It's strange that my Mint hath not gone this 8, or 9 years; but I think the fault of the want of Money, is the uneven balancing of Trade: for other things (I confess) I have been liberal; but the main Cause of my wants hath been the ill Government of those whom I have trusted under me: For Bounty, I will not make every day a Christmas; and yet it may be I have hurt my self in some, and in others my Subjects; but if I be truly inform'd, I will rightly reform; but for you to hunt after Grievances to the prejudice of your King and your selves, is not the Errand: Deal with me as I deserve at your hands; will leave nothing undone that becomes a just King, if you deal with me accordingly. I know this Parliament hath been of great expectation; and so was that at my first coming, when I knew not the State of this Land; I was led by the old Counsellors I found which the old Queen left, and it may be there was a misleading, and a misunderstanding between us, which bred an abruption: And at the last Parliament there came up a strange kind of Beast call'd Undertakers, a Name which in my Nature I abhor; which caus'd a Dissolution; now you have the advantage, that I call you out of

my free motion, and my trust is in your good Offices for my good estate even in all and every one of you; *Fac. 19.* I hope I want not good Subjects; and I assure you, ye shall find an honest King of me: How happy a Fame will it be that he is Reverenced and Loved by his People, and reciprocally loves them? Now shall I be honoured by my Neighbour Princes, and my Government peradventure made an example for Posterity to follow: And so I leave you.

Sir John Digby, now Lord Digby, is sent into Flanders to the Arch-Duke, to gain a Cessation from War, and a Treaty of Peace with the Emperor; the former is granted, and is continued till the Death of the Arch-Duke; and the Treaty of Twelve years betwixt the United Netherlands and the Spaniards expiring, Spinola returns into Flanders, and leaves the Palatinate to the Imperial Forces; King Frederick and his Queen retire into Holland, and are Nobly entertained there by the Prince of Orange, whilst the Emperor deals severely with the Bohemians, and treats them not as an Elected King, but a Lord by Right of Conquest: The Union now dissolves amain, and the Protestant States and Towns reconcile themselves to the Emperor; to whom they do but in vain intercede for the Palgrave, whilst the King of Denmark the United Provinces, and diverse German Princes adhere still to his Cause, and stickle hard for him.

The Parliament now called, Petition the King to put the Laws in execution upon Popish Priests, Jesuites and Popish Recusants; complain of Sir Giles Mompesson for many heinous Offences, tot he Scandal of the King and Government; he was Committed to Prison, and escaped thence beyond Seas. Diverse Patents were then likewise Complained of; as that of Gold and Silver-Thread, of Innes and Ale-houses, &c. which the Commons complain of, not touching in the least upon the King's Prerogative; and these things (the Lords admitting of no other Business) being before that House, the King came to the House of Peers, and spake as followeth;

MY Lords, The last time I came hither, My *The King's* Errand was to inform you (as well as My *Speech to* Memory could serve Me of things so long past) the Lords of the verity of My Proceedings, and the Caution used by Me in passing those Letters Patents, now in question before you, to the effect, that they might not be abused in the execution. And this I did by way of Declaration. But now I am come (understanding the time of your censure at hand) to express My readiness to put in execution (which is the Life of the Law) those things which ye are to sentence; (for even the Law it self is a dead Letter without execution) for which Office, God hath appointed Me in these Kingdoms. And though I assure My self, that My former Behaviour, in all the course of My Life, hath made Me well known for a Just King; yet in these special cases I thought fit to express My own intentions out of My own Mouth, for punishment of things complained of: The first proof whereof I have given by the diligent search I caused to be made after the person of Sir Giles Mompesson; who, though he were fled, yet My Proclamation pursued him instantly; and as I was earnest in that, so will I be to see your Sentence against him put in execution.

Anno 1621. 'Two Reasons move Me to be earnest in the execution of what ye are to sentence at this time.

'First, That duty I owe to God, who hath made Me a King, and tied Me to the care of Government by that politick Marriage betwixt Me and My people: For I do assure you, in the heart of an honest Man, and by the Faith of a Christian King (which both ye and all the world know Me to be) had these things been complained of to Me before the Parliament, I would have done the Office of a just King, and out of Parliament have punished them as severely, and peradventure more, than ye now intend to do. But now that they are discovered to Me in Parliament, I shall be as ready in this way, as I should have been in the other; for I confess I am ashamed (these things proving so as they are generally reported to be) that it was not My good fortune to be the only Author of the Reformation and Punishment of them by some ordinary Courts of Justice. Nevertheless, since these things are new discovered by Parliament, which before I knew not of, nor could so well have discovered otherwise, in regard of that Representative Body of the Kingdom, which comes from all parts of the Countrey, I will never be a whit the slower to do my part for the execution: For, (as many of you as here, have heard me often say, and so I will still say) so precious unto me is the publick Good, that no private person whatsoever (were he never so dear unto Me) shall be respected by Me, by many degrees, as the publick Good; not only of the whole Common-wealth, but even of a particular Corporation that is a Member of it. And, I hope, that ye, my Lords, will do me the Right, to publish to my People this my heart and purpose.

'The second Reason is, That I intend not to derogate or infringe any of the Liberties or Privileges of this House, but rather to fortifie and strengthen them: For never any King hath done so much for the Nobility of England as I have done, and will ever be ready to do. And whatsoever I shall say, and deliver unto you as my thought; yet when I have said what I think, I will afterwards freely leave the Judgment wholly to your House. I know you will do nothing but what the like hath been done before: And I pray you be not jealous, that I will abridge you of any thing that hath been used; for whatsoever the Precedents (in times of good Government) can warrant, I will allow; for I acknowledge this to be the Supream Court of Justice, wherein I am ever present by Representation. And in this ye may be the better satisfied by my own presence, coming divers times among you. Neither can I give you any great assurance, or better pledge of this my purpose, than that I have done you the honour to set my only Son among you, and hope that ye, with him, shall have the means to make this the happiest Parliament that ever was in England.

'This I profess, and take comfort in, That the House of Commons at this time, have shewed greater Love, and used me with more Respect in all their proceedings, than ever any House of Commons have hitherto done to me, or I think, to any of my Predecessors. As for this House of yours, I have always found it respective to me, and accordingly do I, and ever did, favour you, as you well deserved. And I hope it will

'be accounted a happiness for you, that my Son doth now sit among you, who, when it shall please God to set him in my Place, will then remember, that he was once a Member of your House, and so be bound to maintain all your lawful privileges, and like the better of you all the days of his Life. But because the World, at this time, talks so much of Bribes, I have just cause to fear, the whole Body of this House hath bribed him to be a good Instrument for you upon all occasions: He doth so good Offices in all his Reports to me, both for the House in general, and every one of you in particular. And the like I may say of one that sits there, Buckingham; he hath been so ready upon all occasions of good Offices, both for the House in general, and ever Member in particular. One proof thereof, I hope, my Lord of Arundel hath already witnessed unto you, in his Report made unto you of my Answer, touching the Privileges of the Nobility, how earnestly he spake unto me of that Matter.

'Now, my Lords, the time draws near of your Recess; whether Formality will leave you time for proceeding now to Sentence against all, or any of the persons now in question, I know not; but, for my part, since both Houses have dealt so lovingly and freely with me, in giving me a free Gift, two Subsidies, in a more loving manner than hath been given to any King before, and so accepted by me: And since I cannot yet retribute by a General Pardon (which hath by form been usually reserved to the End of a Parliament) the least I can do (which I can forbear no longer) is to do something in present, for the Ease and Good of my People. Three Patents at this time have been complained of, and thought great Grievances.

1. That of Inns and Hosteries.
2. That of Ale-Houses.
3. Of Gold and Silver-Thread.

'My purpose is to strike them all dead; and that Time may not be lost, I will have it done presently. That concerning Ale-houses, I would have to be left to the managing of Justices of the Peace, as before. That of Gold and Silver-Thread, was most vilely executed, both for wrong done to mens persons, as also for abuse in the Stuff; for it was a kind of false Coin. I have already freed the persons that were in Prison; I will now also damn the Patent, and this may seem instead of a Pardon. All these three I will have recalled by Proclamation, and wish you to advise of the fittest Form to that purpose.

'I hear also there is another Bill amongst you, against Informers. I desire you, my Lords, that as you tender my Honour, and the Good of my People, ye will put that Bill to an end, as soon as you can; and at your next Meeting, to make it one of your first Works. For I have already shewed my dislike of that kind of people openly in Star-Chamber; and it will be the greatest ease to me, and all those that are near about me at Court, that may be: For, I remember, that since the beginning of this Parliament, Buckingham hath told me, he never found such Quiet and Rest, as in this time of Parliament, from Projectors and Informers, who at other times miserably vexed him at all hours.

'And now I confess, that when I looked before upon the face of the Government, I thought (as every man would have done) that the people

Anno 1621. people were never so happy as in my time: For even as at divers times I have looked upon many of my Copices, riding about them, and they appeared on the outside very thick and well-grown, unto me; but when I turned into the midst of them, I found them all bitten within, and full of plains and bare spots; like the Apple or Pear, fair and smooth without, but when ye cleave it asunder, you find it rotten at heart. Even so this Kingdom, the External Government being as good as ever it was, and I am sure, as learned Judges as ever it had, and, I hope, as honest, administering Justice within it; and for Peace both at home and abroad, I may truly say, more settled and longer lasting, than ever any before; together with as great plenty as ever: So as it was to be thought, that every man might sit in safety under his own Vine and Fig-tree: yet I am ashamed (and it makes my Hair stand upright) to consider, how in this time my people have been vexed and polled by the vile execution of Projects, Patents, Bills of Conformity, and such like; which, besides the trouble of my People, have more exhausted their Purfes, than Subsidies would have done.

Now, My Lords, before I go hence, since God hath made me the Great Judge of this Land under him, and that I must answer for the Justice of the same; I will therefore, according to my Place, remember you of some things, though I would not teach you; for no mans Knowledge can be so good, but their Memories will be the better to be refreshed. And now because you are coming to give Judgment, (all which moves from the King) that you may the better proceed, take into your care two things. 1. To do Bonum. 2. To do it Bene.

I call it Bonum, when all is well proved whereupon ye Judge; for then ye build upon a sure Foundation. And by Bene, I understand, that ye proceed with all Formality and Legality, where in you have fit occasion to advise with the Judges, who are to assist you with their Opinions in Cases of that nature; and Wo be to them if they advise you not well. So the ground being good, and the form orderly, it will prove a course fitting this High Court of Parliament.

In Sentence ye are to observe two parts: First, to recollect that which is worthy of Judging and censuring: And secondly, to proceed against these, as against such-like Crimes properly. We doubt there will be many matters before you; some complained of out of Passion, and some out of just cause of Grievance: Weigh both, but be not carried away with the impertinent discourses of them that name, as well innocent men as guilty. Proceed judicially, and spare none where ye find just cause to punish: But let your proceedings be according to Law; and remember that Laws have not their Eyes in their Necks, but in their Foreheads; for the Moral Reason for the punishment of Vices in all Kingdoms and Common-wealths, is, because of the breach of Laws standing in force: for none can be punished for breach of Laws by Predestination, before they be made.

There is yet one particular that I am to remember you of. I hear that Sir Henry Telverton (who is now in the Tower, upon a Sentence given in the Star-Chamber against him, for deceiving my Trust) is touched concerning a Warrant Dormant which he made, while he was my Attorney. I protest I never heard of this War-

rant Dormant before; and I hold it as odious a matter as any is before you. And, if for respect to me, ye have forbore to meddle with him in Examination, because he is my Prisoner, I do here freely remit him unto you, and put him into your hands.

And this is all I have to say unto you at this time, wishing you to proceed justly and nobly, according to the Orders of your House; and I pray God to bless you; and you may assure your selves of My Assistance. Wishing, that what I have said this day among you, may be entered into the Records of this House.

The Lords pronounced Sentence upon Sir Giles Mompeffon, who was fled beyond Sea.

1. That he shall be Degraded of the Order of Knighthood, with reservation of the Dignity of his Wife and Children.
2. That he shall stand perpetually in the degree of his Person, Outlawed for Misdemeanor and Trespasse.
3. That his Testimony be received in no Court, nor be to be of any Inquisition or Jury.
4. That he shall be excepted out of all General Pardons to be hereafter granted.
5. That he shall be imprisoned during Life.
6. That he shall not approach within twelve Miles of the Court, or Prince, nor of the Kings High Court usually held at Westminster.
7. That the King's Majesty shall have the profit of his Lands for Life, and all his Goods and Chattels so forfeited; and that he shall undergo Fine and Ransom; which was set at Ten thousand pounds.
8. Disabled to hold or receive any Office under the King, or for the Common-wealth.
9. That he shall be ever held an infamous person.
10. And his Majesty added therunto, Perpetual Banishment.

Sir Francis Michel, a Projector, and Mompeffon's Compartner, was Fined One thousand Pounds, Degraded, and imprisoned in the same place in Finsbury-Fields, which he had prepared for others; for the Tower was thought too honourable for such a person. He rode likewise from Westminster into London with his Face to the Horse-tail. Likewise the King revoked his Letters-Patents, Commissions, and Proclamations concerning Inns and Ale-houses, and the Manufactures of Gold and Silver-Thread.

To these Reforms the King gave Encouragements by his third Speech in Parliament, wherein he declared much against Corruption and Bribery in Judicatures; professing, That no person should be preferred before the publick Good, and that no Offender should go unpunished. In the same Speech he gave them thanks for the Subsidies given in the beginning of the Parliament, and for the Title of the Grant; and proceeded to open his present State in relation to his Son-in-Law, the Prince Elector Palatine; how the Sums granted by the Acts of Subsidy were taken up before-hand for the Defence of the Palatinate, and the Maintenance of his Children

fac. 19.

Sir Giles Mompeffon

And Sir Francis Michel his Compartner in projects.

Anno
1621.

been expelled out of their Countrey, and for the raising of a Army for their Recovery: That he hath procured a short Truce, and did hope to obtain a General Peace. But the Charges of sending Ambassadors over Christendom, or an Army into the Palatinate, in case a Peace were not settled, could not be born, but by the grant of more Subsidies. Moreover, he protested before God, that he would not dissolve the Parliament, till the Matters in agitation were finished.

Lord
Chancel-
lor Bacon
accused &
convicted
of Bribery

Soon after the Lord Chancellor Bacon was proceeded against, and a Conference of both Houses was held concerning him: Where, first the Commons observed his incomparable good parts, which they highly commended. Secondly, They magnified the place he held, from whence Bounty, Justice and Mercy were to be distributed to the Subjects; whither all great Causes were drawn, and from whence there was no Appeal in case of Injustice, or wrong done, save to the Parliament. Thirdly, He was accused of great Bribery and Corruption in this eminent Place, and the Particulars were laid open. Then they concluded, that this Matter which concerned a Person of so great Eminencie, might not depend long before their Lordships; but that the examination of Proofs be expedited, that as he should be found upon Trial, either he or his Accusers might be punished.

After this, the Marquis of Buckingham, Lord Admiral, declared to the House of Lords, that he had received a Letter from the Chancellor, expressing, that he was indisposed in health; but whether he lived or died, he would be glad to preserve his Honour and Fame as far as he was worthy; desiring to be maintained in their good Opinions without prejudice till his Cause was heard; that he should not trick up Innocency with cavillation, but plainly and ingenuously declare what he knew he remembered; being happy, that he had such Noble Peers, and Reverend Prelates to discern of his Cause; That he desired no privilege of Greatness for subterfuge of Guiltiness, but meant to deal fairly and plainly with their Lordships, and to put himself upon their Honours and Favours.

But the Charge came home upon him, inso-much that he abandoned all defence, and only implored a favourable Judgment in this humble Submission and Supplication to the House of Lords.

May it please your Lordships,

I Shall humbly crave at your hands a benign interpretation of that which I shall now write; for words that come from wasted Spirits, and oppressed minds, are more safe in being deposited to a noble construction, than being circled with any reserved Caution,

This being moved (and, as I hope, obtained of your Lordships) as a Protection to all that I shall say, I shall go on; but with a very strange entrance, as may seem to your Lordships, at first: For, in the midst of a state of as great affliction as, I think, a mortal man can endure (Honour being above Life) I shall begin with the professing of gladness in some things.

The first is, That hereafter the greatness of a Judge or Magistrate shall be no Sanctuary or Protection to him against guiltiness, which is the beginning of a Golden Work.

The next, That after this example, it is like that Judges will fly from any thing in the likeness of *Fac. 19.* Corruption (though it were at a great distance) as from a Serpent; which tends to the purging of the Courts of Justice, and reducing them to their honour and splendor. And in these two points (God is my witness) though it be my Fortune to be the Avail upon which these two effects are broken and wrought, I take no small comfort. But to pass from the motions of my heart (whereof God is my Judge) to the merits of my Cause, whereof your Lordships are Judges, under God and his Lieutenant; I do understand there hath been heretofore expected from me some Justification; and therefore I have chosen one only Justification, instead of all others, out of the Justification of Job. For after the clear submission and confession which I shall now make unto your Lordships, I hope I may say, and justify with Job, in these Words, I have not hid my sin, as did Adam, nor concealed my faults in my bottom. This is the only Justification which I will use.

It resteth therefore, that without Fig-leaves I do ingenuously confess and acknowledge, that having understood the Particulars of the Charge, not formally from the House, but enough to inform my Conscience and Memory: I find Matter sufficient and full, both to move me to desert my Defence, and to move your Lordships to condemn and censure me. Neither will I trouble your Lordships by singling these Particulars which I think might fall off. Quid te exempta juvat spinis de pluribus uva? Neither will I prompt your Lordships to observe upon the Proofs where they come not home, or the Scruple touching the Credits of the Witnesses. Neither will I represent to your Lordships, how far a Defence might, in divers things, extenuate the Offence, in respect of the Time and Manner of the Guilt, or the like Circumstances; but only leave these things to spring out of your more Noble thoughts and observations of the Evidence and Examinations themselves, and charitably to wind about the Particulars of the Charge, here and there, as God shall put into your mind, and so submit my self wholly to your Piety and Grace.

And now I have spoken to your Lordships as Judges, I shall say a few words unto you as Peers and Prelates, humbly commending my Cause to your Noble Minds, and Magnanimous Affections.

Your Lordships are not simply Judges, but Parliamentary Judges; you have a further extent of Arbitrary Power than other Courts; and if you be not tied by ordinary course of Courts or Precedents, in points of Strictness and Severity, much less in points of Mercy and Mitigation: And yet if any thing which I shall move, might be contrary to your honorable and worthy End (the introducing a Reformation,) I should not seek it, But herein I beseech your Lordships to give me leave to tell you a Story.

Titus Manlius took away his Sons life, for giving Battel against the prohibition of his General: Not many years after, the like severity was pursued by Papirius Curfor, the Dictator, against Quint. Maximus; who being upon the point to be Sentenced, was by the intercession of some particular persons of the Senate, spared; whereupon Livy maketh this grave and gracious Observation, Neque minus firmata est Disciplina Militaris periculo Quinti Maximi, quam miserabili supplicio Titi Manlii. The Discipline of War was no less established by the questioning of Quintus Maximus, than by the punishment of Titus Manlius. And the same Reason is in the reformation of Justice; for the questioning of Men in eminent Places, hath the same terror, though not the same rigor with the Punishment.

But

But my Cause stays not there; for my humble desire
Anno is, That his Majesty would take the Seal into his
 1621. Hands; which is a great downfall, and may serve, I
 hope, in it self, for an expiation of my faults.

Therefore, if Mercy and Mitigation be in your Lordships power, and no way cross your ends, Why should I not hope of your favour and commiseration? Your Lordships will be pleased to behold your chief pattern, the King our Sovereign, a King of incomparable Clemency, and whose Heart is instructable for Wisdom and Goodness; And your Lordships will remember there sate not these Hundred years before, a Prince in your House, and never such a Prince, whose presence deserveth to be made memorable by Records, and Acts mixt of Mercy and Justice. Your selves are either Nobles, (and compassion ever beareth in the Veins of Noble Blood) or Reverend Prelates, who are the Servants of him that would not break the bruised Reed, or quench the smoking Flax. You all sit upon a high Stage, and therefore cannot but be sensible of the change of humane conditions, and of the fall of any from high place.

Neither will your Lordships forget, that there are Vitia temporis, as well as Vitia hominis; and the beginning of Reformation hath the contrary power to the Pool of Bethesda; for, that had strength to cure him only that was first cast in, and this hath strength to hurt him only that is first cast in; and for my part, I wish it may stay there, and go no further.

Lastly, I assure myself, your Lordships have a Noble feeling of me, as a Member of your own Body, and one that in this very Session had some taste of your loving affections, which, I hope, was not a lightning before the death of them, but rather a spark of that grace, which now in the conclusion will more appear: And therefore my humble suit to your Lordships, is, That my penitent Submission may be my Sentence, the loss of my Seal my Punishment, and that your Lordships would recommend me to his Majesties Grace and Pardon for all that is past. God's holy Spirit be among you.

The Parliament not satisfied with this general Acknowledgment, do require the Chancellor, either to confess the particulars of the Charge, or they would descend to proof against him. Hereupon he came to an express and plain acknowledgment, even to confess his Servants receipt of a dozen of Buttons, as a gift, in a Cause depending before him; and put himself upon their Lordships mercy. And he further said, That he was never noted for an avaritious Man; and the Apostle saith, Covetousness is the root of all evil; and hoped their Lordships did find him in a state of Grace, for that in all particular Charges against him, there were few or none that were not almost two years old: whereas those that have the habit of Corruption, do commonly wax worse and worse; and for his Estate, it was so mean and poor, that his care was now chiefly to satisfy his Debts. The Lords afterwards pronounced him guilty of the Charge exhibited against him, and in the presence of the Commons gave sentence, That he should undergo Fine and Ransom, and be made incapable to bear Office, &c.

Sir Henry
 accused by
 the Com-
 mons.

Sir Henry Yelverton was Charged by the Commons, for committing divers persons for not entering into Bonds to restrain their own Trades: That he signed Dormant Warrants, having no authority for the same: That he advised the Patents of Gold and Silver Thread, to be re-assumed into the King's Hand, conceiving the same to be a Monopoly, and advised the Patentees to proceed by contract with the King: That Four thousand Quo Warranto's were granted by him

touching the Patents of Inns, and but two to come to Trial: That he commenced divers Suits in the Exchequer, touching the Gold and Silver Thread, but did not prosecute the same. *Fac. 19.*

Which Charge being read unto him, he said, He thought himself happy in the midst of his Majesties disfavour, that his Majesty was pleased to cast the Grace upon him, as to send him to this Honourable House; That Innocence hath her present Answer, but Wisdom requires time. Therefore he made it his humble suit for time, to give his further Answer; adding withal, That the chief Complaint against him was, concerning the two Patents of Gold and Silver Thread, Inns and Osteries. He said, That if he deserved well of his Majesty, it was in that matter; That the King and Subjects were more abused by that Patent, than by any other; and that he suffered at that day for opposing that Patent, as he took it.

The King being informed of this passage in his Speech, came in person to the House of Peers, took notice thereof, saying, It seemed strange unto him, that Sir Henry Yelverton should be questioned here upon any thing, save the Patent of Gold and Silver Thread, for his Majesty did not conceive, that any matter was complained of against him touching the Inns and Osteries, whereof he was also examined: touching which Patent, Mompeffon had made a complaint to his Majesty, that Yelverton refused to send any Process of Quo Warranto against a multitude of Innkeepers; and his Majesty accepted Yelverton's modest answer, That he disliked those proceedings against his Subjects. His Majesty, to clear himself, did lay open the many former just dislikes which he had against Sir Henry, and his gentle proceedings against him for the same. And when His Majesty intended to question him, Buckingham Lord Admiral besought him not to think of any private wrongs done to his Lordship; His Majesty added, That in the examination of the business touching the Charter of London, Yelverton had first justified himself by his Majesty's Warrant; and that by that Warrant, he might have given away all London from him; yet at length he made a good Submission in the beginning, but in the end he said, he had not wronged His Majesty in his Prerogative. And sith that now Yelverton doth tax His Majesty, that he suffered for his good service done, His Majesty requires the Lords, who are able to do him justice, to punish Yelverton for his slander.

Sir Henry Yelverton coming shortly after before the Lords [gave his particular Answer to each particular Charge, in serie temporis, and] spake as followeth.

I Cannot but present my self this day before your Highness, and my Lords with much fear, with more grief; for I am compassed with so many terrors from His Majesty, as I might well hide my Head with Adam. His Lordship's displeasure (meaning Buckingham) wounds me more, than the Conscience of any of these facts; yet had I rather die, than the Commonweal should so much as receive a scratch from me. I that in none of my actions feared that great Man, on whom they (viz. Sir Edward Villers and Sir Giles Mompeffon) did depend, much less would I fear them, who were but his shadow. But, my most noble Lords, knowing that my Lord of Buckingham was ever at His Majesty's Hand, ready upon every occasion to hew me down, out of the honest fear of a Servant, not to offend so gracious a Master, as His Majesty.

Majesty hath ever been to me, I did commit them
Anno (VIZ. the Silk-men.)

1621. And speaking concerning the Patent of Inns, he said, *I cannot herein but bemoan my unhappiness, that in the last cause, labouring by all lawful means to advance the honest profit of His Majesty; and in this (with the sight almost of my own ruine) to preserve His Majesty's honour, and the quiet of the People, I am yet drawn in question, as if I had equally dishonoured His Majesty in both.*

When Sir Giles saw I would not be wooed to offend His Majesty in his direction, I received a Message by Mr. Emmerfon, sent me from Sir Giles, That I would run myself upon the Rocks, and that I should not hold my place long, if I did thus withstand the Patent of Inns, or to this effect. Soon after came Sir Giles himself, and like an Heralds at Arms, told me to this effect, He had a message to tell me from the Lord of Buckingham, that I should not hold my Place a Month, if I did not conform my self in better measure to the Patent of Inns; for my Lord had obtained it by his Favour, and would maintain it by his Power: How could I but startle at this message? For I saw, here was a great assuming of Power to himself, to place and displace an Officer. I saw my self cast upon two main Rocks, either treacherously to forsake the standing his Majesty had set me in, or else to endanger my self by a by-blow, and so hazard my Fortune.

I humbly beseech your Lordships: Nature will struggle when she sees her place and means of living thus assaulted; for now it was come to this, Whether I would obey His Majesty, or my Lord, if Sir Giles spake true. Yet I resolved in this, to be as stubborn as Mordecai, not to stoop or pass those gracious bounds His Majesty had prescribed me.

Soon after, I found the message in part made good; for all the Profits almost of my Place were diverted from me, and turned into an unusual Channel, to one of my Lord's Worthies, that I retained little more than the name of Attorney. It became so fatal and so penal, that it became almost the loss of a Suit to come to me. My place was but the seat of Winds and Tempests.

Howbeit, I dare say, if my Lord of Buckingham had but read the Articles exhibited in this place against Hugh Spencer, and had known the danger of placing and displacing Officers about a King, he would not have pursued me with such bitterness. But by opposing my Lord in this Patent of Inns, in the Patent of Ale-houses, in the Irish Customs, and in Sir Robert Naunton's Deputation of his place in the Court of Wards: These have been my overthrow, and for these I suffer at this day in my Estate and Fortune (not meaning to say, I take it, but as I know, and for my humble oppositions to his Lordship) above Twenty thousand pounds.

The King was offended at Tolverton's Speech, for that he reflected upon the King himself, and that he had accused the Duke of Buckingham; whereupon the Lords, upon the King's condescension, took the matter against Sir Henry into their Debate, and Fined him Ten thousand Marks for the Words spoken against His Majesty, and enjoined him submission to the King; and for those spoken against the Duke Five thousand Marks, the like submission to the Duke also: The Duke pardons the Fine to him given, and Sir Henry thanks his Lordship. And the House of Peers agreed to move His Majesty to mitigate Sir Henry's Fine, which was done, and he set at Liberty; and the Duke was reconciled to him, and he was afterwards made a Judge, for

that he was a person very knowing in the Common Law.

The Treaties with the Emperor and King of Spain are now openly spoken against, and the People, by some ill minded-men, enraged against Count Gondomar, who set upon him against the Law of Nations, openly in the Streets of London, reviling him and calling him Devil, &c. for which one Person suffered (the King, as he had reason in honour, being extremely offended at this their excess) and was Whipped publicly from Algate to Temple-bar. Sir Robert Mansel was sent into the Mediterranean, against the Pirates of Algiers, and performed gallantly, Firing the Pirates Ships in their own Harbour; though an unworthy reflection is cast upon this Action by the Collector, p. 34. First Part.

That hereby our Strength was diverted, our Treasure exhausted, and the Spanish Fleet and Merchants secured from those Robbers, and Spain left at liberty to assist in subduing the Palatinate.

In Germany, the Emperor Ferdinand had well nigh subdued all the revolted Countries, and Tryes and Condemns the Authors of the late Commotions, some to perpetual Imprisonment, others to Death, and fixes the Heads of some upon the chief Towers in Prague. All these proceedings are declared against by the Marquess of Jagerndorfe, as Barbarous and Cruel, whilst the Emperor justifies his Proceedings as necessary and lawful, against those who moved Sedition, and not in the cause of Religion.

The King, by the Treasurer, signifies his pleasure to adjourn the Parliament, during the heats of Summer, for fear of Infection, signifying to the Houses that he had already reformed the Courts of Justice, call'd in the Patents for Gold and Silver Thread, Inns and Osteries, and that he would encourage the Bill against Monopolies. This Adjournment is taken ill by the Commons, and with the Lords intend a Petition, which the King resents, and tells them, *That a Petition of this nature could not be pleasing to his Majesty, it seeming to derogate from his Prerogative, who alone hath Power to Call, Adjourn, and Determine Parliaments. The Commons at a further Conference, declared their hearty sorrow and passionate grief at the King's resolution, which, they said, cut off the performance of what they had consulted, and promised for the publick weal.*

The Lords sitting in their Robes, the King came and made a Speech, takes notice of his Message to both Houses, and gave their Lordships thanks for obeying the same, and acknowledging his power to Call, Adjourn, and Dissolve Parliaments, and for refusing to joyn with the Commons in the Petition for Non-adjournment. And whereas some had given out, that no good had been done this Parliament, he put them in mind, that the two Patents, grievous to the Commonwealth, were called in, and that the Parliament had censured the offenders for an example to all ages. And, if they desired it, he offered them eight or ten days longer Sitting, to expedite Bills; but said, that at the request of the Commons he would not grant it. The Lords had a Conference with the Commons; after which, they moved the King to continue their Sitting for fourteen days; which was granted, and the Commons were satisfied with the resolution of Adjournment.

A Committee of both Houses afterwards attending the King, he told them how ill he took resents it, that the Commons should dispute his reasons of

Fac. 19.

Anno of Adjournment; all power being in him alone to Call, Adjourn, Prorogue, and Dissolve Parliaments. And on *June 4.* he declared for an Adjournment till *November* following; and that he will in the mean time, of his own Authority, redress Grievances. And his Majesty, as General Bishop of the Land, did offer his prayers to God for both the Houses; and admonished them, That when they go into the Country, they give his people a good account and satisfaction, both as to the Proceedings, and to the Adjournment of the Parliament.

The House of Commons, immediately before their recess, taking to Heart the miseries of the *Palatinate*, resolved, that the drawing back in so good a Cause, should not be charged on their slackness; and thereupon drew up this following Declaration, with an universal consent.

The Commons Declaration touching the *Palatinate*.

THE Commons assembled in Parliament taking into most serious consideration the present state of the King's Children abroad, and the generally afflicted estate of the true Professors of the same Christian Religion, professed by the Church of England, in Foreign parts; and being touched with a true sense and fellow-feeling of their distresses, as Members of the same Body, do, with unanimous consent, in the name of themselves, and the whole Body of the Kingdom (whom they represent) declare unto His most excellent Majesty, and to the whole World, their hearty grief and sorrow for the same; and do not only join with them in their humble and devout prayers unto Almighty God, to protect his true Church, and to avert the dangers now threatened, but also with one heart and voice do solemnly protest, That if His Majesties pious endeavours by Treaty, to procure their peace and safety, shall not take that good effect which is desired in Treaty; (wherefore they humbly beseech His Majesty not to suffer any longer delay) That then upon signification of His Majesties pleasure in Parliament, they shall be ready, to the utmost of their powers, both with their Lives and Fortunes, to assist him so, as by the Divine help of Almighty God, (which is never wanting unto those, who, in his fear, shall undertake the defence of his own Cause) he may be able to do that with his Sword, which by a peaceable course shall not be effected.

The King, by Proclamation reforms the late grievances handled in Parliament.

After the recess of Parliament, the King, by Proclamation, Declared his Grace to his Subjects in matters of publick Grievance: And taking notice, that many great affairs, debated in Parliament, could not be brought to perfection in so short a time, and that the Commons thought it convenient to continue the same Session in course of Adjournment; and withall observing, that divers of those particulars required a speedy determination and settlement for his Peoples good, and that they are of that condition and quality, as that he needeth not the assistance of Parliament to reform the same, and would have reformed them before the Parliament, if the true state of his Subjects Grievan-

ces had been made known unto him, he hath determined, and doth declare an immediate redress therein, by his own Regal Authority, as in the business of Informers, of Mischances of Ministers in Chancery, of the Patents for Gold and Silver-Thread, for Licensing Pedlars and Petty-Chapmen, for the sole Dressing of Arms, for the Exportation of Lints and Shreds, and for the sole making of Tobacco-pipes, Cards, and the like. And besides the redress of these Grievances, he will enlarge his Grace unto other kinds for the Subjects ease: And that both his own, and ears of his Privy-Council shall be open to his Peoples modest and just Complaints.

Moreover, a second Proclamation was issued forth against excess of licentious speech touching State-affairs: For, notwithstanding the strictness of the King's former Command, the Peoples inordinate liberty of unreverend speech increased daily. Wherefore the King threatened severity, as well against the Concealers of such Discourses, as against the boldness of audacious Tongues and Pens.

Puts forth another Proclamation against talking of State-affairs.

In July following, Dr. John Williams Dean of Westminster, was sworn Lord Keeper of the great Seal of England, and the King being solicited from Spain and Rome to take of the penal Laws, execution from the Papists; declared openly in Parliament, That if that party should grow insolent, his people might justly count him unworthy to Reign, if he gave them not extraordinary punishment, &c.

And yet for all this the Collector hath that unhandson reflection upon the King, that therein he was intangled in the ways he had chosen; unhandsonly reflecting on the King's proceedings in the Spanish Match according to his usual method.

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About the same time the Lord Digby was sent Ambassador to the Emperor and Duke of Bavaria. The Heads of whose Embassie were these, That the Elector Palatine, and the Children of the King of Great Britain his Master, might be received into the Emperor's favour, and restored to all their Hereditary Goods, and the Prince Elector himself to the Title which he enjoyed before the troubles of Bohemia: That the Ban Imperial published against him, should be revoked, and the execution thereof suspended; which being done, the King of Great Britain will undertake, that the Palatine shall render due obedience to his Imperial Majesty, and submit to Conditions meet and honest.

The chief heads of the Lord Digby's Embassie to the Emperor.

To these Demands he received Answer, That the Emperor had a very good will to gratifie the King of Great Britain, and those other Kings and Princes that had made the same request for the Palatine: But he could not grant it, because the Palatine to this hour useth the Counsels of many of the Electors and Princes, in opposition to the Emperor: And when the Emperor had agreed to a Cessation of Arms, according to the desires of the King of Great Britain, and had ordered the suspending all Hostility in the Lower Palatinate, at the same time the Palatine gave Commission to raise Forces, and do acts of Hostility, which was put in execution by Count Mansfield and Marquis Jagerndorf, to begin new troubles in Bohemia, Silesia, and Moravia. Nevertheless the Emperor, having appointed an Assembly to meet at Ratisbone, will there make known the desires of the King of Great Britain, who shall know what Resolution

The Emperor's Reply to those Demands.

Resolution is there taken concerning the Palatine.
Anno 1621. *Albert Archduke of Flanders*, at the request of King *James*, had made intercession for the *Palgrave*. After his decease, the Archduchess his Wife continued the same mediation by Letters to the Emperor. And withal, the King's Ambassador further proposed these Conditions for a Cessation of Arms, and a Suspension of the Ban Imperial; That *Mansfeld* and *Jagerndorf* shall observe the Agreement; otherwise, the Prince *Palatine* shall revoke their Commissions, and declare them his Enemies. And that their Garrisons in *Bohemia* shall be rendred to the Emperor.

The Emperor's Answer. The Emperor answered the Archduchess, That the Archduke her Husband, in his life-time, had exceedingly recommended the Interposition of the King of *Great Britain*, and the great prudence of that King in not approving the actions of the *Palatine*: Which Recommendation, as to a Treaty and Cessation of Arms, he shall entertain, and consult thereupon with the Deputies of the Electors and Princes of the Empire.

The English Ambassador goes to the Duke of Bavaria. The English Ambassador departed from *Vien-na* to the Duke of *Bavaria*, who had then entered the *Upper Palatinate*, and had published the Emperor's Declaration against *Mansfeld* and his Adherents, and exhorted the States and Princes there to execute the same; and the rather, for that he had not heard of any King, Elector, Prince, or State; no, not so much as the King of *Great Britain*, that had approved the seditious Revolt of the *Bohemians*, except some few States and Princes, who for interest did countenance the same. The Ambassador found the *Bavarian* acting hostility, and committing great spoils in the Countrey, and resolving to reject all propositions of Peace or Cessation. Nor could the Emperor agree upon any Truce without the Duke of *Bavaria*: First, In respect of his Agreement, neither to make War or Peace, without the consent of the said Duke; which hapned, because upon the former Truce made with the Archduke, the Souldiers that were in the *Lower Palatinate*, and wanted employment, came up into the *Higher Palatinate* to Count *Mansfeld*, and much infested the Duke of *Bavaria*. Secondly, In regard the Duke of *Bavaria* had a great part of *Austria* in pledge for his satisfaction. Thirdly, Because the Emperor was barred from all other passages, but through *Bavaria*, by *Bethlem Gabor*, *Jagerndorf*, and *Budi-an*. And the Duke, upon receipt of the Emperors Letter touching the Truce, sent the Lord *Digby* a deriding answer, That there was no need to labour for a Truce, for the Wars were at an end, in that he had agreed with Count *Mansfeld*; nor did he doubt of keeping both *Palatinates* in peace, till the Emperor and *Palgrave* were agreed. So the King received but a slender return of the Lord *Digby's* Embassie to the Emperor, for the restoring the Elector *Palatine*.

But the Emperors full meaning in this business may be found at large in his own Letter to *Don Baltazar de Zuniga*, a prime Counsellor of State in *Spain*, to be by him represented to the King his Master, to this effect.

The Emperor's Letter to Don Baltazar de Zuniga. That beholding the admirable Providence of God over him, he is bound to use that most notable Victory to the honour of God, and the extirpation of all Seditions and Factions, which are nourished chiefly among the *Calvinists*; lest

that judgment which the Prophet threatned the King of *Israel* should fall upon him, *Because Fac. 19. thou hast dismissed a man worthy of death, thy Soul shall be for his Soul*. The *Palatine* keeps now in *Holland*, not only exiled from the Kingdom which he rashly attempted, but dispoiled almost of all his own Territories, expecting, as it were, the last cast of Fortune: whom if by an impious kind of commiseration, and his subtle petitioning, he shall be perswaded to restore, and nourish in his bosom as a troden half-living Snake, what can he expect less than a deadly sting from him, who, in regard of his guilt, can never be faithful, but will alway gape for occasions to free himself from his fears, and the Genius of whose Sect will make him an Enemy, or an unsound Friend, to the House of *Austria*, and all other Catholick Princes?

Wherefore firmly casting in his mind, that the *Palatine* cannot be restored, he hath freely offered the *Electorate* to the Duke of *Bavaria*, a most eager Defender of the Catholick Cause; by which means the Empire will always remain in the Hand of *Catholicks*, and so by consequence in the House of *Austria*. And in so doing, he shall take away all hope from the *Palatine*, and those that sollicite so importunately for his restitution. And it is to be hoped, that the *Lutheran* Princes, especially the Duke of *Saxony*, will not so far disallow this translation, as to take up Arms, seeing *Charles the Fifth*, upon a far lighter cause, deprived *John Frederick Duke of Saxony* of the *Electorate*, and conferred it on *Maurice*, this Dukes Great Uncle. Besides, no less is the *Lutherans* hatred of the *Calvinists*, than of the *Catholicks*.

Such were the effects which the King's treating had wrought with the Emperor.

The Parliament that was to meet November the Fourteenth, the King, by Proclamation, adjourned to the Eighth of February, and expressed the cause to be the unseasonableness of the time of the year. But this long *Recess* was shortened, and the King declared, That upon important Reasons, he had altered his former Resolutions, and did adjourn it for no longer time, than from the Fourteenth to the Twentieth of this instant November.

Upon which day it re-assembled, and the King being absent, by reason of his indisposition in health, commanded a Message to be delivered to both Houses, by the Lord Keeper, the Lord Digby, and the Lord Treasurer.

The Parliament begins again, Nov. 20.

In the first place he acquainted the Two Houses with his Majesty's indisposition of health, which was the occasion of his absence at the opening of the Parliament; yet he could not say he was absent, so long as he was represented by a Son, who was as dear to the Kingdom as to his Majesty. As to the occasion of calling the Parliament, by way of Antecedent, he took notice of several effects of his Majesties gracious care over the Nation, since the last *Recess* of the Parliament, in his Majesties answering several Petitions concerning Trade, Importation of Bullion, Conservation of Coin in the Land, and Prohibiting the Transportation of Iron Ordnance; and that his Majesty by his Proclamation reformed Thirty six or Thirty seven several matters, complained of as publick Grievances, all of them without the least Truckling or Merchandising with the People, a thing usual in former times.

The substance of the Lord Keeper's Speech.

times. He further said, That his Majesty did principally fix the occasion of the calling a Parliament upon the Declaration recorded, and divulged far and near by the Representative Commonalty of this Kingdom, to assist his Majesty to carry on the War to recover the *Palatinate*; yet withal, his Lordship gave an account, how his Majesty, since the last Parliament, encouraged to travel a little longer in his pious endeavours to procure a Peace by way of Treaty, and that the Lord *Digby* was sent Ambassador upon that occasion, and since returned, but not with such success as was to be hoped for. He minded both Houses of one Heroical Act of his Majesties, since the last Parliament; in the advancement of Forty thousand pounds, to keep together a Body of an Army in the *Lower Palatinate*, which otherwise had been dissolved before this Parliament could be assembled: And that unless the Parliament take further resolution, and imitate rather antient than Modern principles, and be expeditious in what they do, the Army in the *Palatinate* will fall to the ground: And lastly, told them, That his Majesty did resolve, that this Parliament should continue till seven or eight days before the Festivals, and to be renewed again the eighth of *February*, to continue for the Enacting of Laws, and perioding things of Reformation, as long as the necessity of the State shall require the same.

L. Digby's Speech. After the *Lord Keeper* had done, the Lord *Digby* (having received a command from his Majesty to that purpose) gave a brief account of his Negotiation with the Archduke about the Treaty of Peace; how the Archduke consented thereunto, and writ accordingly to the Emperor and the King of *Spain* of his proceedings; who also writ to *Spinola* for a Cessation of Arms, the Archduke having the command of the Spanish Forces in *Germany*; but the Duke of *Bavaria* would not consent thereunto. And the Lord *Digby* informed the Two Houses, that by the carriage of the Duke of *Bavaria*, and by other circumstances, he did evidently discover, That from the beginning that Duke affected to get unto himself the *Palatinate*, and the Title of Elector. He further declared, That if Count *Mansfeld* was not speedily supplied, he could not keep his Army together. Then he gave an account, how bravely Sir *Horatio Vere* had behaved himself in the *Palatinate*, and that, by his wisdom and valor, there was kept from the Enemy, *Heidelberg*, *Mainheim*, and *Frankendale*; the last of which places had then endured a months Siege. He also spoke honorably of Captain *Burroughs*, and concluded, That the fittest redress was, to furnish and keep up the Army already there; which must be done by supplies of Money, and more Forces must be prepared against the next Spring, that we may have there an Army of our own, for the strengthening of the *Palatinate*, and encouragement of the Princes of the Union.

L. Treasurer's Speech. Then the *Lord Treasurer* spake, and acquainted both Houses; How empty the King's Coffers were, and how he had assisted the *Palatine*, and Princes of the Union, with great sums, which had exhausted his Treasure, and that his Majesty was much in debt.

Nevertheless, though the King declared for War, he pursued Peace, and resolved to close with *Spain*, hoping to heal the Breach by that Alliance. The Commons in the mean Petition and Remonstrate to the King, but grant him no money, though they had before declared they would as-

list him in the recovery of the *Palatinate* with their Lives and Fortunes.

Fac. 19.

Most Gracious and Dread Sovereign,

WE Your Majesties most Humble and Loyal Subjects, the Knights, Citizens, and Burgeses, now assembled in Parliament, who represent the Commons of Your Realm, full of hearty sorrow, to be deprived of the comfort of Your Royal Presence, the rather, for that it proceeds from the want of Your health, wherein we all unfeignedly do suffer; In all humble manner calling to mind Your Gracious Answer to our former Petition concerning Religion; which, notwithstanding Your Majesties Pious and Princely Intentions, hath not produced that good effect, which the danger of these times doth seem to us to require: And finding how ill Your Majesties goodness hath been requited by Princes of different Religion, who even in time of Treaty, have taken opportunity to advance their own ends, tending to the subversion of Religion; and disadvantage of Your affairs, and the estate of Your Children: By reason whereof, Your ill affected Subjects at home, the Popish Recusants, have taken too much encouragement, and are dangerously increased in their number, and in their insolencies. We cannot but be sensible thereof, and therefore humbly represent what we conceive to be the causes of so great and growing mischiefs, and what be the Remedies.

I. The Vigilancy and Ambition of the Pope of Rome, and his dearest Son, the one aiming at as large a Temporal Monarchy, as the other at a Spiritual Supremacy.

II. The Devilish Positions and Doctrines, whereon Popery is built, and taught with Authority to their Followers, for advancement of their Temporal ends.

III. The distressed and miserable estate of the Professors of true Religion in Foreign parts.

IV. The disastrous accidents to Your Majesties Children abroad, expressed with rejoicing, and even with contempt of their Persons.

V. The strange Confederacy of the Princes of the Popish Religion, aiming mainly at the advancement of theirs, and subverting of ours, and taking the advantages conducing to that end upon all occasions.

VI. The great and many Armies raised, and maintained at the charge of the King of Spain, the Chief of that League.

VII. The expectation of the Popish Recusants of the Match with Spain, and feeding themselves with great hopes of the consequences thereof.

VIII. The interposing of Foreign Princes and their Agents, in the behalf of Popish Recusants, for connivance and favour unto them.

IX. Their open and usual resort to the Houses, and, which is worse, to the Chapels of Foreign Ambassadors.

X. Their

The Commons Petition and Remonstrate to the King.

Anno 1621. X. Their more than usual concourse to the City, and their frequent Conventicles and conferences there.

XI. The education of their Children in many several Seminaries and Houses of their Religion in Foreign parts, appropriated to the English fugitives.

XII. The Grants of their just Forfeitures intended by your Majesty, as a Reward of Service to the Grantees; but beyond your Majesty's intention, transferred or compounded for, at such mean rates, as will amount to little less than a Toleration.

XIII. The Licentious Printing and dispersing of Popish and Seditious Books, even in the time of Parliament.

XIV. The swarms of Priests and Jesuits, the common Incendiaries of all Christendom, dispersed in all parts of your Kingdom.

And from these Causes, as bitter Roots, we humbly offer to your Majesty, That we foresee and fear there will necessarily follow very dangerous effects both to Church and State. For,

I. The Popish Religion is incompatible with ours, in respect of their Positions.

II. It draweth with it an unavoidable dependency on Foreign Princes.

III. It openeth too wide a gap for Popularity, to any who shall draw too great a party.

IV. It hath a restless spirit, and will strive by these gradations, if it once get but a continuance, it will press for a Toleration; if that should be obtained, they must have an Equality; from thence they will aspire to Superiority, and will never rest till they get a Subversion of the true Religion.

The Remedies against these growing Evils, which, in all humility, we offer unto your most Excellent Majesty, are these.

I. That seeing this inevitable necessity is fallen upon your Majesty, which no wisdom or providence of a peaceable and pious King can avoid, your Majesty would not omit this just occasion, speedily and effectually to take your Sword into your hand.

II. That once undertaken upon so honorable and just grounds, your Majesty would resolve to pursue, and more publickly avow the aiding of those of our Religion in Foreign parts, which doubtless would reunite the Princes and States of the Union, by these disasters disheartned and disbanded.

III. That your Majesty would propose to your self to manage this War with the best advantage, by a diversion or otherwise, as in your deep judgment shall be found fittest, and not to rest upon a War in these parts only, which will consume your Treasure, and discourage your People.

IV. That the bent of this War, and point of your Sword, may be against that Prince (whatsoever opinion of Potency he hath) whose Armies and Treasures have first diverted, and since maintained the War in the Palatinate.

V. That for securing of our Peace at home, your Majesty would be pleased to review the parts of our Petition, former-

ly delivered unto your Majesty, and hereby annexed, and to put in execution, *Fac. 19.* by the care of choice Commissioners to be thereunto especially appointed, the Laws already, and hereafter to be made for preventing of dangers by Popish Recusants, and their wonted evasions.

VI. That to frustrate their hopes for a future Age, our most Noble Prince may be timely and happily married to one of our own Religion.

VII. That the Children of the Nobility and Gentry of this Kingdom, and of others ill-affected and suspected in their Religion, now beyond the Seas, may be forthwith called home by your means, and at the Charge of their Parents or Governors.

VIII. That the Children of Popish Recusants, or such whose Wives are Popish Recusants, be brought up, during their Minority, with Protestant School-masters and Teachers, who may sow, in their tender years, the seeds of true Religion.

IX. That your Majesty will be pleased speedily to revoke all former Licences for such Children and Youth to travel beyond the Seas, and not grant any such Licence hereafter.

X. That your Majesty's Learned Council may receive commandment from your Highness, carefully to look into former Grants of Recusants Lands, and to avoid them, if by Law they can; and that your Majesty will stay your hand from passing any such Grants hereafter.

This is the sum and effect of our humble Declaration, which we (no ways intending to press upon your Majesty's undoubted and Regal Prerogative) do with the fullness of our Duty and Obedience, humbly submit to your most Princely consideration: The glory of God, whose cause it is; the zeal of our true Religion, in which we have been born, and wherein (by God's grace) we are resolved to die; the safety of your Majesty's Person, who is the very life of your people; the happiness of your Children and Posterity; the honour and good of the Church and State, dearer unto us than our own lives, having kindled these affections truly devoted to your Majesty.

And seeing out of our duty to your Majesty, we have already resolved to give, at the end of this Session, one entire Subsidy, for the present relief of the Palatinate only, to be paid in the end of February next, which cannot well be effected but by passing a Bill in a Parliamentary course before Christmas; we most humbly beseech your Majesty (as our assured hope is) that you will then also vouchsafe to give life, by your Royal Assent, to such Bills, as before that time shall be prepared for your Majesty's honour, and the general good of your people: And that such Bills may be also accompanied (as hath been accustomed) with your Majesties gracious Pardon, which proceeding from your own most grace, may, by your Highness direction, be drawn to that latitude and extent, as may best

Anno
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lost with your Majesties bounty and goodness. And that not only Felons and Criminal Offenders may take benefit thereof, but that your good Subjects may receive ease thereby. And if it shall so stand with your good pleasure, That it may extend to the relief of the old Debts & Duties to the Crown before the first Year of your Majesties Reign, to the discharge of Aliens without Licence, and misusing of Liberties and Oustre le Maine, before the first Summons of this Parliament, and of concealed Wardships, and not suing of Liberties, and Oustre le Maines, before the Twelfth year of your Majesties Reign. Which gracious favour would much comfort your good Subjects, and ease them from vexation, with little loss or prejudice to your own profit.

And we by our daily and devout Prayers to the Almighty, the Great King of Kings shall contend for a Blessing upon our endeavours; and for your Majesties long and happy Reign over us, and for your Children after you, for many and many Generations.

At this
time the
Protest-
ants are ill
treated in
France.

And indeed the Protestants are Attacked every where; in Germany, by the House of Austria and Bavaria; in France, by Lewis the 13th, who Besieged them in person in Montauban; and by the Duke of Guise, and Count of Soissons in Rochel; whilst the King of England prevailed little on them by the Embassies of the Lord Herbert of Cherbury, and the Viscount Doncaster, who was sent afterwards on the same Errand.

The King hearing of the foregoing Remonstrance, wrote the Letter following to the Speaker.

To Our Trusty and Well-beloved,
Sir Thomas Richardson Knight,
Speaker of the House of COMMONS.

Mr. Speaker,

The Kings
Letter to
Sir Thomas
Richardson

WE have heard, by divers Reports, to our great Grief, that our distance from the Houses of Parliament, caused by our Indisposition of Health, hath imboldened some fiery and popular Spirits of some of the House of Commons, to argue and debate publickly of the Matters far above their reach and capacity, tending to our high Dishonour, and Breach of Prerogative Royal. These are therefore to Command you, to make known, in our Name, unto the House, That none therein shall presume henceforth to meddle with any thing concerning our Government, or deep Matters of State, and namely not to deal with our Dearest Sons March with the Daughter of Spain, nor to touch the Honour of that King, or any other our Friends and Confederates; and also not to meddle with any mans Particulars, which have their due motion in our ordinary Courts of Justice. And whereas we hear, they have sent a Message to Sir Edward Sandys, to know the Reasons of his late restraint, you shall in our Name resolve them, That it was not for any Misdemeanor of his in Parliament, but to put them out of doubt of any Question of that Nature that may arise among them hereafter, you shall resolve them in our Name, That we think our self very free and able to punish any mans Misdemeanors in Parliament, as well during their Sitting, as after; which we mean not to

spare hereafter, upon any occasion of any mans insolent behaviour there that shall be ministered unto us; Fac. 19. and if they have already touched any of these points, which we have forbidden, in any Petition of theirs, which is to be sent unto us, it is our Pleasure that you shall tell them, that except they reform it before it come to our Hands, we will not deign the hearing nor answering of it.

Dated at New-Market, Dec. 3. 1621.

Upon the Receipt hereof they again Petition and Remonstrate.

Most Dread and Gracious Sovereign,

WE your most humble and Loyal Subjects, the Knights, Citizens, and Burghesses, Assembled in the Commons House of Parliament, full of grief, and unspeakable sorrow, through the true sense of your Majesties Displeasure, expressed by your Letter lately sent to our Speaker, and by him related, and read unto us: Yet comforted again with the assurance of your Grace and Goodness, and of the Sincerity of our own intentions and proceedings, whereon with confidence we can rely, in all humbleness beseech your most Excellent Majesty, that the Loyalty and Dutifulness of as Faithful and Loving Subjects as ever served, or lived under a Gracious Sovereign, may not undeservedly suffer by the misinformation of partial and uncertain Reports, which are ever unfaithful Intelligencers: But that your Majesty would, in the clearness of your own Judgment, first vouchsafe to understand from our selves, and not from others, what our humble Declaration and Petition (resolved upon by the universal Voice of the House, and proposed with your Gracious favour, to be Presented unto your Sacred Majesty) doth contain. Upon what occasion we entered into consideration of those things which are therein contained, with what dutiful respect to your Majesty, and your Service, we did consider thereof, and what was our true intention thereby. And that when your Majesty shall thereby truly discern our dutiful affections, you will, in your Royal Judgment, free us from those heavy Charges, wherewith some of our Members are burdened, and where in the whole House is involved.

And we humbly beseech your Majesty, that you would not hereafter give Credit to private Reports, against all or any of the Members of our House, whom the whole have not censured, until your Majesty have been truly informed thereof from our selves; and that in the mean time, and ever, we may stand upright in your Majesties Grace and good Opinion, than which no worldly consideration is, or can be dearer unto us.

When your Majesty had re-assembled us in Parliament by your Royal Commandment, sooner than we expected, and did vouchsafe, by the mouths of three honourable Lords, to impart unto us the weighty

The Com-
mons send
the Remon-
strance, accom-
panied with
another
Petition.

weighty occasions moving your Majesty thereunto; and from them we did understand these Particulars:

That notwithstanding your Princely and Pious endeavours to procure Peace, the time is now come, that Janus Temple must be opened.

That the voice of Bellona must be heard, and not the voice of the Turtle.

That there was no hope of Peace, nor any Truce to be obtained, no not for a few daies.

That Your Majesty must either abandon Your own Children, or engage your self in a War, wherein consideration is to be had, what foot, what horse, what Money will be sufficient.

That the Lower Palatinate was seized upon by the Army of the King of Spain, as Exerctor of the Ban there in quality of Duke of Burgundy, as the Upper Palatinate was by the Duke of Bavaria.

That the King of Spain, at his own Charge, had now at least five Armies on foot.

That the Princes of the Union were disbanded, but the Catholick League remained firm, whereby those Princes so dissevered, were in danger, one by one, to be ruined.

That the estate of those of the Religion in Foreign parts was miserable; and, that out of these considerations we were called to a War, and forthwith to advise for a Supply for keeping the Forces in the Palatinate from disbanding, and to foresee the means for raising and maintaining the Body of an Army for the War, against the Spring. We therefore, out of our Zeal to Your Majesty and Your Posterity, with more alacrity and celerity than ever was presented in Parliament, did address our selves to the Service commended unto us. And although we cannot conceive, that the Honour and Safety of Your Majesty and Your Posterity, the Patrimony of Your Children invaded, and possessed by their Enemies, the welfare of Religion, and state of Your Kingdom, are matters at any time unfit for our deepest consideration in time of Parliament: And although before this time we were in some of these points silent, yet being now invited thereunto, and led on by so just an occasion, we thought it our Duties to provide for the present Supply thereof, and not only to turn our eyes on a War abroad, but to take care for the securing of our Peace at home, which the dangerous increase and insolency of Popish Reculants apparently, visibly, and sensibly did lead us unto. The consideration whereof did necessarily draw us truly to represent unto Your Majesty, what we conceive to be the Causes, what we feared would be the Effects, and what we hoped might be the Remedies of these growing Evils; among which, as incident and unavoidable, we fell upon some things, which seem to touch upon the King of Spain, as they have relation to Popish Reculants at home, to the Wars by him maintained in the Palatinate, against Your Majesties Children, and to his several

Armies now on foot; yet, as we conceived, without touch of Dishonour to that King, or any other Prince Your Majesties Confederate.

In the discourse whereof, we did not assume to our selves any power to determine of any part thereof, nor intend to inroach or intrude upon the Sacred Bounds of Your Royal Authority, to whom, and to whom only, we acknowledge it doth belong to resolve of Peace and War, and of the Marriage of the most Noble Prince Your Son: But as your most Loyal and Humble Subjects and Servants, representing the whole Commons of your Kingdom (who have a large Interest in the happy and prosperous estate of Your Majesty, and Your Posterity, and of the flourishing estate of our Church and Commonwealth) did resolve out of our cares and fears, truly and plainly to demonstrate these things to Your Majesty, which we were not assured could otherwise come, so fully and clearly to Your knowledge; and that being done, to lay the same down at Your Majesties feet, without expectation of any other Answer of Your Majesty, touching these higher points, than what at Your good pleasure, and in Your own time should be held fit.

This being the effect of that we had formerly resolved upon, and these the Occasions and Reasons inducing the same, our humble Suit to Your Majesty, and Confidence is, That Your Majesty will be graciously pleased to receive, at the hands of these our Messengers, our former humble Declaration and Petition, and vouchsafe to read, and favourably to interpret the same; and that to so much thereof as containeth our humble Petition concerning Jesuits, Priests and Popish Reculants, the Passage of Bills, and granting Your Royal Pardon, You will vouchsafe an Answer unto us.

And whereas Your Majesty, by the general words of Your Letter, seemeth to restrain us from intermeddling with matters of Government, or Particulars which have their motion in in the Courts of Justice, the generality of which words, in the largeness of the extent thereof (as we hope, beyond Your Majesties intention) might involve those things, which are the proper Subjects of Parliamentary Occasions and Discourse.

And whereas Your Majesty doth seem to abridge us of the Ancient Liberty of Parliament for freedom of Speech, Jurisdiction, and Just Censure of the House, and other proceedings there (wherein, we trust in God, we shall never transgress the Bounds of Loyal and Dutiful Subjects;) a Liberty which we assure our selves, so Wise and so Just a King will not infringe, the same being our ancient and undoubted Right, and an Inheritance received from our Ancestors; without which we cannot freely debate, nor clearly discern of things in question before us, nor truly inform Your Majesty: In which we have been confirmed by Your Majesties most Gracious former Speeches and Messages.

Anno 1621. We are therefore now again enforced in all humbleness to pray Your Majesty to allow the same, and thereby to take away the Doubts and Scruples Your Majesties late Letter to our Speaker hath wrought upon us.

So shall we your Loyal and Loving Subjects ever acknowledge Your Majesties Justice, Grace and Goodness, and be ready to perform that Service to Your Majesty, which in the true affection of our hearts we profess, and pour out our daily and devout Prayers to the Almighty for your Majesties long Life, happy and religious Reign, and prosperous Estate, and for your Royal Posterity after you for ever.

The King rejected the first Petition, and gave to the latter this Answer following.

The Kings Answer to the latter Petition.

WE must here begin in the same fashion that we would have done, if the first Petition had come to our hands before we had made a stay thereof, which is to repeat the first Words of the late Queen of Famous Memory, used by her, in an Answer to an insolent Proposition made by a *Polonian* Ambassador unto her; that is, *Legatum expectabamus, Heraldum accipimus*. For we had great reason to expect, that the first Message from your House should have been a Message of Thanksgiving for our continued gracious Behaviour towards our People, since your last Recess, not only by our Proclamation of Grace, wherein were contained six or seven and thirty Articles, all of several points of Grace to the People, but also by the labour we took for the satisfaction of both Houses, in those three Articles recommended unto us in both their Names, by the Right Reverend Father in God, the Archbishop of *Canterbury*; and likewise for the good Government of *Ireland*, we are now in hand with, at your request; but not only have we heard no News of all this, but contrary, great Complaints of the danger of Religion within this Kingdom; tacitly implying our ill Government in this point. And we leave you to judge whether it be your duties, that are the Representative Body of our people, so to distaste them with our Government; whereas by the contrary it is your Duty, with all your endeavours, to kindle more and more a dutiful and thankful love in the Peoples hearts towards us, for our Just and Gracious Government.

Now whereas, in the very beginning of this your Apology, you tax us in fair terms of trusting uncertain Reports, and partial Informations concerning your proceedings, we wish you to remember, that we are an old and experienced King, needing no such Lessons; being in our Conscience freest of any King alive, from hearing or trusting idle Reports; which, so many of your House, as are nearest us, can bear witness unto you, if you would give as good ear to them, as you do to some Tribunal Orators among you: And, for proof in this particular, we have made your own Messengers confer your other Petitions sent by you, with the Copy thereof, which was sent us before; between which there is no difference at all; but that since our receiving the first Copy, you added a Conclusion into it,

which could not come to our hands, till it was done by you, and your Messengers sent, which was all at one time. And if we had had no Copy of it beforehand, we must have received your first Petition to our great dishonour, before we had known what it contained; which would have enforced us to return you a far worse Answer than now we do; for then your Messengers had returned with nothing, but that we have judged your Petition unlawful, and unworthy of an Answer: For, as to your Conclusion thereof, it is nothing but *Protestatio contraria facto*; for, in the Body of your Petition, you usurp upon our Prerogative Royal, and meddle with things far above your reach, and then in the conclusion you protest the contrary; as if a Robber would take a mans Purse, and then protest he meant not to rob him. For, first, you presume to give us your advice concerning the Match of our dearest Son with some Protestant (we cannot say Princess, for we know none of these fit for him) and dissuade us from his Match with *Spain*, urging us to a present War with that King, and yet in the conclusion, forsooth, ye protest ye intend not to press upon our most undoubted and Regal Prerogatives; as if the petitioning of us in matters, that your selves confess ye ought not to meddle with, were not a meddling with them.

And whereas ye pretend, that ye were invited to this course by the Speeches of three Honourable Lords; yet by so much as your selves repeat of the Speeches, nothing can be concluded, but that we were resolved by War to regain the *Palatinate*, if otherwise we could not attain unto it. And you were invited to advise forthwith upon a Supply, for keeping the Forces in the *Palatinate* from Disbanding, and to foresee the means for the raising and maintenance of the Body of an Army for that War against the Spring. Now, what inference can be made upon this, that therefore we must presently denounce War against the King of *Spain*, break our dearest Son's Match, and match him to one of our Religion, let the World judge: The difference is no greater than if we would tell a Merchant that we had great need to borrow Money from him for raising an Army, that thereupon it would follow, that we were bound to follow his Advice in the direction of the War, and all things depending thereupon: but yet not contenting your selves with this excuse of yours, which indeed cannot hold water, ye come after to a direct contradiction to the Conclusion of your former Petition, saying, That the Honour and Safety of us and our Posterity, and the Patrimony of our Children, invaded and possessed by their Enemies, the welfare of Religion, and State of our Kingdom, are matters at any time not unfit for your deepest considerations in Parliament. To this Generality, we answer with the *Logicians*, That where all things are contained, nothing is omitted. So as this Plenipotency of yours, invests you in all power upon Earth, lacking nothing but the Popes to have the Keys also both of Heaven and Purgatory: And to this vast generality of yours, we can give no other Answer; for it will trouble all the best Lawyers in the House to make a good Commentary upon it: for so did the Puritan Ministers in *Scotland* bring all kind of Causes within the compass of their Jurisdiction; saying, That it

Anno 1621. it was the Churches Office to judge of Slander; and there could no kind of Crime or Fault be committed, but there was a slander in it, either against God, the King, or their Neighbour; and by this means they hooked in to themselves the cognizance of all Causes; or like *Bellarmin's* distinction of the Popes power over Kings, in *Ordine ad Spiritualia*, whereby he gives them all Temporal Jurisdiction over them.

But to give you a direct Answer to the Matter of War, for which you are so earnest: We confess, we rather expect you should have given us thanks for the so long maintaining a settled Peace in all our Dominions, whenas all our Neighbours about are in a miserable combustion of War; but, *dulce bellum inexpertis*. And we indeed find by experience, that a number of our Subjects are so pamper'd with Peace, as they are desirous of change, though they knew not what.

It is true, that we have ever professed (and in that mind, with God's Grace, we will live and die) that we will labour by all means possible, either by Treaty, or by Force, to restore our Children to their ancient Dignity and Inheritance; and whatsoever Christian Princes or Potentates will set themselves against it, we will not spare any lawful means to bring our so just and honourable purpose to a good end; neither shall the Match of our Son, or any other worldly respect, be preferred to this our resolution. For by our credit and intervention with the King of *Spain*, and the Arch-Dutchess, and her Husband, now with God, we preserved the Lower *Palatinate* one whole year from any further conquering in it, which in eight days space, in that time, might have easily been swallowed up by *Spinola's* Army, without any resistance. And in no better case was it now at our Ambassador the Lord *Digby's* coming through *Heidelberg*, if he had not extraordinarily succoured it.

But because we conceive, that ye couple this War of the *Palatinate* with the Cause of Religion, we must a little unfold your Eyes herein.

The beginning of this miserable War, which hath set all Christendom on fire, was not for Religion, but only caused by our Son in Law his hasty and harsh resolution, following evil counsel, to take to himself the Crown of *Bohemia*.

And that this is true, himself wrote Letters unto us at that time, desiring to give assurance both to the *French* King, and State of *Venice*, that his accepting of the Crown of *Bohemia* had no reference to the Cause of Religion, but only by reason of his right of Election (as he called it.) And we would be sorry that that aspersion should come upon our Religion, as to make it a good pretext for De-throning of Kings, and usurping their Crowns; And we would be loth that our People here should be taught that strange Doctrine: No, let us not so far wrong the *Jesuits*, as to rob them of their sweet Position and Practice in that very point.

And upon the other part, we assure our self so far of your charitable thoughts of us, that we would never have constantly denied our Son-in-Law both the Title and Assistance in that point, if we had been well perswaded of the Justice of his Quarrel. But to conclude, This unjust usurpation of the Crowns

of *Bohemia* and *Hungaria* from the Emperor, hath given the Pope and all that Party too fair a ground, and opened them too wide a gate for curbing and oppressing of many thousands of our Religion in divers parts of Christendom.

And whereas you excuse your touching upon the King of *Spain*, upon occasion of the incidents by you repeated in that place, and yet affirm, that it is without any touch to his honour; we cannot wonder enough that ye are so forgetful both of your Words and Writs: For in your former Petition ye plainly affirm, That he affects the Temporal Monarchy of the whole Earth; than which, there can be no more malice uttered against any great King, to make all other Princes and Potentates both envy and hate him; but if ye list, it may easily be tried, whether that Speech touched him in honour or not, if ye shall ask him the question whether he means to assume to himself that title or no; for every King can best judge of his own honour. We omit the particular ejaculations of some foul-mouthed Orators in your House, against the honour of that King's Crown and State.

And touching your excuse of not determining any thing concerning the Match of our dearest Son, but only to tell your Opinion, and lay it down at our Feet: First, we desire to know, how you could have presumed to determine in that point, without committing of High Treason? And next, you cannot deny, but your talking of his Match after that manner, was a direct breach of our Commandment and Declaration out of our own Mouth, at the first sitting down of this Parliament, where we plainly professed, that we were in Treaty of this Match with *Spain*; and wished you to have that confidence in our Religion and Wisdom, that we would so manage it, as our Religion should receive no prejudice by it: And the same we now repeat unto you, professing that we are so far engaged in that Match, as we cannot in honour go back, except the King of *Spain* perform not such things as we expect at his hands. And therefore we are sorry that ye should shew to have so great distrust in us, as to conceive that we should be cold in our Religion; otherwise we cannot imagine how our former publick Declaration should not have stopt your mouths in this point.

And as to your Request, That we would now receive your former Petition; We wonder what could make you presume, that we would receive it, whereas in our former Letter we plainly declared the contrary unto you. And therefore we have justly rejected that Suit of yours; for what have you left unattempted in the highest points of Sovereignty, in that Petition of yours, except the striking of Coin? For it contains the violation of Leagues, the particular way how to govern a War, and the Marriage of our dearest Son, both Negative with *Spain*, nay, with any other Popish Prince; and also Affirmatively, as to the Matching with one of our Religion; which we confess is a strain beyond any Providence or Wisdom God hath given us, as things now stand.

These are unfit things to be handled in Parliament, except your King should require it of you: For who can have Wisdom to judge of things of that nature, but such

Anno 1621. as are daily acquainted with the particulars of Treaties, and of the variable and fixed connexion of affairs of State, together with the knowledge of the secret wayes, ends, and intentions of Princes in their several Negotiations? otherwise a small mistaking of matters of this nature, may produce more effects than can be imagined; and therefore, *Ne Sutor ultra crepidam*. And besides, the intermeddling in Parliament with matters of Peace or War, and Marriage of our dearest Son, would be such a diminution to us and to our Crown in Foreign Countries, as would make any Prince neglect to treat with us, either in matters of Peace or Marriage, except they might be assured by the assent of Parliament. And so it proved long ago with a King of France, who, upon a Trick procuring his States to dissent from some Treaty which before he had made, was after refused Treating with any other Princes, to his great Reproach, unless he would first procure the Assent of his Estates to their Proposition. And will you cast your eyes upon the late times, you shall find, That the late Queen, of famous memory, was humbly Petitioned by a Parliament to be pleased to Marry: But her Answer was, That she liked their Petition well, because it was simple, not limiting her to Place or Person, as not befitting her liking to their Fancies; and if they had done otherwise, she would have thought it a high presumption in them. Judge then what we may do in such a case, having made our publick Declaration already (as we said before) directly contrary to that which you have now Petitioned.

Now to the Points in your Petition, whereof you desire an Answer, as properly belonging to the Parliament; the first and the greatest point is, that of Religion: concerning which, at this time we can give you no other Answer than in the general; which is, That you may rest secure, that we will never be weary to do all we can for the propagation of our Religion, and repressing of Popery: But the manner and form you must remit to our Care and Providence, who can best consider of Times and Seasons, not by undertaking a publick War of Religion through all the world at once (which how hard and dangerous a Task it may prove, you may judge.) But this puts us in mind, how all the world complained the last year of plenty of Corn; and God sent us a Cooling-Card this year for that heat: And so we pray God, that this desire among you of kindling Wars (shewing your weariness of Peace and Plenty) may not make God permit us to fall into the Miseries of both. But, as we already said, our care of Religion must be such, as on the one part we must not, by the hot persecution of our Recusants at home, irritate Foreign Princes of contrary Religion, and teach them the way to plague the Protestants in their Dominions, with whom we daily intercede, and at this time Principally, for ease to them of our Profession that live under them; yet upon the other part, we never mean to spare from due and severe punishment any Papist that will grow insolent for living under our so mild Government. And you may also be assured, we will leave no care untaken, as well for the good Education of the Youth at home, especially the Children of Papists; as also for preserving at all times hereafter the Youth

that are or shall be abroad, from being bred in dangerous places, and so poysoned in Popish Seminaries. And as in this point, namely, the good education of Popish Youth at home, we have already given some good proofs, both in this Kingdom and in Ireland; so will we be well pleased to pass any good Laws that shall be made, either now, or at any time hereafter, to this purpose.

And as to your Request of making this a Session, and granting a General Pardon; it shall be in your defaults, if we make not this a Session before Christmas.

But for the Pardon, ye crave such Particulars in it, as we must be well advised upon, lest otherwise we give you back the double or treble of that we are to receive by your entire Subsidy, without Fifteens. But the ordinary course we hold fittest to be used still in this case is, That we should of our free Grace send you down a Pardon from the Higher House, containing such Points as we shall think fittest, wherein, we hope, ye shall receive good satisfaction.

But we cannot omit to shew you, how strange we think it, that ye should make so bad and unjust a Commentary upon some words of our former Letter, as if we meant to restrain you thereby of your ancient Priviledges and Liberties in Parliament. Truly a Scholar would be ashamed so to misplace and misjudge any Sentences in another mans Book. For whereas in the end of our former Letter, we discharge you to meddle with matters of Government, and Mysteries of State; namely, Matters of War and Peace, or our dearest Son's Match with Spain; by which particular denominations we interpret and restrain our former words: And then after, we forbid you to meddle with such things as have their ordinary course in Courts of Justice: Ye couple together those two distinct Sentences, and plainly leave out those words, *Of Mysteries of State*; so as ye err, *à bene divisis ad male conjuncta*: For of the former part, concerning Mysteries of State, we plainly restrain our meaning to the Particulars that were after mentioned; and in the latter, we confess we meant it by Sir Edward Cookes foolish business. And therefore it had well become him, especially being our Servant, and one of our Council, to have complained unto us; which he never did, though he was ordinarily at Court since, and never had access refused unto him.

And although we cannot allow of the Style, calling it, *Your Ancient and Undoubted Right and Inheritance*; but could rather have wished, that ye had said, That your Priviledges were derived from the Grace and Permission of our Ancestors and Us; (for most of them grow from Precedents, which shews rather a Toleration, than Inheritance:) Yet we are pleased to give you our Royal assurance, that as long as you contain your selves within the limits of your Duty, we will be as careful to maintain and preserve your Lawful Liberties and Priviledges, as ever any of our Predecessors were; nay, as to preserve our own Royal Prerogative. So as your House shall only have need to beware to trench upon the Prerogative of the Crown; which would enforce us, or any just King, to retrench them of their Priviledges, that would pare his Prerogative, and Flowers of the Crown; But of this, we hope, there shall never be Cause given. Dated at Newmarket, Dec. 11. 1621.

Anno 1621. It will not be amiss to give the Reader to understand, that though the Commons had Voted to assist the King in the Recovery of the *Palatinate*, yet not one penny of Money did they, or would ever advance towards it, though Count *Mansfield's* Army, for want of pay, was then ready to disband in the *Palatinate*, and he had good Overtures also offered him by the Emperour to leave that Service; yet nothing was done by them: They insisted, it was their Duty to advise his Majesty in all things, (though their Advice was never required) as well as to supply him: which, saith the *Collector* (according to his usual way) discontented the Commons and good People of *England*, foreseeing a Dissolution by *Gondomar's* means.

Before the Adjournment, in vindication of their Parliamentary Rights and Privileges, the Commons made and entred this Protestation following [having Plotted a thin House, and a late Hour, Six a Clock at Night in December, and not a third part of their Number present.]

The Commons Protestation.

THE Commons now Assembled in Parliament, being justly occasioned thereunto, concerning sundry Liberties, Franchises and Priviledges of Parliament, amongst others here mentioned, do make this Protestation following; That the Liberties, Franchises, Priviledges and Jurisdictions of Parliament are the ancient and undoubted Birthright and Inheritance of the Subjects of *England*; And that the arduous and urgent affairs concerning the King, State, and Defence of the Realm, and of the Church of *England*, and the maintenance and making of Laws, and Redress of Mischiefs and Grievances which daily happen within this Realm, are proper Subjects and Matter of Counsel and Debate in Parliament; and that in the handling and proceeding of those Businesses, every Member of the House of Parliament hath, and of Right ought to have freedom of Speech, to Propound, Treat, Reason, and bring to Conclusion the same; And that the Commons in Parliament have like Liberty and freedom to treat of these Matters in such order, as in their Judgments shall seem fittest; And that every Member of the said House hath like Freedom from all Impeachment, Imprisonment and Molestation (other than by Censure of the House it self) for or concerning any Speaking, Reasoning, or Declaring of any Matter or Matters touching the Parliament, or Parliament-Business; And that if any of the said Members be complained of, and questioned for any thing done or said in Parliament, the same is to be shewed to the King by the Advice and Assent of all the Commons Assembled in Parliament, before the King give Credence to any private Information.

At which the King was moved; and what his Resentments were, will appear by this Memorial following.

Whitehall, Decemb. 30. 1621.

Fac. 19.

HIS most Excellent Majesty coming this day to the Council, the Prince his Highness, and all the Lords and others of His Majesties Privy Council sitting about Him, and all the Judges then in London, which were six in Number, there attending upon His Majesty; the Clerk of the Commons House of Parliament was called for, and commanded to produce his Journal-Book, wherein was noted, and Entries made of most Passages that were in the Commons House of Parliament; and amongst other things, there was written down the Form of a Protestation concerning sundry Liberties, Priviledges and Franchises of Parliament; with which Form of Protestation His Majesty was justly offended. Nevertheless His Majesty, in a most Gracious manner there expressed, That he never meant to deny that House of Commons any Lawful Priviledges that ever they had enjoyed; but whatsoever Priviledges or Liberties they had by any Law or Statute, the same should be inviolably preserved unto them; and whatsoever Priviledges they enjoyed by Custom, or uncontrolled and lawful Precedent, His Majesty would be careful to preserve. But this Protestation of the Commons House, so contrived and carried as it was, His Majesty thought fit to be razed out of all Memorials, and utterly to be annihilated, both in respect of the manner by which it was gained, and the matter therein contained. For the manner of getting it, first, in respect of the time: For after such time as His Majesty, out of His Princely Grace, and to take away all mistakings, had directed His Letters to Secretary Calvert, Dated at Royston, 16 Decembris, and therein had so explained himself in the point of maintaining the Priviledges of the House of Commons, as that most of the said House rested fully satisfied, and freed from any scruple of having their Liberties impeached; And after that, by His Majesties Letters, directed to the Speaker, Dated 18 Decembr. being Tuesday, His Majesty, at the humble Suit of the House of Commons, condescended to make this Meeting a Session before Christmas, and for that purpose had assigned Saturday following. Now upon this very Tuesday, and while the Messengers from the House of Commons were with His Majesty at Theobalds, to return thanks unto His Majesty, and therewith an excuse from them not to make it a Session, in respect of the strait of time whereunto they were driven: which deferment His Majesty admitted of at their desires, and thereupon gave order for the Adjournment of the Parliament unto the Eighth of February next, which was the first day formerly appointed by his Majesty for the Meeting together of the Parliament: And whilst their Messengers were with His Majesty, and had received a gracious Answer to return unto their House, even that afternoon a Committee was procured to be made for taking their Liberties into consideration: and this afternoon a

Protestation was made (to whom, appears not) concerning their Liberties; and at six a clock at night, by candle-light, the same Protestation was brought into the House by the Committee, and at that time of night it was called upon to be put to the question, there not being the third part of the House then present; whereas in all matters of weight, their usual custom is, to put nothing of importance to the Question till the House be full: And at this time many of them that were present, expected the Question would have been deferred to another day, and a fuller House; and some then present stood up to have spoken to it, but could not be seen or heard in that Darkness and Confusion. Now for the matter of the Protestation, it is penned in such ambiguous and general words as may serve for future times to invade most of Rights and Privileges annexed to the Imperial Crown; the claim of some Privileges being grounded upon the words of the Writ for Assembling the Parliament, where, in some words, viz. *Arduis Regni*, are cunningly mentioned; but the word *quibusdam*, which restraineth the generality to such particular Cases, as His Majesty pleaseth to consult with them upon, is purposely omitted.

These things considered, His Majesty did this present day, in full Assembly of His Council, and in the presence of the Judges, declare the said Protestation to be invalid, annulled, void, and of no effect: And did further, *manu sua propria*, take the said Protestation out of the Journal-Book of the Clerk of the Commons House of Parliament, and Commanded an Act of Council to be made thereupon, and this Act to be entered in the Register of Council-Causes.

On the 6th. of January following, the King by Proclamation dissolves the Parliament, by the uniform Consent of his Council, shewing that he needs not give an account to any thereof; for that things of this nature are confessedly in his power; but that he had done it, for that they took upon them there to treat of things not belonging to them, being Matters of his Prerogative, speaking with too little respect of Foreign Princes, and spending their time only in quarrelling about their Privileges, never, or little regarding the Kingdoms wants. And that some evil-tempered Spirits sowed Tares among the Corn, and by their cunning devices have imposed upon him a necessity of discontinuing this present Parliament, without putting unto it the name or period of a Session. And lastly, he declared, That though the Parliament be broken off, yet he intended to govern well, and shall be glad to lay hold on the first occasion to call a Parliament again at convenient time.

These ill-tempered Spirits so called by the King, were some of the House of Commons: Sir Edward Cook, Sir Robert Philips were committed to the Tower; Mr. Seiden, Mr. Pym, Mr. Mallery, to other Prisons and Confinements. Order was given for the sealing up the Locks and Doors of Sir Edward Cook's Chambers in London, and in the Temple, for the seizing of his Papers. And the Council debating about the General Pardon that should have passed this last Parliament, had con-

sulted about the ways of excluding him from that benefit, either by preferring a Bill against him before the Publication of the Pardon, or by exempting him by name, whereof, they said, they had Precedents.

Likewise Sir Dudley Diggs, Sir Thomas Crew, Sir Nathanael Rich, and Sir James Perrot, for punishment, were sent into Ireland, joyned in Commission with others, under the Great Seal of England, for the enquiry of sundry matters concerning his Majesties Service, as well in the Government Ecclesiastical and Civil, as in point of his Revenue and otherwise, within that Kingdom.

The People had now taken a great liberty of Speaking too boldly of Matters above their reach, whereupon the King directed the Judges now in their Circuits to put the Laws in force against this sort of People. In the mean time the *Palsgrave* is despoiled of his hereditary Dominions, the Upper *Palatinate* quite subdued, and the Lower at the same point also; notwithstanding the King still persists in his Mediation to the Emperor for him; the Terms by the King offered, were such as these:

‘That he shall for himself and his Son renounce all pretence of Right and Claim to the Crown of *Bohemia*: That he shall from henceforth yield all constant due devotion to the Imperial Majesty, as do other obedient Princes Electors of the Empire: That he shall crave pardon of the Imperial Majesty: That he shall not hereafter any manner of way demean himself unsuitably toward the Imperial Majesty, nor disturb his Kingdoms and Countreys: And that he shall, upon reasonable conditions, reconcile himself to other Princes and States of the Empire, and hold all good correspondence with them; and he shall really do whatsoever like things shall be judged reasonable and necessary.

King James requested of the Empeor the acceptance of these Conditions, as a notable testimony of his Imperial Majesty's Goodness and Grace, which, he said, should be by himself acknowledged in all willing Service, and unfeigned Friendship to the Emperor himself, and the most Renowned House of *Austria*. But if these his just Demands, and well-willed Presentations shall not find acceptance, or be slightly waved by some new tergiversation, or a pretence of that long and tedious way of Consultation with the Princes of the Empire, he is resolved to try his utmost power for his Childrens Relief; judging it a foul stain to his Honour, if he shall leave them and their Partizans without Counsel, Aid and Protection.

The Emperor answers hereto; That in this exulcerate Business, so much moderation and respect of Justice and Equity hath shined forth in the King of *Great Britain*, that there is not any thing that he should refuse to render thereunto, reserving his *Cæsarean* Authority, and the Laws of the Empire; yet that person whom it most concerns hath given no occasion, by the least sign of Repentance, to a condescension to this Treaty of Pacification; for he is still so obstinate, as by continual Machinations by *Jagerndorf* and *Mansfeld*, and other cruel Disturbers of the publick Peace, to call up Hell, rather than to acquiesce in better Counsels, and desist from the usurped Title of a Kingdom. Howbeit, in favour of the King of *Great Britain*, he shall consent to a Treaty to be held at *Bruxels* wherein he would devolve his power upon the

The terms which K. James desires the Emperor to accept, in behalf of the *Palatine*.

The Emperor's Answer to King James.

‘I la-

Fac. 19.

Anno 1621. Illustrious Eliz. Clara Eugenia, Infanta of Spain. This Treaty was accepted of by the King, and Sir Richard Weston sent thither; in the mean time the lower Palatinate was quite lost, a Peace being made between Bethlem Gabor and the Emperor, the later whereof was now at leisure to employ all his Force on that side; about this time died Philip the 3d King of Spain, whither the L. Digby is sent to condole his death, and to forward the Match, having the dispatches subjoyned delivered him by the King and Prince to the succeeding King and to his Counsellor Don Balthazar de Zuniga.

K. James, to Philip the Fourth of Spain. Most Serene and Potent Prince, Kinsman, and dearly beloved Friend, When we heard of the death of your Majesty's Father, Philip the Third, with whom we had great Amity, and, by our Amity, managed very important Matters, which, he being dead, could not but of necessity be interrupted: It was no less grief to us, than if he had been our own

natural and most intimate Brother: Which grief we have certified both to your Majesty by our Letters, Fac. 19. as was fitting, and intimated to our people in a solemn and due manner. And thus far we have satisfied our selves; but in the next place we must also give Custom its due. For which end we send unto your Majesty our Publick Ambassador and Messenger of this our grief, the Baron John Digby, our Counsellor and Vice-chamberlain, adjoyning unto the rest of his Instructions, this our wish, That your Serenity may rule your Father's Kingdoms, which you have received under a most prosperous Star, with his and our Ancestors Prudence, and that we may really find that love which alway passed between your Father, of most happy memory, and us, propagated with the same candor unto you his Successor, the which we also hope.

Given at our Palace of
Theobald's, Mar.
14. 1621.

Your Majesty's most
loving Brother,
J. R.

JACOBUS, &c. Serenissimo & Potentissimo
Principi ac Domino, Philippo Quarto, &c.

Serenissime & Potentissime Princeps Frater, Consanguinee & Amice Charissime: Quum aliquot abhinc annis (pro affinitate nostra arctiori, totiusque orbis Christiani bono) deliberatio suscepta fuerit de Matrimonio inter Charissimum filium nostrum Carolum Principem Walla & Illustrissimam Infantem Dominam Mariam (Serenitatis vestrae sororem natu minorem) contrahendo; quod superstiti adhuc Rege Philippo Tertio, (felicissimae memoriae) Patre vestro, eo per gradus devecum erat, ut ille si non expirasset, hoc multo ante hac consummatum iri spes esset: nunc denuo, Serenitatem vestram interpellandam duximus, jam tandem ut velit operi bene inchoato fastigium imponere; & expectato deliberationes praeferitas exitu coronare. Matura jam filii aetas, filii Unici, rerumque & temporum ratio conjugem videntur efflagitare; nobisque in senectutis limine constitutis, felicissimus illuceret dies, quo cernere liceret posterorum etiam amicitiam optato hoc affinitatis foedere constrictam. Misimus itaque ad Serenitatem vestram Legatum nostrum Extraordinarium, Praenobilem virum Johannem Digbeum, Baronem de Sherbone, Consiliarium & Vice-Camerarium nostrum, jam olim de hac affinitate & Domus Austriae honore bene meritum, cui una cum Legato nostro Ordinario, quicquid reliquum est hujus Negotii, tractandum, transigendum, absolvendumque Commisimus, quicquid illis illic videbitur ratum hic habituri. Utinam etiam vestra Serenitatis bonitate levaretur aliquando altera illa nostra de Palatinatu Sollicitudo, de filia & genero & infantibus eorum liberis ex avito jam extorribus Patrimonio. Quam vellemus vestrae potissimum Serenitati beneficium hoc in solidum debere, cujus tot modo experti sumus ea in re Amicissima Officia! Non nos unquam capiet tantae benevolentiae oblivio, Posterisque Hereditarium studebimus relinquere amorem illum, quo vestram Serenitatem & memoriae optime Patrem semper sumus amplexi, semper amplexuri. Unum hoc superest, ut si quid aliud in re quacunque proposuerit Legatus hic noster, eam ei fidem adhibere, ac si nos praesentes essemus, dignetur Serenitas vestra: Quam Deus Opti-

JAMES, &c. To the most Serene and most Potent Prince and Lord, Philip the Fourth, &c.

K. James his Letter to the King of Spain. Most Serene and Potent Prince, Kinsman, and Well-beloved Friend; Forasmuch as some years ago (for our near Alliance, and the good of the whole Christian World) we had resolved to make a Marriage between our Well-beloved Son, Charles Prince of Wales, and the most Illustrious Infanta, the Lady Mary, your Serenities youngest sister, which in the life-time of your Father, King Philip the Third, of most happy memory, was so far advanced, that if he had not died, it had been brought to perfection long ere now: We have therefore thought good, to treat now again with your Serenity, that at length you would put a period to a work so well begun, and crown our by-past Deliberations with an expected issue. The age of our Son arrived now to maturity, and he our only Son (besides the condition of the times, and our affairs) doth require him to marry. And we being at the brink of old age, it would rejoyce us to see the day, wherein our Posterities Friendship should be bound up in this most desired Bond of Affinity. We have therefore sent unto your Serenity our Extraordinary Ambassador, the Right Honourable the Lord John Digby, Baron of Sherborn, our Counsellor, and Vice-Chamberlain, who has formerly deserved well of this Alliance, and the honour of the House of Austria; unto whom, together with our Ordinary Ambassador, we have entrusted the remainder of this business, to be treated, transacted, and finished, and shall be ready to ratify and approve here, whatever they shall agree upon. We wish likewise, that your Serenity, out of your goodness, would ease our care touching the Palatinate, which concerns our Daughter and Son in Law, and their innocent Children, banished from their Ancestors Inheritance. How gladly would we owe this good turn solely to your Serenity, who have already done us so many friendly offices in that business! No oblivion shall ever blot out of our mind, the acknowledgment of so great a favour; and we will endeavour to transmit to our Posterity that Hereditary good Will wherewith we have ever affected your Serenity, and your Royal Father of most worthy memory, and shall ever affect you. One thing remains, That if this our Ambassador shall propose

Optimus Maximus perpetuo incolumem confer-
Anno. vet.
1621.

Serenitatis vestrae Frater
amantissimus

Jacobus R.

Dat' è Regia nostra Theobald. 14 Die Martii,
Anno Dom. 1621.

propose any other matter touching what business soever, your Serenity will be pleased to give him credence, as if Fac. 19. we our self were present. The most gracious and great God ever preserve your Serenity in safety.

Your Serenity's most
loving Brother,

James R.

Given at our Palace of Theobalds, 14 March,
1621.

Prince CHARLES, to the King of
Spain.

Prince
Charles to
the King
of Spain.

Most Serene and Potent Prince, and well-beloved Kinsman; some years ago, our most Serene Parents began to treat about a Match between us and the most Serene, our dearly beloved Princess, the Lady Mary, your Majesty's most honoured Sister. The condition and success of which affair and Treaty, our most Serene and honoured Lord and Father, out of his Fatherly affection towards us, was pleased, upon all occasions, so much the more willingly to impart unto us, by how much greater propension and apparent signs of true affection he discovered in us thereunto; for which cause, the Baron Digby, his Majesty's Vice-Chamberlain, and Extraordinary Ambassador, and one of our Privy Chamber, being now bound for Spain, with most ample Instructions to bring unto an happy issue, that which was prosperously begun, and advanced, before your most gracious Father, our Uncle, of happy memory, departed this life: We thought it no less becoming us, by these our Letters, most affectionately to salute your Majesty; who, if you shall persuade your self, that we highly esteem of your affection, as we ought to do, and that by a most dear bond of affinity, we desire to have it enlarged and confirmed towards us, that very persuasion will not a little add to the measure of our love. It remains, that we intreat your Majesty to give full credit to such further Proposals, as the Baron Digby shall make in our name. In the mean time, we will hope for such a success of the principal business, as may give us occasion to use a more familiar stile hereafter in our Letters, as an argument of a nearer relation; which if it shall happen, this will also follow, That we shall most readily embrace all occasions, whereby to evidence unto you Majesty the progress and increase of our affection, as well towards your self, as your most Serene Sister.

The most great and good God preserve your Majesty long in safety.

Your Majesty's most
loving Kinsman,

C. P.

Given at our Palace of Saint James, 14 March,
1621.

To the Right Honourable, the Lord Bal-
thazar of Zuniga.

Right Honourable, and Well-beloved Friend,

Because we have divers times been informed by your Friends, of your singular propension and zeal towards our affairs, we neither will, nor ought to leave you unsaluted at this time, you have so well deserved of us: But it will be no small accession of your good-will, if you continue as you have begun, to promote, by your assistance, our concerns with his Majesty our Well-beloved Brother, which, by what way it may best be done, our Ambassador the Baron John Digby will be able to direct you, to whom we have intrusted the residue of that matter. And if, during his residence there, he may make use of your singular humanity and favour with the King, in his Negotiation, it will be most acceptable to us, and render us, who were, by your deservings, already forward to oblige you, most forward for the future to deserve well of you; which we shall most willingly testify, as occasion offers; not only in word, but in deed.

K. James
his Letter
to the
Lord Bal-
thazar of
Zuniga.

J. R.

Given at our Palace of Theobalds, March 14.
1621.

Now the Treaty of Marriage is solely in the Hands of the Lord Digby, and an overture being made in Spain of a Match with the Infanta with the Emperors Son, the Emperors Ambassador was answered that the King of Spains Hands were tyed by the Treaty now on Foot with his Majesty of Great Britain. At the same time Presidents in the Tower were searched for, as concerned the Levies of Men at the Publick charge of the Country, from the times of Edw. 3. till the present; and likewise Letters wrote hereupon to the Judges as followeth.

What endeavours his Majesty hath used by Treaty, and by all fair and amiable ways to recover the Patrimony of his Children in Germany, now for the most part with-holden from them by force, is not unknown to all his loving Subjects, since his Majesty was pleased to communicate to them in Parliament his whole proceedings in that business. Of which Treaty, being of late frustrate, he was enforced to take other resolutions; namely, to recover that by the Sword, which by other means he saw no likelihood to compass. For which purpose, it was expected by his Majesty, that his People in Parliament would (in a cause so nearly concerning his and his Childrens interest) have cheer-fully

fully contributed therunto. But the same unfortunately failing, his Majesty is constrained, in a case of so great necessity, to try the dutiful affections of his loving Subjects in another way, as his Predecessors have done in former times, by propounding unto them a voluntary contribution. And therefore, as your selves have already given a liberal and worthy example (which his Majesty doth take in very gracious part) so his pleasure is, and we do accordingly hereby authorise and require your Lordships, as well to countenance and assist the service by your best means, in your next Circuits, in the several Counties where you hold General Assizes; as also now presently, with all convenient expedition, to call before you all the Officers and Attorneys, belonging to any his Majesty's Courts of Justice; and also all such others of the Houses and Societies of Court, or that otherwise have dependance upon the Law, as are meet to be treated withal in this kind, and have not already contributed; and to move them to joyn willingly in this Contribution in some good measure, answerable to that your selves and others have done before us, according to their means and fortunes: Wherein his Majesty doubteth not, but beside the interest of his Children, and his own Crown and Dignity, the Religion professed by his Majesty, and happily flourishing under him, within this Kingdom, (having a great part in the success of this business) will be a special motive to incite and perswade them therunto. Nevertheless, if any person shall, out of obstinacy or disaffection, refuse to contribute herein, proportionably to their Estates and Means, you are to certify their names unto this Board.

And so recommending this service to your best care and endeavour, and praying you to return unto us Notes of the names of such as shall contribute, and of the sums offered by them, We bid, &c.

And Letters were directed to the Sheriffs of the respective Counties, and Mayors of the Towns, to the same effect, and that a Schedule of the Contributors should be return'd, and likewise of those who refused.

Archbishop Abbot, by a casual shot, in Bramzill Park, out of a Cross-bow, kills the Keeper in stead of the Deer; of which accident a question was raised whether his Grace by that mischance was irregular or not? Which was referr'd to the Lord Keeper Williams, the Bishops of London, Winton, Rochester, St. Davids, and Exeter, Justice Doderidge, Sir Henry Martin, and Dr. Stuart; and he was not judged irregular for that Casual Homicide.

About this time Dr. Laud was preferred to the See of St. David's, then void, betwixt whom and Dr. Robert Abbot then Doctor of the Chair in Oxon, there had been several bickerings about the Quinquarticular Controversie, and so must he forsooth, as the Collector would have it, be said to incline to Popish Tenets; but how much he hated Confarreation with that Party, his most Learned Book against Fisher doth abundantly testifie.

Now also the King thought fit upon good securities to release the Poorer sort of Recusants out of the several Goals in the Kingdom where they lay, whereupon the Lord Keeper wrote to the Judges in manner following.

That the King having, upon deep Reasons of State, and in expectation of the like correspondence from Foreign Princes to the Professors of our Religion, resolved to grant some grace to the imprisoned Papists, had commanded him to pass some

Writs under the Broad Seal for that purpose: Wherefore it is his Majesty's pleasure, that they make no niceness or difficulty to extend his Princely favour to all such, as they shall find Prisoners in the Goals of their Circuits, for any Church Recusancy, or refusing the Oath of Supremacy, or dissenting of Popish Books, or any other point of Recusancy that shall concern Religion onely, and not matters of State.

And offence being taken hereat, the Lord Keeper truly satisfies the World as to the Reasons of it.

AS the Sun in the Firmament appears to us no bigger then a Platter, and the Stars are but as so many Nails in the Pummel of a Saddle, because of the enlargement and disproportion between our Eye and the Object: So is there such an unmeasurable distance between the deep resolution of a Prince, and the shallow apprehensions of common and ordinary people; that as they will ever be judging and censuring, so they must needs be obnoxious to error and mistaking. The King is now a most zealous Intercessor for some ease and refreshment to all the Protestants in Europe, which were unreasonable, if he did now execute the rigour of his Laws against the Roman Catholics.

Our Viperous Countreymen, the English Jesuits in France, had many moneths before the favour granted, invited the French King, by writing a malicious Book, to put all the Statutes in execution against the Protestants in those parts, which were enacted in England against the Papists, and (as they falsely informed) severely executed. Besides, these Papists are no otherwise out of Prison, than with their shackles about their heels, sufficient Sureties, and good Recognizances, to present themselves at the next Assizes; and their own demeanor, and the success of his Majesty's Negotiations must determine, whether they shall continue in this grace.

But to conclude, from the favour done to the English Papists, that the King favours the Romish Religion, is a composition of Folly and Malice, little deserved by a gracious Prince, who by Word, Writing, Exercise of Religion, and Acts of Parliament, hath demonstrated himself so resolved a Protestant.

As for his own Letter to the Judges, he said, it recited only four kinds of Recusancy, capable of the King's clemency, not so much to include them, as to exclude many other Crimes, bearing the name of Recusancy, as, using the Function of a Romish Priest, seducing the King's Liege people from the established Religion, aspersing the King, Church, or State, or the present Government.

All which Offences, being outward practices, and no secret motions of the Conscience, are adjudged, by the Law of England, to be merely Civil and Political, and are excluded by the Letter from the benefit of those Writs.

And because of the excessive liberty taken by both the Parties engaged in the Quinquarticular Controversie, the King wrote to the Archbishop of Canterbury, and sent the Directions following to be enjoyned the Clergy.

The Lord Keeper's Letter, excusing the King's favour towards Papists.

as his
resolution
to Digt
in Spa
now it
Earl
Brill

Anno
1621.

The Kings
Letter to
the Arch-
bishop for
regulating
the Cler-
gy.

Most Reverend Father in God, Right trusty and
intirely beloved Counsellor, we greet you well.
Forasmuch as the abuses and extravagancies of
Preachers in the Pulpit, have been in all times sup-
pressed in this Realm by some Act of Council, or State,
with the advice and resolution of grave and learned
Prelates; insomuch that the very licensing of Preach-
ers had the beginning by an Order of Star-Chamber,
the Eighth day of July, in the Nineteenth year of
the Reign of King Henry the Eighth, our Noble
Predecessor: And whereas at this present, divers
young Students, by reading of late Writers, and un-
grounded Divines, do broach many times unprofitable,
unsound, seditious, and dangerous Doctrines, to the
scandal of the Church, and disquiet of the State
and present Government. We, upon humble repre-
sentation unto us of these inconveniencies by your self,
and sundry other grave and reverend Prelates of this
Church, as also of our Princely care and zeal for
the extirpation of Schism and Dissention growing
from these seeds, and for the setting of a Religious
and peaceable Government, both in Church and Com-
monwealth, do by these our special Letters, straitly
charge and command you, to use all possible care and
diligence, that these Limitations and Cautions here-
with sent unto you, concerning Preachers, be duly and
strictly from henceforth put in practise, and observed
by the several Bishops within your Jurisdiction. And
to this end our pleasure is, that you send them forth-
with Copies of these Directions, to be by them speedily
sent and communicated unto every Parson, Vi-
car, Curate, Lecturer, and Minister, in every Ca-
thedral or Parish Church, within their several Dio-
cesses; and that you earnestly require them, to em-
ploy their utmost endeavours in the performance of
this so important a business; letting them know, that
we have a special Eye unto their proceedings, and ex-
pect a strict accompt thereof, both from you and every
of them. And these our Letters shall be your suf-
ficient Warrant and discharge in that behalf.

Given under our Signet at our Castle of Wind-
sor, &c.

Directions concerning Preachers, sent with
the Letter.

Directi-
ons con-
cerning
Preachers

I. That no Preacher, under the Degree and
Calling of a Bishop or Dean of a Ca-
thedral, or Collegiate Church (and they up-
on the King's days, and set Festivals) do take
occasion, by the expounding of any Text of
Scripture whatsoever, to fall into any set dis-
course, or common place, otherwise than by
opening the Coherence and Division of the
Text; which shall not be comprehended and
warranted in Essence, Substance, Effect, or Na-
tural Inference, within some one of the Arti-
cles of Religion, set forth, One thousand five
hundred sixty and two; or in some of the Ho-
milies, set forth by authority of the Church of
England: Not only for a help for the Non-
preaching, but withal for a pattern and bound-
ary (as it were) for the Preaching Ministers.
And for their further Instructions for the per-
formance hereof, that they forthwith read
over and peruse diligently the said Book of Ar-
ticles, and the two Books of Homilies.

II. That no Parson, Vicar, Curate, or Lectu-
rer, shall preach any Sermon or Collation here-
after, upon Sundays and Holidays in the after-
noon, in any Cathedral or Parish Church

throughout the Kingdom, but upon some part
of the Catechism, or some Text taken out of
the Creed, Ten Commandments, or the Lord's
Prayer, (Funeral Sermons only excepted.)
And that those Preachers be most encouraged
and approved of, who spend the Afternoon's
Exercise in the Examination of Children in their
Catechism, which is the most antient and lau-
dable custom of Teaching in the Church of
England.

III. That no Preacher of what Title soever,
under the Degree of a Bishop, or Dean at the
least, do from henceforth presume to preach
in any popular Auditory the deep Points of
Predestination, Election, Reprobation, or of
the Universality, Efficacy, Resistibility, or Ir-
resistibility of God's Grace; but leave those
Themes rather to be handled by the Learned
Men, and that Moderately and Modestly by
way of Use and Application, rather than by
way of Positive Doctrines, being fitter for
the Schools, than for simple Auditories.

IV. That no Preacher, of what Title or
Denomination soever, from henceforth, shall
presume in any Auditory within this King-
dom, to declare, limit, or bound out, by way
of Positive Doctrine, in any Lecture or Ser-
mon, the Power, Prerogative, and Jurisdic-
tion, Authority or Duty of Sovereign Princes,
or otherwise meddle with matters of State, and
the differences between Princes and the People,
than as they are instructed and presided in
the Homilies of Obedience, and the rest of
the Homilies and Articles of Religion, set forth
(as before is mentioned) by publick Authority,
but rather confine themselves wholly to those
two Heads of Faith and Good Life, which are
all the subject of the Antient Sermons and Ho-
milies.

V. That no Preacher, of what Title or De-
nomination soever, shall presume causlessly, or
(without invitation from the Text) to fall in-
to bitter Invectives, and undecent railing
Speeches against the persons of either Papists
or Puritans, but modestly and gravely, when
they are occasioned thereunto by the Text of
Scripture, free both the Doctrine and the Dis-
cipline of the Church of England from the as-
persions of either Adversary, especially where
the Auditory is suspected to be tainted with the
one or the other infection.

VI. Lastly, That the Archbishops and Bi-
shops of the Kingdom (whom his Majesty hath
good cause to blame for their former remissness)
be more wary and choice in their Licencing of
Preachers, and revoke all Grants made to any
Chancellor, Official, or Commissary, to pass
Licences in this kind: And that all the Lectu-
rers throughout the Kingdom of England (a
new body severed from the antient Clergy, as
being neither Parsons, Vicars, nor Curates)
be Licenced henceforward in the Court of Fa-
culties, by Recommendation of the party, from
the Bishop of the Diocese, under his Hand and
Seal, with a Fiat from the Lord Archbishop of
Canterbury, a Confirmation under the Great
Seal of England. And that such as do trans-
gress any one of these Directions, be suspen-
ded by the Bishop of the Diocese, or in his de-
fault, by the Archbishop of the Province, *ab
officio & beneficio*, for a year and a day, until
his Majesty, by the advice of the next Con-
vocation, shall prescribe some further punish-
ment.

Sir

Anno 1621. Sir Richard Weston finds no real intent in the Infanta at Bruxels (to whom the matter was referred) to restore the Palatinate. The Palsgrave in the mean time, to remove all obstacles on his part, retires to Bouillon to his Uncle, and Mansfeld goes for Holland, whiles in the mean time Heydelburgh is besieged by the Emperor and Bavaria, and is taken and followed by the loss of Mannheim and Frankendale.

Mr. Gage returns from Rome with new Clogs to the Match: the Pope demands a publick Church in London, a Person in Episcopal Orders to exercise Jurisdiction there, and the Ecclesiasticks to be subject to no Laws, but of their own Superiors; that the Children be under the Mother's government till fourteen years, and a farther demonstration of favour for the Romanists in England. To the first, The King answers 'tis more than he himself had: she might have a Chappel where in a publick manner her Religion might be professed. To the second, That he would leave it to the King of Spain. The third, He utterly denied it, for it was not so in other Catholick Countries. And to the fourth, He answered he would not permit his Grandchildren to be brought up till years of Marriage in a Religion contrary to that he professed. And to the last, That he cannot grant any other favours, as to any Toleration, beyond what is already granted. And this resolution he sends to Digby in Spain, to be communicated accordingly.

Right Trusty and Well-beloved,

The King sends his resolution to Digby in Spain, now made Earl of Bristol. OUR pleasure is, that immediately you crave Audience of that King, and present unto him the merit that we may justly challenge to our self, for our sincere proceedings with the Emperor and him: Notwithstanding the many Invitations and Temptations we have had to engage our self on our Son in Law's part. That we have both from the Emperor, and from him, hopes given us from time to time of extraordinary respect, (howsoever our Son in Law had deserved) which we have attended and expected, even to the last, with much patience, and in despite, as it were, of all opposition, which might shake our resolution in that behalf: If now, when all Impediments are removed, and the way is so prepared, as that the Emperor may give an end unto the War, and make some present Demonstrations of his respect towards us, in leaving us the honour of holding those poor Places, which yet remain quietly and peaceably, until the general Accommodation, the same shall nevertheless be violently taken from us; What can we look for, if the whole shall be in his hands and possession, who amuzing us with a Treaty of Cessation, and protracting it industriously (as we have reason to believe) doth in the mean time seize himself of the whole Countrey? Which being done, our Ambassador shall return with scorn, and we remain in dishonour: And therefore, as we have heretofore sundry times promised, in testimony of the sincerity of our proceedings, and of our great desire to preserve the Amity inviolable between us and the whole House of Austria; that in case our Son in Law would not be governed by us, that then we would not only forsake him, but take part and joyn our Forces with the Emperor's against him: So you may fairly present unto that King, That in like manner we

have reason to expect the same measure from him: That upon the Emperor's averfeness to a Cessation, and Accommodation, he will likewise actually assist us for the recovery of the Palatinate, and Electoral Dignity to our Son in Law, as it hath been oftentimes intimated from Spain. Yet our meaning is, to carry all things fair with that King, and not to give him any cause of distrust or jealousy, if you perceive that they intend to go really and roundly on with the Match: Wherein, nevertheless, we must tell you, That we have no great cause to be well pleased with the diligence used on that part, when we observe, that after so long an expectance of the Dispensation, upon which the whole business, as they will have it, depends, there is nothing yet returned but Queries and Objections.

We have thought fit to let you know, how far we are pleased to enlarge our self concerning those points demanded by the Pope: And further than that, since we cannot go without much prejudice, inconvenience, and dishonour to our Self, and our Son; we hope and expect, that the King of Spain will bring it instantly to an issue, without further delay, which you are to press with all diligence and earnestness: But if respite of time be earnestly demanded, and that you perceive it not possible for them to resolve, until an answer come from Rome, We then think it fit, that you give them two moneths time after your Audience, that we may understand that Kings final Resolutions before Christmas next at the furthest.

And now our King doth plainly see the Tergiversations of the Spaniards and Imperialists, and their delusory dealings with him; for whiles his Embassadors is treating at Bruxels, for the Palsgraves restitution, Heydelburgh and the rest of the Towns are taken; and the Emperor calls a Diet at Ratisbone for the Translation of the Electorate to the House of Bavaria irrevocably, and a Letter is said to have been wrote by the King of Spain to Conde Olivares, and Conde's Answer followeth.

THE King my Father declared at his death, that his intent never was to marry my Sister, the Infanta Donna Maria with the Prince of Wales, which your Uncle Don Balthazar understood, and so treated this Match ever with intention to delay it; notwithstanding, it is now so far advanced, that considering all the averfness unto it of the Infanta, it is time to seek some means to divert the Treaty, which I would have you find out, and I will make it good whatsoever it be. But in all other things, procure the satisfaction of the King of Great Britain, (who hath deserved much) and it shall content me, so that it be not in the Match.

SIR, Considering in what estate we find the Treaty of Marriage between Spain and England, and knowing certainly how the Ministers did understand this business, that treated in the time of PHILIP the Third, that is in Heaven, that their meaning was never to effect it, but by enlarging the Treaties and Points of the said Marriage, to make use of the Friendship of the King of Great Britain, as well in matters of Germany, as those of Flanders: And

The King of Spains Letter to Conde Olivares.

Olivares Answer.

imagi-

Anno
1621.

imagining likewise, that your Majesty is of the same opinion (though the Demonstrations do not shew so) joyning to these Suppositions; that it is certain the Infanta *Donna Maria* is resolved to put her self into a Monastery the same day that your Majesty shall press her to this Marriage: I have thought fit to represent unto your Majesty that which my good Zeal hath offered me in this occasion, thinking it a good time to acquaint your Majesty withal, to the end you may resolve of that which you shall find most convenient, with the Advice of those Ministers you shall think fit to make choice of.

The King of *Great Britain* doth find himself at this time equally engaged in two Businesses; the one is, this Marriage, to which he is moved by the Conveniencies he finds in your Majesties Friendship, by making an Agreement with those Catholicks that he thinks are secretly in his Kingdom; and by this, to assure himself of them; as likewise to marry his Son to one of the House of *Austria*; knowing, that the Infanta *Donna Maria* is the best born Lady in the world. The other business is the restitution of the *Palatinate*, in which he is more engaged; for beside that his Reputation is at stake, there is added the love and interest of his Grand-Children, Sons of his only Daughter; so that both by the Law of Nature, and Reason of State, he ought to put that forward, whatever Inconveniences might follow by dissembling what they suffer.

I do not dispute, whether the King of *Great Britain* be governed, in this Business of the *Palatinate*, by Act or Friendship; I think a man might say, he used both; but as a thing not precisely necessary to this Discourse, I omit it. I hold it for a Maxim, that these two Engagements in which he finds himself, are inseparable; for although the Marriage be made, we must fail of that which in my way of understanding is most necessary, the Restitution of the *Palatinate*.

This being supposed, having made this Marriage in that form as it is treated, your Majesty shall find your self, together with the King of *Great Britain*, engaged in a War against the Emperor and the Catholick League; a thing which to hear, will offend your Godly Ears; or declaring your self for the Emperor, and the Catholick League, as certainly your Majesty will do, then you will find your self engaged in a War against the King of *England*, and your Sister Married with his Son; with the which, all whatsoever Reasons of convenience that were thought upon in this Marriage, do cease. If your Majesty shall shew your self Neutral, as it may be some will propound; That, first will cause very great scandal, and with just reason, since in matters of less opposition, than of Catholicks against Hereticks, the Arms of this Crown have taken the Godly part against the contrary party; and at this time the *French-men*, fomenting the *Hollanders* against your Majesty, your Piety hath been such, that you have sent your Arms against the Rebels of that Crown, leaving all the great considerations of State, only because these men are Enemies to the Faith, and the Church.

It will oblige your Majesty, and give occasion to those of the League to make use

of the King of *France*, and of other Catholick Princes, ill-affected to this Crown; for it will be a thing necessary for them to do so: And those even against their own Religion, will foment and assist the Hereticks for hatred to us. Without doubt they will follow the other party, only to leave your Majesty with that blemish, which never hath befallen any King of these Dominions. The King of *England* will remain offended and enraged, seeing that neither Interest, nor Helps do follow the Alliance with this Crown, as likewise with pretext of particular resentment; for having suffered his Daughter and Grand-Children to be ruined for respect of the said Alliance.

The Emperor, though he be well-affected, and obliged to us in making the Translation at this time, as businesses now stand (the Duke of *Bavaria* being possessed of all the Dominions) although he would dispose all according to our conveniencies, it will not be in his power to do it, as your Majesty, and every body may judge: And the Memorial that the Emperor's Ambassador gave your Majesty yesterday, makes it certain; since in the List of the Souldiers, that every one of our League is to pay, he sheweth your Majesty, that *Bavaria* for himself alone, will pay more than all the rest joyned together; the which doth shew his power and intention, which is not to accommodate matters, but to keep to himself the Superiority of all in this broken time, the Emperor is now in the Diet, and the Translation is to be made in it.

The Proposition in this Estate, is, by considering the means for a Conference, which your Majesties Ministers will do with their Capacities, Zeal and Wisdom; and it is certain, they will herein have enough to do. For the difficulty consists to find a way to make the present estate of affairs straight again, which with lingring, as it is said, both the power and time will be lost. I suppose the Emperor, as your Majesty knoweth by his Ambassador, desires to Marry his Daughter with the King of *England's* Son. I do not doubt but he will be likewise glad to Marry his Second Daughter with the *Palatine's* Son: Then I propound, that these two Marriages be made, and that they be set on foot presently; giving the King of *England* full Satisfaction in all his Propositions, for the more strict Union and Correspondency, that he may agree to it. I hold for certain, that all the Conveniences that would have followed the Alliance with us, will be as full in this: And the Conveniences in the great Engagement are more by this; for it doth accommodate the matter of the *Palatinate*, and Succession of his Grand-Children with Honour, and without drawing a Sword, and wasting Treasure. With this Interest, the Emperor, with the Conveniences of the King of *England*, and the *Palatinate*, the only means, in my way of understanding, to hinder those great dangers that do threaten, may accommodate the Business, and not sever himself from the Conveniences and Engagements of *Bavaria*; and after I would reduce the Prince Elector, that was an Enemy, to the obedience of the Church, by breeding his Sons in the Emperor's Court with Catholick Doctrine.

The Business is great, the Difficulties greater perchance than have been in any other case,

Anno 1622. 'case. I have found my self obliged to present this unto your Majesty, and shall shew, if you command me, what I think fit for the disposing of the things, and of the great Minister which your Majesty hath. I hope with the particular Notes of these things, and all being helped with the good Zeal of the *Conde Gondomar*, it may be God will open a way to it, a thing so much for his, and your Majesties Service.

The Kings sincere intention in the Match was dayly obviated by new Conditions added to the former Demands, by the Pope and the King of Spain: the King and Prince both assented that the Children of the Match should continue under their Mothers Government till the Age of Ten, but no longer. And that the Ecclesiastical Superior do take notice of the Offence that shall be committed, and according to the merit thereof, either by Degradation deliver him to Secular Justice, or banish him the Kingdom.

But in the middle of these Treaties for the Match, *Manheim* is lost, and *Heydelsbergh* taken, and the Emperor in the Diet at *Ratisbone* confers the Electorate to the Duke of *Bavaria*; the Protestant Princes and States protest and declare against it as a thing contrary to the Agreements in the Capitulation Royal, and Fundamental Laws of the Empire: That his Brother and Children had not offended; who by the providence of their Ancestors, before the Fact of their Father, had an hereditary Right thereto. This thing was of very ill consequence to the rest of the Hereditary Electors; whose turn may be the next none knows, &c. The Catholics reply, That the Electorate is devolved upon the Emperor; that he may dispose of it as best pleaseth him; that as his Crime was great, his punishment ought to be proportionable; and that the Count *Mansfeld* is still in the Field, and openly prosecutes the Cause, &c. The other party re-assumes the Argument,

'That the security of the Imperial Dignity, and the safety of the Empire, consisted in the Concord between the Emperor and the Princes Electors; and if his Imperial Majesty shall use this rigor, the Princes of *Lower Saxony* are of opinion, that there can be no Peace established: But this desired Reconciliation will give the Emperor a quiet possession of the Provinces recovered by the aid of the Electors and Princes; otherwise there is a fair pretention left for the renewing of the War; for that the *Palatine's* Sons and Brother are passed by in the translation of the Elector; and the King of *Great Britain* cannot but take it ill, to see his endeavours produce no better effect, but that his only Daughter and her Children are left in Exile.

But all in vain; for the Emperor utterly refuseth the *Palgrave's* Restitution, or to shew any Favour to his Children; but saith he will no longer defer to compleat the Number of the Electors: And of the Emperors intention Sir *Dudley Carleton* gives the King from the *Hague* the Judgment which was there made of his Actions, which was no other than this, That he never really intended the Restauration of the Elector; for that the Emperor was not content to have chased the *Palgrave* out of *Germany*; but in the Propositions of the former Diet, made

this an Article, to make War upon the *United Provinces*, because (among other Quarrels) they gave Refuge to the expelled *Palatine*.

And now the Match, as to the carrying it on, is put into the Hands of the Prince himself: who, together with the Marquess of *Buckingham*, Sir *Francis Cottington*, Mr. *Cottington*, Mr. *Porter* and Mr. *Graham*, hazard a Journey into Spain, by the way of *France*, and Land at *Bologne*, and thence Post for *Paris*, and had sight of a Mask there, and the first view of the Princess *Henrietta Maria*, his after-Queen and Consort, in Anno 1625. From thence in haste, and some difficulty, to *Bordeaux*, and after to *Bayon*, the Confines of *France*; and from thence, no sooner gone, but that the Governour Count *Graismon* had notice by the *Carrier*, (who carried the Advice from hence to the King of Spain) that the Prince of Wales was gone thither.

Where he arrived at *Madrid*, Friday the 7th. of *March* at Eight a Clock at Night, in thirteen Days from *Paris*, seven hundred and fifty Miles, and alighted at *Bristol's House*, the Extraordinary Ambassador, and Sir *Walter Aston* Lierger, intrusted under-hand to overlook the others actions, in this particular, being hitherto suspected of the Prince, to be too much Catholick there. So that this sudden arrival startled *Bristol*, that was a stranger to the Journey; which met with such success afterwards, as the measure of his Malice did mete out; together with *Gondamores* regret (on the Spanish party) who with all his wisdom, more by estimation than merit, was abused also at home to credit what was commanded to him, who thought nothing more sure than now to be effected.

The next Morning the Arrival of *Buckingham* was willingly discovered to *Gondamore*, and so to the *Conde Olivares*, the Spanish Favourite, and by him to the young King *Philip*, who gave him leave to visit the Marquess, and Order to be brought to the King in private, to whom he delivered King James his Letters, and discovered that the Prince was come; and therefore with the Ambassadors was returned *Olivares* with the King's Salutations of Honour and Welcom. Where it was observed that *Olivares* would not be covered, though the first *Grandee* of Spain, who are not bare to their own King.

The next Sunday-Afternoon, though in *Lent*, upon design for the Princes desire to take view of his Mistress, the King, Queen, the *Infanta*, and the *Infantes* (*Don Carlos* and *Don Ferdinand*, his two Brothers) with a great Train of Coaches, took Air upon the *Prado*, a Publick Place of Recreation, where the Prince likewise (Disguised) in the Duke of *Cea's* Coach, with his English Train, made divers Turns, and so had sight of the *Infanta*, not refraining though to salute each other with seemly Congies.

The King desired to visit and embrace the Prince at the Earl of *Bristol's House*. But to avoid that disadvantage, the Prince would not be denied to pass to the King, who therefore appointed half way, where he staid, and there they met.

The King got out of his Coach first, and embracing the Prince with wonderful kindness, made incomparable professions of Love and Honour.

In the strict Obligations which the King his Father, and His Highness Himself had cast upon him, by that singular Act of Confidence and Favour.

To which the Prince Replied,

That he was Royally recompenced by the Honour he receiveth, to be his own Advocate in this His High Design to visit His Majesty and His Princely Sister.

And taking Coach together, He forced the Prince therein first on the right hand, Bristol interpreting between them (for the Kings of Spain do not descend to give honour to the French Tongue) and return home by Torch-light.

On Monday the Prince was visited by Olivares, to let him know the Kings Publick Devotion unto the Monastery La Merced, attended on Horseback with a glorious Train, of which the Prince had sight, and so passed that Day in Recreation abroad.

The next Day the King sent two Dukes to visit the Prince, with this Complement.

That seeing the good Service of the Conde Gondamore had imprinted such a singular Character in the King of Great Britain's affection, to trust so excellent a Treasure into Spain, as his Highness, therefore he could not suffer any Subject of His unadvanced, who had been so Graciously accepted in England; for which cause he was resolved to make him Counsellor of State, though he accounted him indeed as an Englishman: Nay, rather for that respect, that they might be the more confident of his Proceedings, and Privy to the Inmost Actions; and the Prince was empowered to establish him therein.

For which Gondamore falls down at his Feet, and being by His Highness addressed to the Court, was instantly sworn.

General Pardon proclaimed.

Not long after was proclaimed a General Pardon of all Offences, and all Prisoners within the Continent of Spain released; and all English Slaves for Pyrracy or Mortal Crimes, were set at Liberty, and manifested to be done in contemplation of the Prince.

His Entry in Triumphant.

The 16th. of March appointed for the Prince's Triumphant Entry through Madrid, the day before, were presented two Barb-Gennets of excellent value, for the Prince to chuse, and the other for the King.

The Morning come, four Counsellors of State were sent to attend, and to conduct him to the Monastery St. Jeronimo near Madrid; from whence the Kings of Spain make their solemn Entries of Coronation; where he was Feasted privately at Dinner by the King's Appointment.

Afternoon was spent by the Prince in giving Audience to the Inquisitor General, and to all the several Bodies of Counsels (which continually reside in the Court at Madrid) except only the Council of State, which never makes Visit in Corps; the rest did: being of Castile, Arragon, Portugal, Italy, Militia, Indies, Treasury and Exchequer, &c.

The Corridor and Regidores of Madrid (the Governors) had Audience likewise.

About Four a Clock in the Even, comes the King; whom the Prince receives at the Gate; and all things in order, they dispose to be going: They came in Coaches, but now all Mount on Horse-back in Magnificent manner; and riding to the Entry of the Liberties of Madrid,

there attended twenty four of the Regidores, with a large Canopy of Tyssue, rich imbossed (being their Office to bear it) were apparelled in rich Cloth of Tyssue, lined with Crimson Cloth of Gold; They both came under the Canopy, the Prince alwayes on the right hand; before them the Courts and Ministers of Justice; then the Grandees, and all the principal Noblemen, in excellent Bravery, attended by their Followers in rich Equipage and Liveries (a Custom in that Countrey, wherein they have excess.)

Next after the Canopy, followed the Marques Buckingham, and the Conde Olivares, as Masters of the Horse to them both, with eithers Cloth of State; which Canopy was presented to Buckingham, as a Fee to him in that Office, and serving for the Prince, in whose Honour that days Action was performed. Then the Earl of Bristol, between two of the eldest Counsellors of State, and a Gentleman of the Bed-chamber; Sir Walter Aston following them in like manner accompanied; the rest of the Council of State and Bed-chamber next after. Then that goodly Guard de los Archeros, bravely clad in gallant manner; then numbers of gallant youth followed, being of the Glory of that Court and Kingdom.

The Windows decked (you may believe) with the painted Beauties of the most Famous Donna's, the Houses outwardly furnished with Hangings of Arras and Pictures; the Streets Scaffolded, and here and there in more eminency were raised Temporary Buildings, whereon the several Bodies of the Councils sate, to see and do reverence; and by the way several Pageants, Representations of the rare Comedians and Dancers; and all to give content to that Royal Pair, as they passed by, until they came to the Court-Gate.

The Queen and Infanta were Spectators, but soon retired to the Palace, to receive the Visit; the King and Prince embracing, passed up to the Queens Quarter; whom She received at Her Chamber-Door; and conducted him to and under the Cloth of State; they sate on three equal Chairs, the Queen in the midst, the Prince on the Right Hand, the King on the Left.

The Room richly furnished; but more, by those excellent Beauties, the living Tapestry of Ladies, Noble-mens Children, called Menines.

Madam (said the Prince) the Honour of this Days Solemnity is due to your Majesty, which conveys Me hither to kiss your Princely Hand.

And so stooped to her Knee.

Sir (said She) It is to your Highness, and in such manner as to the Royalty of Spain, due and done to your excellent Merit.

And so passing half an hours Complement in French, which is natural to her, she brought them back to Her Chamber-Door.

The King conducting the Prince to his Lodgings, a Quarter of the Court prepared for him with all Magnificence. At the Entrance, stood the Infantes his two Brothers, and so all three conducted the Prince into his Bed-chamber. And then the King took the Right Hand; because (said he) your Highness is now at home; and so left him to his peculiar Attendants, and other Officers of Honour, especially Grandees mixt amongst them to wait the Princes pleasure.

And

And within an hour comes the *Comte de Benavente*, as Major Domo to the Queen, with a present. *Annals*
 1622. A Fair Bason of Massie Gold, born by two Men,
 a curious imbroidered Night Gown laid double in it,
 Two great Trunks bound with bands of pure Gold,
 Rich Presents to the Prince studded very thick with nails of Gold, and Locks
 and Keys of the same. The Coverings and Linings
 were of Amber Leather, filled with several Delicacies,
 curious Linments, rich Perfumes. A rich fair
 Desk, full of Rarities in each Drawer.

And Buckingham was remembered by a Present from the Countess Olivares.

Triumphant
Fire-
Works.

Fire-works were made, and Torch-Triumphs in all Houses and Windows for three Nights together by Proclamation, with wonderful acclamations Night and Day, crying, *Vive el Principe de Galles, Vive el Principe, &c.*

And thus settled at his home, attended with all the like Officers as the King, and of the same rank and quality, with the one half of his Guard with golden Keys of the Court to dispose to such English as the Prince was pleased to intrust. Great Triumphs in preparation, and the principal Nobility in Arragon sent for to honour the Court, and for the glory and lustre of the same, the Edict for restraint of all excess in point of apparel was suspended.

Takes the
Ring in
presence
of his Mi-
stresses.

Some daies after invited to run at the Ring, in presence of his Mistress, he took it at the first course, with acclamations of joy and honour; The glory of which challenged fate to finish his desires with good success in the Infanta's favour. And although some daies had passed with utmost extremities of gallantry, yet saw he not his Mistress, but at those distances; which was excused by Olivares, That the custom of the Nation in Princely Overtures with Infanta's, was not to take view of nearer affections, till the dispensation from Rome should come to admit them Lovers. Yet (as a Prince) he had access often in presence of the King (for privacy is not admitted between Brother and Sister of Royal descent) yet the Prince at these interviews, spake to her by Bristol his Interpreter.

Buckingham
created Duke.

By this time the Court of Spain was changed into English Lords, and Buckingham created Duke by Patent, carried over by Viscount Doncaster, lately made Earl of Carlisle, and every day brought thither the affluence of fresh Gallants of English Nobility, the Earl of Denbigh, Viscount Rochford, the Lord Kensington, Cecils, Herberts, Howards, not a Noble Family that failed to tell posterity what he had seen in Spain.

And now the Prince, so great was the zeal of the Romanists, must needs be importuned to become of their Religion, and the Pope himself writes to the Prince the Letter following.

The Popes
Letter to
the Prince
of Wales.

Most Noble Prince, We wish you the health and light of God's grace. Forasmuch as Great Britain hath always been fruitful in virtues, and in men of great worth, having filled the one and the other World with the glory of her renown, she doth also very often draw the thoughts of the holy Apostolical Chair to the consideration of her praises. And indeed, the Church was but then in her infancy, when the King of Kings did choose her for his inheritance; and so affectionately, that 'tis believed, the Roman Eagles were hardly there, before the Banner of the Cross. Besides that, many of her Kings instructed in the knowledge of the true Salvation, have preferred the Cross before the Royal Scepter, and the Discipline of Religion before Covetousness; leaving examples of pie-

ty to other Nations, and to the Ages yet to come; so that having merited the Principalities, and first places of blessedness in Heaven, they have obtained on Earth the triumphant ornament of Holiness. And although now the state of the English Church is altered, We see, nevertheless, the Court of Great Britain adorned and furnished with Moral virtues, which might serve to support the Charity we bear unto her, and be an ornament to the name of Christianity, if withal she should have for her defence and protection the Orthodox and Catholick truth. Therefore by how much the more the glory of your most noble Father, and the apprehension of your Royal inclination delighteth us, with so much more zeal we desire, that the gates of the Kingdom of Heaven might be opened unto you, and that you might purchase to your self the love of the Universal Church.

Moreover, it being certain that Gregory the Great, of most blessed memory, hath introduced to the people of England, and taught to their Kings the Law of the Gospel, and the respect of Apostolical authority; We, as inferior to him in holiness and virtue, but equal in name and degree of dignity, think it very reasonable, that we following his blessed footsteps, should endeavour the salvation of those Provinces, especially at this time, when your design (most noble Prince) elevates us to the hope of an extraordinary advantage. Therefore, as you have directed your journey to Spain towards the Catholick King, with desire to ally your self to the House of Austria, we do commend your design, and indeed, do testifie openly in this present business, that you are he that takes principal care of our Prelacy: For, seeing that you desire to take in marriage the Daughter of Spain, from thence we may easily conjecture, that the ancient seeds of Christian piety which have so happily flourished in the hearts of the Kings of Great Britain, may (God prospering them) revive again in your Soul. And indeed it is not to be believed, that the same man should love such an Alliance, that hates the Catholick Religion, and should take delight to oppress the Holy Chair. To that purpose we have commanded that most humble Prayers be made continually to the Father of lights, that he would be pleased to put you as a fair Flower of Christendom, and the only hope of Great Britain, in possession of that most noble Heritage which your Ancestors purchased for you, to defend the Authority of the Sovereign High-Priest, and to fight against the Monsters of Heresie. Remember the days of old, enquire of your Fathers; and they will tell you the way that leads to Heaven, and what way the Temporal Princes have taken to attain to the Everlasting Kingdom. Behold the Gates of Heaven opened! The most holy Kings of England, who came from England to Rome accompanied with Angels, did come to Honor and do homage to the Lord of Lords, and to the Prince of the Apostles in the Apostolical Chair; their Actions and their Examples being as so many voices of God, speaking and exhorting you to follow the course of the lives of those, to whose Empire you shall one day attain.

Is it possible that you can suffer that the Hereticks should hold them for impious, and condemn those whom the faith of the Church testifies to reign in the Heavens with Jesus Christ,

Anno 1622. and have command and authority over all Principalities and Empires of the Earth? Behold how they tender you the hand of this truly happy Inheritance, to conduct you safe and sound to the Court of the Catholick King, and who desire to bring you back again into the lap of the Roman Church; beseeching with unspeakable sighs and groans the God of all mercy for your Salvation, and to stretch out to you the Arms of the Apostolical Charity to embrace you with all Christian affection, even you that are her desired Son, in shewing you the happy hope of the Kingdom of Heaven. And indeed, you cannot give a greater consolation to all the people of the Christian World, than to put the Prince of the Apostles in possession of your most noble Island, whose Authority hath been held so long in the Kingdom of Britain for the defence of Kingdoms, and for a Divine Oracle. The which will easily come to pass, and that without difficulty, if you open your heart to the Lord that knocks; upon which depends all the happiness of that Kingdom. It is from this our great Charity, that we cherish the praises of the Royal Name, and that which makes us desire

that you and your Royal Father may be stiled with the names of Deliverers and Restorers of the ancient and paternal Religion of Great Britain.

This is it we hope for, trusting in the goodness of God in whose hands are the hearts of Kings, and who causeth the people of the Earth to receive healing, to whom we will always labour with all our power to render you gracious and favourable. In the interim take notice by these Letters of the care of our Charity, which is none other than to procure your happiness: and it will never grieve us to have written them, if the reading of them stir but the least spark of the Catholick faith in the heart of so great a Prince; whom we wish to be filled with long continuance of Joy, and flourishing in the glory of all Virtues.

Given at Rome in the Palace of S. Peter, the 20th of April, 1623. in the third Year of our Pope-dom.

His Holiness also writes to the Duke of Buckingham, the Letter following.

Gregorius P. P. XV. Duci Buckinghamiæ.

Nobilis Vir, salutem & lumen Divinæ gratiæ. Autoritas qua Nobilitatem tuam in Britannia Regia florere accipimus, non modo meritum præmium, sed virtutis patrocinium habetur. Egregium plane decus, atque adeo dignum, cui populi illi addi cupiant diuturnitatem: verum vix dici potest quantus ei cumulus gloriæ in orbe terrarum accederet, si (Deo favente) foret Catholicæ religionis præsidium. Facultatem certe nancisceris, qua te eorum Principum conciliis inferere potes, qui hominis immortalitatem adepti ad cælestia regna pervenerunt. Hanc tibi a Deo tributam, & a Pontifice Romano commendatam occasionem, ne elabi patiare, Nobilis Vir. Non te præterit, regalium consiliorum conscium, quæ in loco Britannia res hac ætate sit, quibusque Spiritus Sancti loquentis vocibus, Principum tuorum aures quotidie personet. Quæ gloria esset nominis, si te hortatore ac suatore, Anglicani Reges cælestem illius gloriæ hereditatem recuperarent, quam Majores eorum amplissimam in iis regnis reliquerunt, divini cultus incrementa curando & Pontificiæ autoritatis ditione, non solum tuenda, sed etiam propaganda! Multi fuerunt, atque erunt in posterum, quos benevolentia Regum perituris divitiis locupletavit, & invidiosis titulis auxit; atque ut id Nobilitas tua consequatur, non ideo sempiternis laudibus nomen tuum memor posteritas colet; At enim si consilia tua potentissimos Reges populosque ad Ecclesiæ premium reduceret; scriberetur nomen tuum in libro viventium quos non tangit tormentum mortis, ac te Historiarum Monumenta in eos sapientes referrent, in quorum splendore Reges ambulerunt. Quibus autem te præsentis vitæ solatiis & futuræ præmiis remuneraretur Deus ille, qui dives est in misericordia, omnes facile provident quibus nota est ars, & vis, qua Regnum Cælorum expugnatur. Tantæ te felicitatis compotem fieri ut cupiantus efficit non solum Pontificia

Pope Gregory to the D. of Buckingham.

Right honorable, we wish you health and the light of Gods grace. The authority which we understand you have in the Court of England, is accounted not only the reward of Merit, but the patronage of Vertue. A remarkable honor indeed, and of such worth, that the people there ought to pray for its continuance: but it can scarce be exprest what an access of glory it would receive in the World, if by the grace of God it should become the safeguard of the Catholick Religion. You have the means to ingraft your self into the assembly of those Princes, who having obtained an immortal name, have purchased the heavenly inheritance. Suffer not, Honorable Sir, this occasion to slip out of your hands, afforded you by God, and recommended to you by the Pope of Rome. You are not Ignorant, as intimate in the Kings Counsels, in what condition the affairs of England are in this our Age, and with what voices of the Holy Ghost speaking, the ears of your Princes daily tingle. How greatly would you be renown'd, if by your perswasion and admonition the Kings of England should obtain the heavenly inheritance of that glory which their Ancestors left them most ample in those Kingdoms, by taking care of the increase of Gods worship, and not only defending, but propagating the Dominions of the Popes authority! There have been, and will be many hereafter, whom the favour of Kings hath much enriched with wealth that fadeth away, and honored with envious titles; and if your Honor attain this, Posterity will therefore adore your memory with everlasting praises: But if your advice should reduce Potent Kings and Nations to the Lap of the Church, your name would be written in the Book of the Living, whom the pangs of death assault not; and the Records of Historians would number you among those Sages in whose light and conduct Kings have walked. And with what comfort of the present life and reward of the future, that God who is rich in mercy would recompence you, they easily foresee who are acquainted with the skill and violence by which the Kingdom of Heaven

Anno 1622. ficia Charitas, ad cuius curas totius humani generis salus pertinet, sed etiam Genetricis tuæ pietas, quæ cum te mundo peperit, Romana etiam Ecclesiæ, quam ipsa matrem suam agnovit, iterum parere cupit. Proin cum in Hispanias perfectionem paret dilectus Filius religiosus vir Didacus de la Fuente, qui gravissima Principum tuorum negotia in urbe sapienter Administravit, ei mandavimus ut Nobilitatem tuam adeat atque has Apostolicas literas deferat, quibus Pontificiæ Charitatis magnitudo & salutis tuæ cupido declaretur. Cum ergo audire poteris sententiæ nostræ interpretem, atque iis virtutibus instructum quæ exterarum Nationum amorem Catholico etiam & Religioso Sacerdoti conciliare potuerunt. Ille quidem ea de te in hac orbis Patria prædicavit, ut dignus sit quem singulari affectu complectaris & Autoritate tua munias Britannorum Regum populorumque saluti & gloriæ inservientem. Nos quidem Patrem Misericordiarum Orabimus ut Nobilitati tuæ cœlestis Regni fores patefaciat & frequentia præbeat Clementiæ suæ documenta.

Datum Romæ apud Sanctam Mariam Majorem sub Annulo Piscatoris, die 19 Maii, 1623. Pontificatus nostri Tertio.

Heaven is conquered. That we wish you to be partaker of so great happiness, not only our Papal Charity moves us (to whose care the salvation of mankind belongeth) but also the Piety of your Mother, who having brought you forth to the World, desires to bring you forth again to the Church of Rome, whom she acknowledges for her Mother. Therefore Didacus de la Fuente our beloved Son, a Fryer, who hath prudently managed the most important affairs of your Princes here in Rome, being to go to Spain, we have commanded him to wait upon your Honour, and to deliver you those Apostolical Letters to evidence the greatness of our Papal Charity, and our desire of your salvation. You may be pleased to hearken to him, as the interpreter of our mind, and one adorned with those virtues, which have been able to purchase the love of Foreign Nations to a Catholick and a Religious Priest. Truly he hath spoken such things of you in this Country of the World, that he is worthy whom you should cherish with a singular affection, and protect with your Authority, as one studious of the glory and safety of the King and People of Great Britain. We will pray the Father of Mercies, that he would open the doors of the Kingdom of Heaven to your Honour, and afford you frequent evidences of his Clemency.

Given at Rome apud Sanctam Mariam Majorem sub Annulo Piscatoris, 19 Maii, 1623. being the third year of Our Reign.

To which the Prince is said to return an Answer as followeth.

CAROLUS Princeps Gregorio P. P. XV.

Prince CHARLES to Pope Gregory XV.

Sanctissime Pater,

There is another Copy of the Princes Letter to the Pope published by several hands, somewhat different from this.

Beatitudine Vestræ Literas non minore gratitudine & observantia accepimus, quam exigit ea qua novimus exaratas insignis benevolentia, & pietatis affectus. Atque illud imprimis gratum fuit, nunquam satis laudata Majorum exempla inspicienda Nobis a vestra Sanctitate atque imitanda fuisse proposita: Qui licet multoties omnium fortunarum & vitæ ipsius discrimen advenirent, quo fidem Christianam latius propagarent, haud tamen alacriori animo in infestissimos Christi hostes, Crucis Christi vexilla intulerunt, quam nos omnem opem & operam adhibebimus ut quæ tam diu exultavit pax & unitas, in Christianam Rempublicam postliminio reducatur. Cum enim Discordiarum Patriæ malitia inter illos ipsos qui Christianam profitentur Religionem tam infelicia seminarit dissidia, hoc vel maxime necessarium ducimus ad Sacrosanctam Dei & Salvatoris Christi gloriam feliciter promovendam. Et minori nobis honori futurum existimabimus, tritam Majorum Nostrorum vestigiis insistentes viam, in piis ac religiosis susceptis illorum æmulos atque imitatores extitisse, quam genus nostrum ab illis atque originem duxisse. Atque ad idem nos istud plurimum inflammat perspecta nobis Domini Regis ac Patris nostri voluntas, & quo flagrat desiderium ad tam Sanctum opus porrigendi manum auxiliatricem, tum qui Regium pectus exedit dolor, cum perpendit quam sævè exoriantur strages, quam deplorandæ calamitates ex Principum Christianorum dissensionibus. Iudicium vero quod Sanctitas vestra tulit de nostro cum demo ac Principe Catholica Affini.

Most Holy Father,

WE have received your Letter with no less thankfulness and respect, than is due to the singular good will and godly affection wherewith we know it was written. It was most acceptable unto us, that the never enough Renowned Examples of our Ancestors were proposed to us by your Holiness for our inspection and imitation; who, though they often hazarded their lives and fortunes to propagate the Christian Faith, yet did they never more chearfully display the Banners of the Cross of Christ against his most bitter enemies, than we will endeavour to the utmost, that the Peace and Union which so long triumphed, may be reduced into the Christian World, after a kind of Elimination or Exile. For since the malice of the Father of discords hath sowed such unhappy divisions amongst those who profess the Christian Religion, We account this most necessary thereby to promote with better success, the glory of God and Christ our Saviour; nor shall we esteem it less honor to tread in their footsteps, and to have been their Rivals and Imitators in holy undertakings, than to have been descended of them. And we are very much encouraged to this as well by the known inclination of our Lord and Father, and his ardent desire to lend a helping hand to so pious a work, as by the anguish that gnaws his Royal breast, when he considers what cruel destructions, what deplorable calamities arise out of the dissensions of Christian Princes. Your Holiness's conjecture of our desire to contract an Alliance and Marriage with a Catholick family and Prince, is agreeable both to your Wisdom and Charity; for we would ne-

Anno
1623. Affinitatem & Nuptias contrahendi desiderio, & Charitati vestrae est consentaneum, nec a sapientia invenietur alienum. Nunquam tanto quo ferimur studio, nunquam tam arcto & tam indissolubili vinculo ulli Mortalium conjungi cuperemus, cujus odio Religionem prosequeremur. Quare Sanctitas vestra illud in animum inducat, ea modo nos esse semperque futuros moderatione, ut quam longissime abfuturi simus ab omni opere quod odium testari possit ullam adversus Religionem Catholicam Romanam: Omnes potius captabimus occasiones quo leni benignoque rerum cursu sinistrae omnes suspiciones e medio penitus tollantur. Ut sicut omnes unam individuum Trinitatem, & unum Christum Crucifixum Confitemur, in unam fidem unanimiter coalescamus: Quod ut assequamur, labores omnes atque vigilias, Regnorum etiam atque vitae pericula parvi pendimus. Reliquum est ut quas possumus maximas, pro literis quas insignis muneris loco ducimus, gratias agentes, Sanctitati vestrae omnia prospera & felicitatem aeternam comprecamur.

Datum Matriti,
20 Junii, 1623.

ver desire so vehemently to be joyned in a strict and indissoluble Bond with any Mortal whatsoever, *Pat. 21.* whose Religion we hated. Therefore your Holiness may be assured, That we are, and always will be of that Moderation, as to abstain from such actions, which may testifie our hatred against the Roman Catholick Religion; we will rather embrace all occasions whereby through a gentle and fair procedure all sinister suspitions may be taken away; That as we all confess one Individual Trinity and one Christ Crucified, we may unanimously grow up into one Faith. Which that we may compass, we little value all Labor and Watchings, yea, the very hazard of our lives. It remains, that we render thanks to your Holiness for your Letter; which we esteem as a singular present, and wish your Holiness and all prosperity and eternal happiness.

Dated at Madrid,
20 Junii, 1623.

But these solicitations were all in vain, for the Prince was too well settled in his Religion, than to be gained upon by these Letters or the Spanish complements either; and now at last comes the Dispensation from Rome, but clogg'd with a Clause that was like to be the break-neck of the whole Match.

'That whereas there were certain Articles condescended unto by the King of England, in favour of the Roman Catholicks in his Dominions, Caution should be given for the performance of those Concessions. The King answers, That he could give no other Caution, than his own and the Princes Oath, exemplified under the Great Seal of England. But this would not satisfy, unless some Sovereign Catholick Prince would stand engaged for them. Hereupon the frame of things was like to fall a sunder, and a rumor went, that the Prince intended to get away covertly.

At last the King of Spain himself, by the advice and approbation of his own Divines, engageth for the King and the Prince that they should perform the points stipulated. So all difficulties being at last surmounted, and the following Articles, in order to the Match, were sworn unto by the King, Prince and Privy Council.

Articles
sworn to
by the
King,
Prince,
and Privy
Council.

I. 'That the Marriage be made by Dispensation of the Pope, but that to be procured by the endeavor of the King of Spain.

II. 'That the Marriage be once only celebrated in Spain, and ratified in England, in form following. In the morning after the most Gracious Infanta hath ended her Devotions in the Chappel, she and the Most Excellent Prince Charles, shall meet in the Kings Chappel, or in some other Room of the Palace, where it shall seem most expedient; and there shall be read all the Proclamations, by virtue whereof the Marriage was celebrated in Spain; and as well the most Excellent Prince, as the most Excellent Infanta, shall ratifie the said Marriage celebrated in Spain, with all solemnity necessary for such an Act; so as no Ceremony or other

'thing intervene, which shall be contrary to the Roman Catholick Apostolick Religion.

III. 'That the most Gracious Infanta, shall take with her such Servants and Family as are convenient for her service; which Family, and all persons to her belonging, shall be chosen and nominated by the Catholick King: So as he nominate no Servant which is Vassal to the King of Great Britain, without his will and consent.

IV. 'That as well the most Gracious Infanta as all her Servants and Family, shall have free use and publick Exercise of the Roman Catholick Religion, in manner and form as is beneath capitulated.

V. 'That she shall have an Oratory and Decent Chappel in her Palace; where at the pleasure of the most Gracious Infanta, Masses may be celebrated; and in like manner she shall have in London, or wheresoever she shall make her abode, a Publick and Capacious Church near her Palace, wherein all Duties may be solemnly celebrated, and all other things necessary for the Publick Preaching of Gods Word, the Celebration and Administration of all the Sacraments of the Catholick Roman Church, and for Burial of the Dead, and Baptizing of Children. That the said Oratory, Chappel and Church, shall be adorned with such decency as shall seem convenient to the most Gracious Infanta.

VI. 'That the Men-servants, and Maid-servants of the most Gracious Infanta, and their Servants, Children, and Descendants, and all their Families of what sort soever serving her Highness, may be freely and publickly Catholicks.

VII. 'That the most Gracious Infanta, her Servants and Family, may live as Catholicks in form following. That the most Gracious Infanta shall have in her Palace her Oratory and Chappel so spacious, that her said Servants and Family may enter and stay therein; in which there shall be an ordinary and publick door for them, and another inward door, by which the Infanta may have

Anno 1623. have a passage into the said Chappel where she and others, as abovesaid, may be present at Divine Offices.

VIII. That the Chappel, Church, and Oratory may be beautified with decent Ornaments of Altars, and other things necessary for Divine Service, which is to be celebrated in them according to the Custom of the Holy Roman Church, and that it shall be lawful for the said Servants and others to go to the said Chappel and Church at all hours, as to them shall seem expedient.

IX. That the Care and Custody of the said Chappel and Church shall be committed to such as the Lady *Infanta* shall appoint, to whom it shall be lawful to appoint Keepers, that no body may enter into them to do any un-decent thing.

X. That to the Administration of the Sacraments, and to serve in Chappel and Church aforesaid, there shall be Four and twenty Priests and Assistants, who shall serve weekly or monthly, as to the *Infanta* shall seem fit, and the Election of them shall belong to the Lady *Infanta*, and the Catholick King. Provided, That they be none of the Vassals of the King of *Great Britain*; and if they be, his Will and Consent is to be first obtained.

XI. That there be one Superiour Minister or Bishop, with necessary Authority upon all occasions which shall happen belonging to Religion; and for want of a Bishop, that his Vicar may have his Authority and Jurisdiction.

XII. That this Bishop or Superior Minister may correct and chastise all *Roman* Catholicks who shall offend; and shall exercise upon them all Jurisdiction Ecclesiastical: And moreover also the Lady *Infanta* shall have power to put them out of her Service, whensoever it shall seem expedient to her.

XIII. That it may be lawful for the Lady *Infanta* and her Servants to procure from *Rome* Dispensations, Indulgences, Jubilees, and all Graces, as shall seem fit to their Religion and Consciences; and to get and make use of any manner of Catholick Books whatsoever.

XIV. That the Servants and Family of the Lady *Infanta*, who shall come into *England*, shall take the Oath of Allegiance to the King of *Great Britain*: Provided, That there be no Clause therein which shall be contrary to their Consciences, and the *Roman* Catholick Religion; and if they happen to be Vassals to the King of *Great Britain*, they shall take the same Oath that the *Spaniards* do.

XV. That the Laws which are or shall be in *England* against Religion, shall not take hold of the said Servants; and only the foresaid Superior Ecclesiastical Catholick may proceed against Ecclesiastical persons, as have been accustomed by Catholicks: And if any Secular Judge shall apprehend any Ecclesiastical person for any offence, he shall forthwith cause him to be delivered to the aforesaid Superior Ecclesiastick, who shall proceed against him according to the Canon-Law.

XVI. That the Laws made against Catholicks in *England*, or in any other Kingdom of the King of *Great Britain*, shall not extend to the Children of this Marriage; and though they be Catholicks, they shall not lose the Right of Succession to the Kingdom and Dominions of *Great Britain*.

XVII. That the Nurses which shall give suck to the Children of the Lady *Infanta*, (whether they be of the Kingdom of *Great Britain*, or of any other Nation whatsoever) shall be chosen by the Lady *Infanta*, as she pleaseth, and shall be accounted of her Family, and enjoy the privileges thereof.

XVIII. That the Bishop, Ecclesiastical and Religious persons of the Family of the Lady *Infanta* shall wear the Vestment and Habit of their Dignity, Profession, and Religion, after the Custom of *Rome*.

XIX. For security that the said Matrimony be not dissolved for any Cause whatsoever; the King and Prince are equally to pass the Word and Honour of a King; and moreover, that they will perform whatsoever shall be propounded by the Catholick King for further confirmation, if it may be done decently and fitly.

XX. That the Sons and Daughters which shall be born of this Marriage, shall be brought up in the Company of the most Excellent *Infanta*, at least, until the Age of Ten years, and shall freely enjoy the Right of Successions to the Kingdoms, as aforesaid.

XXI. That whensoever any place of either Man-servant, or Maidservant, which the Lady *Infanta* shall bring with her (nominated by the Catholick King her Brother) shall happen to be void, whether by Death, or by other Cause or Accident, all the said Servants of her Family are to be supplied by the Catholick King, as aforesaid.

XXII. For security that whatsoever is capitulated, may be fulfilled, the King of *Great Britain* and Prince *Charles* are to be bound by Oath; and all the King's Council shall confirm the said Treaty under their hands: Moreover, the said King and Prince are to give their Faiths in the Word of a King, to endeavour, if possible, That whatsoever is capitulated, may be established by Parliament.

XXIII. That conformable to this Treaty, all these things proposed, are to be allowed and approved of by the Pope, that he may give an Apostolical Benediction, and a Dispensation necessary to effect the Marriage.

The Oath taken by the King and Prince, was as followeth.

VVE Ratifying and confirming the aforesaid Treaty, and all and every Capitulation contained and specified in the same, do approve, applaud, confirm, and ratifie of our certain knowledge, all and every of these things in as much as they concern our Selves, our Heirs, or our Successors: And we promise by these presents in the word of a King, to keep, fulfil, and observe the same; and to cause them to be kept, fulfilled, and observed inviolably, firmly, well and faithfully, equally, Bona fide, without all exception, and contradiction. And we confirm the same with an Oath upon the Holy Evangelists, in the presence of the Illustrious and Noble John de Mendoza, Charles de Colona, Ambassadors of the most Gracious Catholick King, residing in our Court.

In

Anno
1623.

In Testimony and Witness of all and every the Premises, we have caused our Great Seal to be put to those Articles subscribed by our Hands there, in the presence of the most Reverend Father in Christ, George Archbishop of Canterbury, Primate of all England; and the Reverend Father in Christ John Bishop of Lincoln, Lord Keeper of the Great Seal of England, Lionel Cranfield, Chief Treasurer of England, Henry Viscount Mandevil, President of our Council, Edward Earl of Worcester, Keeper of the Privy Seal, Lewis Duke of Richmond and Lenox, Lord Steward of our Household, James Marquess Hamilton, James Earl of Carlile, Thomas Earl of Kelly, Oliver Viscount Grandeson, &c. and George Calvert Knight, one of our Chief Secretaries of State, and all our Privy Council.

Given at our Palace of Westminster, &c.

JACOBUS REX

The Private Articles were said to be these that follow; but they must be taken intirely upon the Credit of the Historical Collector; and so must the Oath of the Privy Counsellors too.

JAMES by the Grace of God, of Great Britain King, Defender of the Faith, &c. To all to whom this present Writing shall come, Greeting. Inasmuch as among many other things which are contained within the Treaty of Marriage between our most dear Son Charles Prince of Wales, and the most Renowned Lady Donna Maria, Sister of the most Renowned Prince, and our well beloved Brother Philip the Fourth, King of Spain, It is agreed, That We, by our Oath, shall approve the Articles under-expressed to a word:

Private Articles sworn to by the K. in favour of Roman Catholics,

1. 'That particular Laws made against *Roman Catholics*, under which other Vassals of our *Realms* are not comprehended, and to whose observation all generally are not obliged; as likewise general Laws, under which all are equally comprized, if so be they are such which are repugnant to the *Romish Religion*, shall not at any time hereafter by any means or chance whatsoever, directly or indirectly be commanded to be put in execution against the said *Roman Catholics*; and we will cause that our Council shall take the same Oath as far as it pertains to them, and belongs to the execution which by the hand of them, and their Ministers is to be exercised.

2. 'That no other Laws shall hereafter be made anew against the said *Roman Catholics*, but that there shall be a perpetual Toleration of the *Roman Catholic Religion*, within private Houses throughout all our *Realms* and *Dominions*, which we will have to be understood as well of our Kingdoms of *Scotland* and *Ireland*, as in *England*, which shall be granted

to them in manner and form as is capitulated, decreed and granted in the Article of *Fac. 21.* the Treaty concerning the Marriage.

3. 'That neither by us nor any other interposed person whatsoever, directly or indirectly, privately or publicly, will we treat (or attempt) any thing with the most Renowned Lady Infanta *Donna Maria*, which shall be repugnant to the *Romish Catholic Religion*; neither will we by any means persuade her that she should ever renounce or relinquish the same in substance or form; or that she shall do any thing repugnant or contrary to those things which are contained in the Treaty of Matrimony.

4. 'That We and the Prince of *Wales* will interpose our Authority, and will do as much as in us shall lie, that the Parliament shall approve, confirm and ratifie all and singular Articles in favour of the *Roman Catholics*, capitulated between the most Renowned Kings by reason of this Marriage: And that the said Parliament shall revoke and abrogate particular Laws made against the said *Roman Catholics*, to whose observance also the rest of our Subjects and Vassals are not obliged; as likewise the general Laws under which all are equally comprehended, to wit, as to the *Roman Catholics*; if they be such as is aforesaid, which are repugnant to the *Roman Catholic Religion*, and that hereafter we will not consent that the said Parliament should ever at any time enact or write any other New Laws against *Roman Catholics*.

Moreover I Charles Prince of Wales, engage my self (and promise that the most Illustrious King of Great Britain, my most honoured Lord and Father, shall do the same both by word and writing) That all those things which are contained in the foregoing Articles, and concern as well the suspension as the abrogation of all Laws made against the *Roman Catholics*, shall within three years infallibly take effect, and sooner if it be possible; which we will have to lie upon our Conscience and Royal Honour. That I will intercede with the most Illustrious King of Great Britain, my Father, that the ten years of the education of the Children which shall be born of this Marriage with the most Illustrious Lady Infanta their Mother, accorded in the 23 Art. (which term the Pope of Rome desires to have prologued to twelve years) may be lengthened to the said term: And I promise freely and of my own accord, and swear, That if it so happen that the entire power of disposing of this matter be devolved to me, I will also grant and approve the said term.

Furthermore I Prince of Wales oblige my self upon my Faith to the Catholic King, That as often as the most Illustrious Lady Infanta shall require that I should give ear to Divines or others whom her Highness shall be pleased to employ in Matter of the *Roman Catholic Religion*, I will hearken to them willingly without all difficulty, and laying aside all excuse. And for further caution in point

Anno 1623. point of the free exercise of the Catholick Religion, and the suspension of the Law above-named, I Charles Prince of Wales, promise and take upon me in the word of a King, that the things above promised and treated concerning those Matters, shall take effect, and be put in execution as well in the Kingdoms of Scotland and Ireland, as of England.

In taking the Oath, the King made some Scruple at the Pope's Title [*Most Holy* ;] as also did the Constable of Castile, at his being present at our Service ; but both of these were at last adjusted ; and now comes the Bishop of Calcedon by Title, to exercise Jurisdiction over the Catholics of this Kingdom, and the Chap-

pel of St. James's was building for the Infanta ; where Don Carlos de Colonna laid the first Stone ; and her Picture was every where exposed, and the Dissenters from this Match, particularly Mr. Alured in a Letter to the Duke of Buckingham, is said to have perswaded him to break it off.

Now France thought it high time to unite its strength against the House of Austria ; and the Protestants that were banished, were permitted to return, and to rebuild their ruin'd Churches ; and this Benefit did this overture of a Match with Spain produce for that people. Gregory the 15th. now dies, and Cardinal Barbarino, by the Name of Urban the 8th. succeeds ; who, upon his Promotion, addresses the Two Letters following, one to the King, the other to the Prince.

Serenissimo JACOB O Magnæ Britanniae Regi Illustri, Urbanus P.P. VIII.

Serenissime Rex, Salutem & Lumen Divinae Gratiae. Scotiae regnum quod inclytos terris Reges, sanctissimosque caelo cives peperit, cum ad Cardinalatus nostri patrocinium pertinuerit, laetitiae simul ac mœoris uberem nobis materiam afferebat. Exultabamus gaudio, cogitantes in ea Regione, quam Romanorum Arma expugnare omnino non potuerunt, Romanae Ecclesiae fidem feliciter triumphasse, Scotorumque Regem nullum hactenus extitisse, qui Pontificiae auctoritatis hostis obierit. At enim vertebatur in luctum cythara nostra, cum ad praesentium temporum miseriae, oculos lachrymis manantes converteremus : Videmini enim laborante discordiarum patre, obliti esse eum qui nutrit vos, & contristati nutricem vestram Hierusalem. Quare Apostolica sedes, quae populos istos jampridem Christo genuit, mœore conficitur, dum tam praecalam hereditatem verti videt ad extraneos, damnique sui magnitudinem Britannorum Regum laudibus istarumque Provinciarum gloria metitur. Id vero praeter caetera dolendum orbi Christiano videtur, Jacobum Regem Catholicorum Regum prolem, & sanctissimae Parentis filium, a Pontifice Maximo atque a Majoribus suis in Religionis cultu dissentire. Si enim sublime istud ingenium, quod literarum studiis & prudentiae artibus Rex celeberrimus excoluisti, affulgenti Patri luminum assentiretur, facile conjicit Christiana Respublica quanto publicae concordiae bono factum esset, ut Nationes istas Insulasque, aut montium claustris aut Oceani gurgitibus dissitas, Scoticus Rex imperio jungeres. Videtur enim Majestas tua ob eam rem facta esse tot Provinciarum domina, ut ab eo, cui parent, facilius celeriusque Regna ista medelam ac salutem acciperent. Quare assiduis precibus jam tum eum venerabamur, qui dat salutem regibus, ut tot Divinae clementiae beneficia, quibus in conspectu Potentium admirabilis es, ad Britanniae incolumitatem & Ecclesiae gaudium conferret. Affulsit autem nobis non ita pridem beata spes oriens ex alto, cum te Austriacae affinitatis cupidum cognovimus, ex Catholica matre progigni exoptantem eos, qui tuam hereditatem adire populosque istos ditione tenere debent. Proin vix dici potest

To the Most Illustrious Prince, JAMES, King of Great Britain.

Most Serene King, We wish you Health and the Light of God's Grace. When the Kingdom of Scotland which hath brought forth famous Kings to earth, and most holy Citizens to heaven, was under our protection, whilst we were yet Cardinal, it afforded us plentiful matter of joy and sorrow. We were exceeding joyful when we considered, that the Faith of the Roman Church hath happily triumphed in that Countrey which the Roman Armies could never conquer ; and that there was never yet King of Scotland, who died an enemy to the Popes Authority. But our Harp was turned into mourning, when we cast our eyes, flowing with tears, upon the Miseries of the present times ; for you seem (while the Father of Discords is active) to have forgotten him who nourished you, and to have made sad your Nurse, Jerusalem. Wherefore the Apostles fear which brought forth that people to Christ, is pierced with sorrow, while it beholds so famous an inheritance to be given away to strangers, and measures the greatness of its loss by the praises of the British Kings, and the glory of those Dominions. But this, above all, ought most to be lamented by the Christian world, that King James, the off-spring of Catholick Kings, and the Son of a most holy Mother, should dissent from the Pope of Rome, and from his own Ancestors in point of Religious Worship. For if those eminent parts which you a most famous Prince have polished with Learning and Arts of Prudence, would assent to the Father of Lights illuminating the Christian World, we easily apprehend how much it would conduce to the Publick Peace, that being King of Scotland, you should joyn in one Kingdom those Nations and Islands, divided either by the Bars of the Mountains, or by the Depths of the Ocean. For your Majesty seems for that very reason to be made Lord of so many Provinces, that they might more easily and quickly receive healing and salvation from him whom they obey. Wherefore we even then besought God by continual Prayers, who gives Salvation to Kings, that so many Blessings by his Grace conferred upon you, by which you are admirable in the sight of Potentates, might bring safety to Britain, and joy to the Church. A blessed hope from above not long ago shined upon us, when we understood that you were desirous of a Catholick Alliance, and that the Issue

Pope Urban to K. James.

test quod nobis solatium obtulit sanctissimæ recordationis Pontifex Gregorius XV. Prædecessor noster, dum nos in eorum Cardinalium cœtum ascivit quos Anglicani matrimonii causam cognoscere voluit. Enituit in nobis tantum negotium dissidentibus singularis quædam propensio in Majestatem tuam, cujus cum faveremus laudibus, felicitati etiam consultum cupiebamus. Nunc autem cum per Apostolici senatus suffragia ad hanc stationem pervenimus, ubi pro omnibus terrarum regibus excubandum est, non satis explicare possumus quanta nobis cura & desiderium sit Magnæ Britannię, ac tanti Regis dignitas. Divinitus vero accidisse videtur, ut primæ literæ quæ nobis in B. Petri sede regnantibus redderentur, eæ fuerint quas Prædecessori nostro Nobilissimus Carolus Walliæ Princeps scripserat, testes suæ in Romanos Pontifices voluntatis. Nunc autem cum venerabile illud Conjugium, benedicente Domino, perfici cupiamus, alloqui te decrevimus, nullis Majestatis tuæ literis expectatis. Charitas enim Pontificii Imperii decus est, & quamvis in sede hac potentissimorum Regum obsequiis culti commoremur, magnificum tamen nobis existimamus, suadente charitate, ad humiles etiam preces descendere, dum animas Christo lucremur: Primum ergo credere omnino te volumus nullum esse in orbe Christianum Principem, a quo plura expectare possis paternæ benevolentię documenta, quam a Pontifice Maximo, qui te desideratissimum filium Apostolicæ charitatis brachiis complecti cupit. Scimus quibus te litoris nuper ad tantum decus adipiscendum excitavit Gregorius XV. Cum in ejus locum venerimus, ejus in te propensionem non imitabimur solum, sed etiam superabimus. Speramus enim Nuntios a Britannia propediem allatum iri, qui Majestatem tuam rei Catholicæ favere testentur, Catholicosque isthic commorantes, quos Pater misericordiarum asseruit in libertatem filiorum Dei, pœnarum formidine liberatos, Regali tandem patrocínio perfrui. Remunerabitur ille qui dives est in misericordia, ejusmodi consilium, illustri aliqua felicitate, Tum nomini Majestatis tuæ plaudent regna terrarum, & militabunt acies cœlestis exercitus: Frendant licet dentibus suis peccatores, minetur seditione potens impietas, sperat Europa se visuram Jacobum Regem in Romana Ecclesia triumphantem, & Majorum suorum exempla novis pietatis operibus augentem. Non diffidimus adesse jam tempus Divini beneplaciti, quo illi qui Britannicæ Religionis laudes monumentis consignant, non semper alterius seculi facta loquentur, sed præsentis etiam Principatus decora consequentibus ætatibus proponere poterunt ad imitandum. Majores illi tui te vocant, qui tibi tantæ claritudinis & potentię hæreditatem reliquerunt, qui cœlestis regni fores Pontificiis clavibus generi humano patefieri crediderunt. Certe fieri non potest, ut Majestas tua tot sæculorum fidem, & Regum de te præclare meritorum, judicium aut contemnere audeat, aut condemnare. Nonne vides sententia Majestatis tuæ iis omnino cœlum eripi, qui tibi regnum reliquerunt, dum eos in Religionis cultu aberrasse contendis? Ita fieret, ut quos universa Ecclesia cives cœli & cohæredes Christi in æterna patria dominari credit, tu ex ipsorum sanguine prognatus tuo suffragio e cœlo detraheres, atque in errorum abyssum, & pœnarum carcerem detruderes. Nonne sentis tanti cogitatione facinoris ingrati animi tui Viscera perhorrescere? Nonne ejusmodi consiliis Regalis ingenii indoles reclamitat? quam tamen tot Europæ Nationes,

which should succeed in the Inheritance and Government of those Nations might be begotten of a Catholic Mother. We can scarcely express how much joy Gregory the Fifteenth of Blessed Memory, our Predecessor, brought us, when he made us one of the Congregation of those Cardinals whom he would have to take cognisance of the English Match: While we discoursed of a Matter of so great importance, we expressed a singular propension of mind towards your Majesty, and were both tender of your praises, and desirous to provide for your happiness. And now being by the consent of the Apostolical Senate advanced to this Station, where we are to watch and ward for all earthly Monarchs, we cannot sufficiently declare what a care and desire we have of Great Britain, and the Honour of so great a King. It seems to have been a special providence of God, that the first Letters which we received reigning in the Seat of St. Peter, were those which the most Noble Charles Prince of Wales wrote to our Predecessor, as a testimony of his affection to the Popes of Rome. And since we now desire that this venerable Marriage should by the Blessing of God be perfected, we resolved to write unto you, without expecting Letters first from you; for Charity is the honour of the Papal Empire; although most powerful Kings do homage to us in this Seat, yet we account it glorious (Charity so persuading) to descend to humble Prayers, so that we may gain Souls to Christ. First therefore, we desire you to persuade your self, that there is no Prince in the Christian world, from whom you can expect more evidences of fatherly affection than from the Pope, who desires to embrace you, a most desired Son, with the Arms of Apostolical Charity. We know with what a Letter Gregory the Fifteenth excited you to obtain so great a Glory: And since we have succeeded him, we will not only imitate his Inclinations towards you, but will exceed them. We hope we shall shortly have News out of England, that your Majesty is favourable to the Catholic Interest; and that the Catholics who live there, whom the Father of Mercies hath vindicated into the liberty of the Sons of God, being freed from the fear of Punishment, enjoy your Royal Protection. He who is rich in Mercy, will reward such a purpose with some signal happiness: The Kingdoms of the Earth will applaud your Majesty, and the Host of Heaven will wage war for you: Though sinners gnash their Teeth, and Impiety powerful to raise Sedition, threaten, yet Europe hopes she shall see King James triumphing in the Roman Church, and increasing the example of his Ancestors by new works of Piety. We do not distrust that the time of God's good pleasure is now at hand, when they who recommend to History the praises of the British Religion, shall not always speak of the deeds of another Age, but may be able to propose the present Government as a pattern of imitation to the Ages following. Your Ancestors call upon you, who have left you so powerful and so famous an inheritance; who believed that the Gates of the Kingdom of Heaven were opened to mankind with the Popes Keys. Certainly it cannot be, that your Majesty should dare either to condemn or condemn the belief of so many Ages, and the judgment of so many Kings, who have deserved well of you. Do you not see, that by your Majesties Opinion they are deprived of Heaven, who left you a Kingdom, while you contend that they erred in the worship of their Religion? By this means it would be, that whom the Universal Church believes to be Citizens of Heaven, and to reign as Co-heirs with Christ in that everlasting Countrey, you, who are descended of them, should snatch them out of Heaven, and thrust them into the bottomless pit of Error, and the prison of hellish Torments. Do not you

Anno 1623. Nationes, dum ab Apostolica sede dissentit, reprehendere coguntur. Alliciat oculos tuos tantæ gloriæ splendor, quæ tibi e cælo caput ostentat, & manum porrigit, in Sanctuarium Dei Britannos Reges per te reductura, comitantibus Angelis, hominibusque plaudentibus. Jacebat olim in orbe terrarum deformata ærumnis Christiana religio, tyrannorum minas expavescens. Eam vero non solum e latibulis eduxit, sed ad imperium etiam vocavit Imperator ille, quem Magnæ Britannię debemus, Constantinus Magnus, Pontificiæ authoritatis Propugnator, & Romanæ fidei assertor: Hic aptum Majestatis tuæ Regalis imitationis exemplar, non Reges illi qui sunt transgressi, dissipantes fœdus sempiternum. In ejus gloriæ Societatem nos ex hac terrarum specula te vocamus, exoptatissime Fili. Impone præteritis annis diem unum, grata totius posteritatis memoria celebrandum. Impone Mitram capiti tuo honoris æterni, ut te rerum potente dicere cum Sancto Apostolo possimus, Vidi in Britannia Cœlum novum & Civitatem novam descendentem de Cœlo, & super muros ejus Angelorum custodiam. Id si contingit, Pontificatus nostri tempora generi humano felicia affulisse arbitrabimur. Cæterum tibi Sollicitudinem hanc nostram adeo gratam fore existimamus, ut omaino speremus te his literis acceptis statim Catholicorum isthic degentium commoda aucturum. Quod si præstiteris, & nos tibi mirum in modum devinxis, & Majestati tuæ tanti beneficii debitorem delegabimus ipsum Regem Regum; qui dum Regalem istam Domum illustri aliqua felicitate sospitabit, Romana Ecclesiæ votis annuet, & Sacrorum Antistitum gaudio consulet.

Datum Romæ apud Sanctum Petrum sub annulo Piscatoris, die 15 Octob. 1623. Pontificatus 1.

Nobilissimo Viro, CAROLO Principi Walliæ, Urbanus Papa Octavus.

Pope Urban's Letter to Prince Charles. **N**obilissime Princeps, salutem & lumen Divinæ gratiæ. Primæ literæ, quæ Nobis ad Apostolatus solium elatis redditæ sunt, illæ fuerunt quas ad Sanctissimæ memoriæ Gregorium Decimum-quintum Predecessorem nostrum ex Hispania misisti. Manus ad cœlum sustulimus, & Patri misericordiarum gratias egimus, cum in ipso nostri Regiminis exordio Pontificem Romanum ex Officii genere colere Britannus Princeps inciperet. Singulari nostri quadam animi propensione rei Anglicanæ jamdiu favemus, quo factum est, ut in hoc Antistitum Conventu, & Nationum Patria, Scoti tui, dum Cardinalem ageremus, se in nostram potissimum fidem ac clientelam contulerint. Patrocinium autem tam splendidæ Provinciæ suscipientes, identidem majorum tuorum res gestas, & Britannicarum Insularum laudes contemplamur. Eos autem quo illustriores orbi terrarum antea ætates ostentabant, eo nos impensius cupiebamus consimilibus Christianæ pietatis triumphis hæc tempora illic insigniri. Cum autem Magnæ Britannia Rex, Pater tuus, non minorem ex disciplinarum fama, quam

perceive your Bowels yearn at the thought of so ungrateful an Offence? Are not such deliberations repugnant to your Royal temper? Which nevertheless so many Nations of Europe are forced to reprehend, while it dissent from the Seat of the Apostles. Let the splendor of so great glory allure your eyes, which looks out of Heaven upon you, and reaches you out a hand ready to reduce, by your means, the Kingdom of Britain into the Sanctuary of God, with the conduct of Angels, and acclamations of men. A long time ago, Christian Religion lay all along in the World squalid and deform'd with anguish, affrighted with the threats of Tyrants: but that Emperor whom we owe to Great Britain, Constantine the Great, the Defender of the Popes authority, and the Avoucher of the Roman Faith, did not only bring her out of her lurking places, but called her to an Empire. He is a fit pattern of imitation for your Majesty, not those Kings who have transgressed and dissipated the Everlasting Covenant. We call you, O most wished for Son, from this Watch-Tower of the World, into the Society of his Glory: Add one day to your past years, which all posterity may celebrate with a grateful memory. Put a Mitre of Eternal Glory upon your Head, that in the time of your Reign, we may say with the holy Apostle, I have seen a new Heaven in Britain, and a new City descending from Heaven, and a Guard of Angels upon her Walls. If that should come to pass, we shall make reckoning, that our Reign hath been happy to mankind. This our sollicitude, we believe, will be so grateful unto you, that we verily hope, upon the receipt of our Letter, you will forthwith increase the advantage of the Catholics which live there: Which if you shall do, you will exceedingly oblige us, and we shall consign to you the King of Kings, debtor of so great benefits, who so long as he shall preserve your Royal Family in eminent happiness, shall second the wishes of the Roman Church, and bring joy to the holy Prelates.

Dated at Rome at St. Peter's, sub annulo Piscatoris 15 Octob. 1623. The first year of our Reign.

To the most Noble Pr. CHARLES, Pope Urban the Eighth.

Most Noble Prince, we wish you health, and the light of Gods grace. The first Letters which were delivered to us, after we were preferred to the Throne of the Apostleship, were those which you sent out of Spain to Gregory the Fifteenth, of famous memory, our Predecessor. We lifted up our Hands to Heaven, and gave thanks to the Father of Mercies, when in the very entry of our Reign, a British Prince began to perform this kind of obedience to the Pope of Rome. We have been a long time favourable to England by a natural bent and inclination, whence it came to pass, that your Scotchmen recommended themselves to our especial Trust and Patronage in this Assembly of Prelates, and Countrey of all Nations, while we were yet Cardinal. When we undertook the protection of so famous a Kingdom, we did often contemplate the Exploits of your Ancestors, and the Elogies of the British Islands; and by how much former Ages did represent them more glorious to the World, by so much did we more earnestly desire, that those times might there be made remarkable with the like triumphs of Christian Piety: And seeing the King of Great Britain, your Father, loveth

quam ex potentia vi gloriam concupierit, optavimus semper, supra quam dici potest, ei divinitus insignem aliquam offerri occasionem generis humani demerendi, & celestis hereditatis adipiscendæ. Nunc autem advenisse tempus credimus quo votis nostris frui liceat, cum ad tantum decus potentissimo parenti aditum patefacere in præsens videaris, Filius in maximarum rerum spem genitus. In ea enim sententia sumus ut arbitremur, tantum quo flagras, Catholici conjugii desiderium, quandam Dei te vocantis & suaviter omnia disponentis, vocem esse. Nam opus Omnipotentis non est tonare semper voce magnitudinis suæ, quia ipsa arcana consilia dirigentia mortales in viam salutis, verba sunt quibus æterna sapientia loquitur, & jubentis Numinis mandata declarat. Quare omni semper studio elaboravimus, ut conjugium hoc honorabile, benedicente Domino, perficeretur. Hinc conjicere potes, non potuisse alium ad sacrum hoc rerum humanarum fastigium provohi, a quo plura sperare possis documenta benevolentia & beneficentia fructus. Te enim Principem Nobilissimum Pontificia charitati commendant Majores tui, Hæreticæ Impietatis domitores, & Romana Hierarchia non cultores modo, sed vindices. Ii enim cum dogmatum novorum portenta in ea Septentrionalis Oceani propugnacula irrumperent, impiorum conatus salutaribus armis compescuerunt, nec commutaverunt veritatem Dei in mendacium. Quod si, ut scribis, reipsa magis gloriaberis de avitæ imitatione Religionis, quam de Regii sanguinis Hæreditate, facile prospicimus quantum ejusmodi verba, in libro viventium exaranda, Romana Ecclesiæ lætitiâ, & Britannicis Regnis felicitatem polliceantur. Hæc a te beneficia, desideratissime Fili, exigit atque expectat venerandum illud Regum Scotorum Concilium, quorum facta absque dubio condemnant qui ab illorum Religione desciscit. Hoc a te Catholici totius Europa Reges flagitant; quomodo enim eorum concordia potest votum esse sollicitudinis tuæ, donec ab eis in maxima re, id est, in Sacrorum cultu dissentias? Romana Ecclesia, quam Magistrâ veritatis Anglia tam diu coluit, cujus fidem tibi non invisam esse fateris, cupit tibi celestis Regni fores quam primum patefacere, & te in Majorum tuorum possessionem reducere. Cogita te nunc in Hispania Regia spectaculum esse factum Deo & hominibus, semperque fore desiderium & curam Pontificatus nostri. Cave ne Consilia eorum, qui terrenas rationes celestibus anteferunt, obdurent cor tuum, Nobilissime Princeps. Lætifica tandem Militiam Celestis Exercitus, in tuis castris dimicaturam, ac faventibus Angelis hominibusque plaudentibus, redi, Fili exoptatissime, ad Ecclesiæ te cupientis amplexus, ut in Matrimonio tuo gestientes gaudio canere possimus, Dominus regnavit, & decore indutus est. Omnino qui Catholicæ Virginis nuptias concupiscis, Celestem etiam illam Sponsam tibi assumere debes, cujus forma se captum fuisse Solomon ille Regum sapientissimus gloriatur. Hæc enim sapientia est, per quam Reges regnant, cujus dos est splendor gloriæ, & Principatus sempiternus. Eam vero a terrarum contagione secretam, atque in sinu Dei recubantem, in Romana Ecclesiæ Sanctuario Majores tui quæsierunt. Qui tibi has hortationes conscribimus, & benevolentiam Pontificiam testamur, cupimus perpetuis Historiarum Monumentis nomen tuum commendari; atque in eos Principes referri, qui præclare merentes in terra de Regno Celesti, sunt posteritati virtutis exemplar & votorum

me

no less the glory of Learning, than that of Might and Power; we have always heartily wished, above Fac. 21. what we are able to express, that God would be pleased to put into his hand some eminent occasion, whereby to oblige Mankind, and obtain an eternal Inheritance. And now we believe the time is come to enjoy our wishes, since you seem at present to open the way for so great a fame to your most Noble Father, a Son begotten unto the hope of the greatest concerns; for we are of opinion, that your so vehement desire of a Catholick Marriage, is a certain voice of God calling you, and disposing all things sweetly. For it is not necessary, that the Omnipotent should always thunder with the voice of his greatness; because secret Counsels themselves, directing men into the way of Salvation, are words by which the eternal Wisdom speaks and declares the command of a Deity. Wherefore we have ever endeavoured, to the utmost of our power, that this Honourable Marriage, by the blessing of God, might be finished. From hence you may perceive, that none could have been advanced to this height of humane Affairs, from whom you may expect more expressions of good-will or fruits of bounty. For your Ancestors, which tamed Heretical impieties, and not only revered, but vindicated the Roman Hierarchy, do recommend you a most Noble Prince, to the Papal Charity: For when Monsters of new Opinions broke into the Bulwarks of the Northern Ocean, they bridled the endeavours of the wicked with wholsom arms, and did not change the truth of God into a lie. And if you, as you write, shall in good earnest glory more in the imitation of your Ancestors, than that you are descended of Kings, we easily foresee how great joy to the Church of Rome, and how great felicity to the British Kingdoms these words do promise, which deserve to be written in the Book of Life. Such good turns, O most desired Son, the venerable Assembly of the Scottish Kings exacts and expects from you; whose actions, without doubt, he condemns, who revolts from their Religion. The Catholick Kings of all Europe require this of you; for how can their Concord be the Vow of your care, as long as you dissent from them in a matter of the greatest importance, that is, in the veneration of holy Rites? The Roman Church, which England revered long ago, as the Mistress of Truth, whose belief you confess you have not, desires forthwith to open unto you the Gates of the Heavenly Kingdom, and to bring you back into the possession of your Ancestors. Think that now in Spain you are become a Spectacle to God and Men, and that you shall always be the desire and care of our Reign. Take heed, most Noble Prince, that the counsels of those who prefer worldly interests before heavenly, do not obdure your heart. Make glad the Host of Heaven, which will fight in your Camps; and return, O most wished for Son, into the embraces of the Church, which desires you with the applause and favour of Men and Angels; that so rejoicing in your Marriage, we may sing with joy, The Lord hath reigned, and put on comeliness. Certainly you, who desire the Marriage of a Catholick Virgin, ought to espouse the heavenly Bride, with whose beauty Solomon, the wisest of Kings, boasts himself to have been enamoured. For this is the wisdom by which Kings reign, whose Dowry is the splendor of Glory, and an eternal Principality; and your Ancestors sought her in the Sanctuary of the Roman Church, severed from the contagion of the World, and reposing in the wisdom of God. We, who write to you this Exhortation, and testify our Papal Charity, desire to have your name renowned in the Histories of all Ages, and that you may be recorded amongst those Princes, who deserving well on Earth of the Kingdom of Heaven,

mensura. Oramus Patrem luminum, ut beata
Anno hæc spes, qua nobis tanti principis reditum, de-
 1623. ducente Spiritu Sancto, pollicetur, quam primum
 ferat fructus suos, & Magnæ Britannia salutem, to-
 tique orbi Christiano pariat lætitiā.

*Datum Romæ apud Sanctum
 Petrum sub Annulo Pisco-
 poris, die 15 Octob. 1623.
 Pontificatus nostri Anno
 Primo.*

However the Match began for all this to tend to-
 wards a breach, and though several methods were
 drawn up, and means made use of to give ease
 to the English Roman Catholics; yet it did not
 relish with the generality of the Kings Subjects,
 and in Spain during the Princes abode there Sir
 Edmund Verney struck a Sorbon Doctor for en-
 deavouring to pervert one of the Princes Pages,
 and the Duke himself as to his carriage and garb,
 as being too much French, was not relished, and
 the Earl of Bristol was by the Spaniard vogueed as
 the more able Minister, and the truth is Bucking-
 ham and Bristol were of very different opinions
 in this matter; But this stay of the Match was
 not in the least acceptable to the English Papists,
 and 'tis said, that Sir Toby Matthews in particu-
 lar did openly declare, that Spain by their delays
 would draw on unspeakable miseries on the Ca-
 tholics of this Kingdom, if the Match should at
 last end in a rupture.

And now the Prince prepares for his depar-
 ture from the Court of Spain, and leaves a Proxy
 in the Hands of the Earl of Bristol, and withal
 contrary Orders that it should not be made use
 of till further directions from him. There had
 hapned some private disgusts between the Duke
 of Buckingham and the Conde de Olivares, which
 also gave some hindrance to the progress of this
 great affair; however the Prince was universally
 esteemed in Spain for his great Affability, Con-
 stancy and Gravity, as well as unparalleled
 Beauty. He departs from Madrid on the 12th of
 September, where the Queen and Infanta are pre-
 par'd in great magnificence to receive his Fare-
 wel; and he is accompanied by the King of
 Spain onwards of his way towards the Escorial
 and feasted, where the King declared 'The Ob-
 ligation which the Prince had put upon him, by
 'putting himself into his Hands, a thing not
 'usual with Princes; protesting that he earnestly
 'desired a near Conjunction of Brotherly affecti-
 'on, for the more intire unity betwixt them.
 'The Prince replied to him, magnified the high
 'favours which he found, during his abode in
 'his Court and presence; which had begotten
 'such estimation of his worth, that he knew not
 'how to value; but he would leave a Mediatrix
 'to supply his own defects, if he would make
 'him so happy as to continue him in the good
 'opinion of her, his most fair and most dear
 'Mistress.

A great Train of the Spanish Nobility attends
 the Prince to his Ship, where they are Treated
 by him on board; who afterwards bringing them
 back ashore is surprized by a sudden storm, and
 with extreme difficulty exposing a light from a
 Ship, one of the outmost of the Fleet, is with

ven, are become the example of Virtue to Posterity,
 and the measure of wishes. We beseech the Father of
 of Lights, that this blessed hope, by which he promi-
 sesh us the return of so great a Prince, by the con-
 duct of the holy Ghost, may forthwith fructifie and
 bring Salvation to Great Britain, and joy to all the
 Christian World.

Dated at Rome at St. Peter's sub Annulo Pisco-
 poris, 15. Octob. 1623. in the First year of
 Our Popedom.

great hazard imbarqued, and is said to have,
 amongst others, spoke these words at his arti-
 val, 'That it was a great weakness and folly in
 'the Spaniard, after they had used him so ill, to
 'grant him a free departure.

He arrived at Portsmouth the Fifth of October
 following, where with the universal joy of the
 People he is welcomed and received, and at his
 arrival at London, the City (so numerous were
 the Bonfires) seemed all on a flame; after the
 Princes departure a rumor was spread in the
 Court of Spain that the Ratification was come
 from Rome, which gave occasion to that party
 with whom the orders were left, that the Proxy
 should not be delivered till farther order from the
 Prince, to deliver his Instructions to Bristol, who
 was very much troubled thereat, but said 'twas
 very advisable that all these matters should be
 kept very private, lest the Prince should be stop-
 ped by the Spaniards. Bristol however gives not over
 this matter, but solicites it afresh at the Court
 in England, by his Letters to the Prince, and adds
 for Arguments the greatness of the Infanta's
 Portion 2000000 of Money, that this match
 would bring on an universal Peace and the re-
 stitution of the Palatinat, settle the two Mo-
 narchies in amity for ever; but if a breach should
 happen, he left it to his Highness to consider of
 the consequents thereof. But all in vain, for the
 Prince and Buckingham hast to the King and give
 him a perfect Narration of all, as well the Spa-
 niards delays as Bristols miscarriages. And now
 the King by advice of the Privy Counsel abso-
 lutely insists upon the restitution of the Palati-
 nat, thanks the King for the Magnificent enter-
 tainment of his Son whilest in Spain, and he ac-
 quaints Bristol that he thinks one of the Holy-
 days in Christmases to be the fittest time for the
 celebration of the Marriage, it being a time of
 Festivity. But these Advices please not Bristol,
 who writes again in an Argumentative way
 against them to the King, but prevails nothing;
 for the King, Prince, Duke and People, seem
 now nothing so forward as formerly, but on the
 contrary a Parliament is resolved to be called
 for their advice in the Princes Match, and Bristol
 is again positively commanded to follow his new
 instructions. The King in the mean time makes
 some overtures and proposals to the Palgrave, as
 that upon a due submission to the Emperor, which
 might be noble too, the Emperor might be indu-
 ced to bestow the Electorate upon his Son, and if a
 Match 'twixt the Emperor's Daughter and his Son
 should ensue, he might live in the Court of En-
 gland with the Prince of Wales and Infanta, and
 so all objection about his Education be remo-
 ved, and so all things might at last settle on their
 old

old bottom. But these matters were not at all acceptable to the Elector, who gave reasons against those from the present conjuncture of Affairs in Germany, as that all the Protestant Princes had declared the Restitution of the *Palatinate* to be the only means to restore Peace to Germany, and their hearty cheerfulness to this good work was sufficiently testified by the Duke of *Brunswick's* Levies, and that the most part of those who fought under the Imperial Banner were of a contrary Religion and affection; that the King of *Denmark* was ever ready to joyn Arms with his Majesty of *Great Britain*, whereby in all probability a restitution of all would at last be infallibly obtained: And there were not wanting those here at home who were ever forward to put the King on in this War, though the Parliament was not at all forward in the advance of Moneys towards it; Vote indeed they did to assist the King herein with their Lives and Fortunes, but then the matter of Grievances, Religion, Liberty and Property always interpose, and some quarrel or other, upon one of these accounts, is ever started and managed by some popular and Tribunitial Orators of the Lower House to the spoiling of all, ever bringing a Dissolution of that Parliament with them; and then at their recess into the Country, the Peoples ears are fill'd with misrepresentations of these matters, and jealousies and fears by all ways and means every where stir'd up.

Endeavours were now used to piece up the old and antient Union 'twixt us and the United *Netherlands*, which of late Years, by reason of *Barneveldt's* influence on those States, were very much shaken and not quite broke; for in stead of those submissive Answers usually given him and the late Queen, their best Friends, their stile grew now to become lofty, high and peremptory, not over grateful in respect of those constant Friendships and supports ever in the greatest straits afforded them always here, and one matter which encouraged them hereto, was that the King had surrendred up their Cautionary Towns, a strong bridle ever on that People, too mutinous and not ever over thankful. The matters were heartily and on very good grounds as to the antient things represented to the King, but for that time laid aside, for indeed the grand matter of the Match took up all our Debate now at this time; and the Ratifications in the beginning of *December* arrived from *Rome* in *Spain*, to the Universal joy of that People, which their Bonfires and great Ordinance declared. The King of *Spain* to manifest his readiness, prepares for the Espousals, settles the *Infanta's* Family and Officers, she applies her self dayly to the learning of the *English* Tongue, our Embassadors demean themselves to her as Subjects, and *Bristol* provides costly Equipage for the Solemnity; but all is in pieces by the opening the new Instructions, the *Infanta* discontinues the study of our Language, and was no longer treated or stiled the Princess of *England*. And thus ended this great Treaty which was so many years carrying on, and now seemed to be brought to perfection, in the beginning whereof the *Spaniards* sincerity was very questionable, but in the end he appeared very hearty and real: But our King being not willing to play an aftergame, as to the restitution of the *Palatinate*, insisting upon its immediate delivery, did on that account break it of.

Bristol (for which afterwards he was called home, as we shall in the sequel of this History

manifest) having demurr'd (as is before intimated) upon the new Instructions, sends his Apology to the King, which is not admitted, for that *Buckingham* played the surer and more acceptable game at the Court, and procures his revocation from his Embassie, which being communicated by him to the *Conde de Olivares*, and having desired of him a day to take his leave of his Majesty of *Spain*, he is said in the presence of Sir *Walter Aston*, and *Conde Gondomar*, thus to bespeak the Earl, That the King had received large advertisements, with what malice and rancor his Enemies did prosecute him, and how powerful they are in *England*; And in regard that the envy which was drawn upon him proceeded from his earnest endeavours to accomplish the Match; and that the particular fault laid to his charge, was, in point of delivering the Proxies deposited in his hands, that his Majesty takes it to Heart, and judgeth himself touched in his Honour, if for this cause his enemies shall prevail so far, as to work his ruine or disgrace: And therefore he will write to the King of *Great Britain*, and send a particular Ambassador, if it be needful, to mediate for him; for that he had served his Master with that exactness and fidelity, which deserved not only to be assisted by all good Offices, but to be rewarded and published: And his Majesty, for the example of his own Subjects, and for encouragement of all such as should serve their Princes with the like Loyalty, had sent him a Blank, signed by himself, wherein he might set down his own Conditions, both in point of Title and Fortune. And this he did in no wise to oblige another Prince's Subject, but only to give encouragement to honest and faithful proceedings: And therefore he would not make these offers in private, but open and justifiable to all the World: And would accompany all that he should do with a Declaration or Patent, That what he had done for the Earl of *Bristol*, was for the fidelity wherewith he had served his own Master.

Whereunto the Earl answer'd, That he was sorry, and much afflicted to hear such language; and desired that they should understand, that neither this King nor *Spain* were beholding to him; for, whatsoever he had done, he thought the same to be fittest for his Master's service, and his own honour, having no relation to *Spain*; and that he served a Master, from whom he was assured both of justice and due reward; and nothing doubted, but his own innocency would prevail against the wrong intended by his powerful Adversaries: And were he sure to run into imminent danger, he had rather go home, and cast himself at his Master's Feet and Mercy, and therein comply with the duty and honour of a faithful Subject, though it should cost him his Head, than be Duke or Infantado of *Spain*: And that with this resolution he would imploy the utmost of his power to maintain the amity between the two Kings and their Crowns, and to serve his Catholick Majesty.

After he had taken his leave, a Sum of Money was offered him, which was told him he might receive, for that no body knew of it, and so it could not be discovered. But he replied, 'Yes, one would know it, who, he was assured, would reveal it to his Majesty, viz. the Earl of *Bristol* himself; and it would make him not so clear in his own Heart as now he was: And so he refused the offer.

The Match was now quite broken, yet the Treaty

Olivares offers *Bristol* large Preferments in the Kings name, when he was to take his leave.

Bristol's Answer to those Proffers.

Anno 1623. Treaty kept, seemingly on foot, the Spaniards expect a War from England, and prepare for it; the Jewels were not restored, but ready to be returned: and they now receive News of an intended Marriage with France, with the Lady *Henrietta Maria*, now carrying on by the Ambassador the Lord *Kensington*, now Earl of *Holland*, who gave a very fair and favourable account of the kind reception his Embassie met with; as that the Princess her self was observed to be very chearful of countenance at his first appearance; That the Queen, though her self a Daughter of Spain, was very free in it; and the Queen Mother very hearty, so far as might stand with her Daughters honour; the Statists there judge it very adviseable, it being a most fit Expedient to put a stop to the growing greatness of Spain, being in confederation with *Holland* and the Duke of *Brunswick*; and that their hearts are not capable of more content, than to see this Motion upon a publick Commission, and all that may touch upon the way of Spain dissolved. Neither are they like to strain us to unreasonable Conditions in favour of the Roman Catholicks in his Majesties Dominions: For in that matter their Pulse beat so temperately, as to promise a good Crisis therein. And in case his Majesty be drawn to banish the Priests and Jesuits, and to quicken the Laws against other Catholicks, to keep a good intelligence with his Parliament; yet, they say, they hope he will not tie his hands from some moderate favour, to flow hereafter from the mediation of that State, which is all they pretend unto for the saving of their Honour, who otherwise would hardly be reputed Catholicks.

Holland adviseth Expedition in the Match, lest it might be intrigued by the Spaniard; who, no doubt would endeavour somewhat of that nature: Hereupon our King adviseth on the Calling of a Parliament in good earnest, and upon very fair and probable Circumstances; but before, endeavours to settle his Kingdoms in a strict alliance with those to whom Neighbourhood, or Alliance, or the common Interest of State and Religion had any way linked him; and accordingly the Parliament is summoned Feb. 19. at *Westminster*; and the King thus bespeaks them.

The Kings
Speech to
the Parli-
ament.

I Have Assembled you at this time, to impart to you a Secret, and Matter of great importance, as can be to my State, and the state of my Children; wherein I crave your best and safest Advice and Counsel according as the Writ whereby you were Assembled, imports; That the King would advise with you in Matters concerning his Estate and Dignity. And as I have ever endeavoured, by this and the like ways, to procure and cherish the Love of my People towards me, so I do hope, and my Hope is exceeded by Faith; for I do fully now believe, that never any King was more beloved of his People; whom, as you, my Lords and Gentlemen, do here represent, so would I have you truly to represent all their Loves to me; that in you, as in a true Mirrour or Glass, I may perfectly behold it; and not as in a false Glass, that represents it not at all, or otherwise than it is indeed. Give me your free and faithful Counsels in the Matter I propose, of which you have often heard, the *March of my Son*: wherein, as you may know, I have spent much time, with great Cost, in long Treaties, desiring al-

ways therein (and not without great reason, hoping to have effected my Desires) the advancement of my State and Children, and the General Peace of Christendom, wherein I have constantly laboured, depending upon fair Hopes and Promises. At the earnest instance of my Son, I was contented (although it was of an extraordinary Nature) to send him to prosecute his desires in Spain; and for his more safety, sent *Buckingham* (in whom I ever reposed most trust of my person) with him; with this Command, Continually to be present with him, and never to leave him, till he had returned again safely unto me. Which he performed, though not with that effect in the business that I expected, yet not altogether without profit; for it taught me this point of wisdom, *Qui versatur in generalibus*, is easily deceived; and that Generality brings nothing to good issue; but that before any matter can be fully finished, it must be brought to particulars: For, whenas I thought the Affair had been before their going, produced to a narrow point, relying upon their general Propositions, I found, when they came there, the matter proved to be so raw, as if it had never been treated of; the Generals giving them easie way to evade, and affording them means to avoid the effecting of any thing.

The Particulars that passed in the Treaty, I mean not now to discover to you, the time being too short; I refer you to *Charles* and *Buckingham*, and the Secretaries Reports, who shall relate unto you all the Particulars. And after that, *super totam materiam*, I desire your best assistance to advise me, what is best and fittest for me to do for the good of the Commonwealth, and the Advancement of Religion, and the Good of my Son, and my Grand-Children of the *Palatine*. And of your Estate, I know you cannot but be sensible, considering that your welfare consists in ours; and you shall be sure to have your share in what misery shall befall us: And therefore I need to urge no other Argument to you in this behalf, in offering me your wisest and surest Counsel and furtherance. And I assure you in the Faith of a Christian King, that it is *res integra* presented unto you, and that I stand not bound, nor either way engaged, but remain free to follow what shall be best advised.

To plant is not sufficient, unless, like good Gardners, you pluck up the Weeds that will choak your Labours; and the greatest Weeds among you, are Jealousies; root them out. For my Actions, I dare avow them before God; but Jealousies are of a strange Depth. I am the Husband, and you the Wife; and it is subject to the Wife to be jealous of her Husband: Let this be far from you. I can truly say, and will avouch it before the Seat of God and Angels, that King never governed with a purer, sincerer, and more incorrupt heart, than I have done, far from all will and meaning of the least error or imperfection of my Reign.

It hath been talked of my Remissness in maintenance of Religion, and suspicion of a Toleration: But, as God shall judge me, I never thought nor meant; nor ever in word expressed any thing that favoured of it. It is true, that at times, for reasons best known to my self, I did not so fully put those Laws in execution, but did wink and connive at some things, which might have hindered more weighty Affairs; but I never

Feb. 21.

Anno
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'never in all my Treaties, ever agreed to any thing, to the overthrow and disagreeing of those Laws; but had in all a chief preservation of that Truth, which I have ever professed. And, as in that respect, I have a charitable conceit of you, I would have you have the like of me also, in which I did not transgress: For it is a good Horse-man's part, not always to use his Spurs, and keep strait the Reins, but sometimes to use the Spurs, and suffer the Reins more remiss; so it is the part of a wise King, and my Age and Experience in Government hath informed me, sometimes to quicken the Laws with straight Executions, and at other times, upon just occasion, to be more remiss; And I would also remove from your thoughts all Jealousies, that I might, or ever did question or infringe any of your Lawful Liberties or Priviledges; but I protest before God, I ever intended you should enjoy the fulness of all those that former Times give good warrant and testimony of; which, if need be, I will enlarge and amplify.

'Therefore I would have you, as I have in this place heretofore told you, as St. Paul did Timothy, avoid Genealogies and Curious Questions, and nice Querks and Jerks of Law, and idle Innovations; and if you minister me no just occasion, I never yet was, nor ever shall be curious or captious to quarrel with you: But I desire you to avoid all doubts and hindrances, and to compose your selves speedily and quietly to this weighty Affair I have propos'd; for that I have found already, Delays have proved dangerous, and have bred distraction of this business; and I would not have you by other occasions to neglect or protract it. God is my Judge, I speak it as a Christian King, Never any wayfaring man, that was in the Deserts of Arabia, and in danger of Death, for want of Water to quench his Thirst, more desired Water, than I thirst and desire the good and comfortable success of this Parliament, and blessing upon your Counsels, that the good issue of this may expiate and acquit the fruitless issue of the former, And I pray God, your Counsels may advance Religion and the publick weal, and the Good of me and my Children.

Feb. 21. The Commons chuse and present Sir Thomas Crew for their Speaker, who prays his Excuse; and being denied it, he made this Speech.

The King
approves
Sir Tho.
Crew for
Speaker;
who made
this Sp.

'Since I cannot bring an Olive-Branch in my mouth, as a Sign of my Peace, and that God (in whose hauds are the hearts of Kings) without whose Providence a Sparrow doth not fall to the ground, whom no man can resist, hath inclined your Majesty to cast your eye of Grace on me & to confirm me in this place; I am taught in the best School, that *Obedience is better than Sacrifice*. And I will only say with a Learned Father, *Da Domine quod jubes, & jube quod vis*. Otherwise I have great cause to be affraid of such a Charge, to be executed before so great a Majesty, and in so great an Assembly, but that I hope your Majesty will extend your Scepter of Grace, as *Ahasuerus* did, to sustain me in my fainting.

'Your Majesty is *Princeps Hereditarius*, descended from both the Roses, and hath united both the Kingdoms: At your first Entrance you wrought a wonder in the Tumult of our Cares,

'and Cloud of our Fears, happening upon the Death of the late Queen, by the bright Beams of your Sun-shine, which a Poet elegantly expressed, *Miracano, Sol occubuit, Nox nulla secuta est*. There was a *David* in Hebron, and no *Ishboseth* to disturb your peaceable Entrance; but the Acclamations of all your Subjects and Commons, concurring to express their great contentment. This was no sudden Flash of Joy, but a constant blessing, by the continuance of the Gospel and true Religion, maugre the Malice and hellish invention of those, who would have blown up all at once; but God laughed them to scorn, and they fell into their own Trap. These things I leave to your Majesties Royal Remembrance, as a Duty to be practised, and to be expressed by our thankfulness to our holy God; for it is a good thing to be thankful: *Non est dignus dandis, qui non agit gratias pro datis*.

'Since my designment to this place, I called to mind these Statutes of late times, and find two of especial note; the first, of 32 H. 8, which was called *Parliamentum doctum*, for the many good Laws made for the settling of Possessions. The other, 39 Eliz. which by a Reverend Divine was called *Parliamentum pium*; because the Subjects thereby were enabled to found Hospitals without Licence of Mortmain, or *ad quod damnum*, and other charitable Laws, which I omit, being not perpetual. And I likewise called to mind many glorious offers made by your Majesty, and other good Provisions at the two last Meetings. Now your Majesty hath stretched forth your Scepter to call us to you again, and hath made Declaration, that all Jealousies and Distractions might be removed, and the memory of Parliament-Nullities might be buried. And my desire is, that your Majesties influence may distil upon us, and you proceed in such a sweet harmony and conjunction, that *Righteousness and Peace may kiss each other*; and that *Mercy and Truth may meet*; and the world may say, *Ecce quam bonum & quam jucundum Regem & Populum convenire in unum*.

'And, for perfecting of this work, the good Bills against Monopolies, Informers, and Concealers may now pass, and receive strength, with General, Liberal, and Royal Pardon, according to the bounty of the late Queen; that so this Parliament may be called *Felix, Doctum, & Pium*; which will be good to your Subjects, and no diminution to your Revenue, or derogation to your Prerogative, which in your Majesties hands is a Scepter of Gold, but in others hands is a Rod of Iron. I need not speak in the praise of the Fundamental Common Laws: *Veritas Temporis filia*; Time hath sufficiently justified them. Monarchy is the best Government; and of Monarchies, those which are hereditary. The best supply of your Majesties wants is in Parliament, where the Subject is bound by his own consent; other courses of Benevolence come heavily. The Subjects enjoy the Gospel freely by your protection, and your Majesty may be safe in their Loyalty; other Safeties are but as *Ajax* his Shield, a weight rather than a defence. Their desire is, that the good Laws for Religion may be confirmed; and that the generation of Locusts, the Jesuits and Seminary Priests, which were wont to creep in corners, and do now come abroad, may be, by the execution of these good Laws, as with an East-wind, blown over the

the Sea. Our late Queen Elizabeth lived and
Anno. died in peace; the Pope cursed her, but God
 1623 blessed her: And so shall your Majesty, having
 God to your Friend, find safety in the Ark of
 true Religion, and when you are old and full
 of days, Land you in Heaven; and then your
 hopeful Prince, which sprang out of your
 own Loins, shall sway that Scepter, which
 you must leave, to enjoy a Crown Celestial;
 and God in his due time will restore the distressed Princess, her Husband and Royal Issue, to
 that Inheritance which is now possessed by the
 usurping Sword of their Enemies; whereof we
 are the more confident, because that Countrey
 was heretofore a Sanctuary in our distress,
 when Religion was here persecuted. *Caro* was
 wont to say, *Hoc sentio, & Carthago destruenda*
est, But I say, *Hoc sentio, & Palatinatus recu-*
perandus est.

The Question was put to a *Latēdemonian*, Why
 their City wanted Walls? who answered, *Con-*
cord was their Walls. Your Majesty, under
 God, is a sole and an entire Monarch, whose
 Walls are the Ocean without, and fortified
 within with a Wall of Brass, the Bond of Unity
 and Religion: And happy is that place, of
 which it may be said, as of *Jerusalem*, *It is a Ci-*
ty at Unity within it self. Neither is your Go-
 vernment, confined within the Limits of this
 Kingdom, but extends it self to *Ireland*, where
 your Majesties care and pains in our late Em-
 ployment, gave divers provident Directions
 for the setting forth of Religion, the reform-
 ing of Courts of Justice, and the inflicting pu-
 nishment on the Disturbers of the publick
 Peace: And I was *Ocularis Testis*, that you have
 made these ample Endowments of Churches
 out of your own Escheated Revenue, as will
 be to your honour in all posterity. But my de-
 sire is, as well in the beginning, as in all other
 our proceedings, our words may be *vera, paucā,*
& ponderosa.

Therefore with your gracious favour, accord-
 ing to ancient Presidents, we are humble Sui-
 tors, that you would be pleased to allow our
 ancient privileges. And that for our better
 attendance, our Persons, Goods, and necessa-
 ry Attendants may be free from Arrests; and
 that we may have liberty of free Speech, not
 doubting but we shall confine our selves with-
 in the Limits of Duty. And because this great
 business may give us occasion often to resort to
 your Majesty, that upon our publick Suit, you
 will be pleased to give us your own fit time of
 access; and that all our actions may have a be-
 nign interpretation, and a good acceptance and
 opinion.

Lastly, That I may not only be a Speaker,
 but an humble Suitor, protesting by the great
 God, by whom Kings do reign, that whatsoe-
 ver I have said, hath proceeded from a Loyal
 heart; I therefore desire that may be covered
 with the Vail of your Gracious Construction,
 or acquitted by Gracious Pardon.

And the whole Match being put by the King
 into the Parliaments Hand, the Duke of Buck-
 ingham did by the Narrative following, which
 the Prince likewise attested, acquaint the Houses
 as followeth:

In this Narration it self, his Grace observed
 six distinct and several Parts. The first was,

The Motives of the Prince's Journey to Spain.
 The second, The Treaty of the Marriage set Feb. 21.
 on foot in Spain, severally and by it self.
 The third, The Treaty of the Marriage and
 Restitution, united together by a reciprocal
 Subordination. The fourth, The Prince his
 Highness Return from Spain. The fifth,
 His Majesties subsequent Proceedings in both
 Treaties since the Return. The last was, The
 stating of the Question, *super totam materi-*
am, wherein both the Houses were to offer
 unto his Majesty their humble Advice and
 Counsel. Of these Parts his Grace spake ve-
 ry distinctly and orderly.

I. The Motives of the Prin- ces Journey to Spain.

THE Negotiation of Master Chancellor of
 the Exchequer with the Arch-Dutcheſs,
 ministred unto his Majesty the first occasion
 of Jealousie, and made a kind of discovery of
 the Spaniards indirect dealing with this State:
 Then was read the aforementioned Letter of the
 Third of October, 1622. from the King to the
 Earl of Bristol, wherein Bristol was required to
 let the King of Spain know, how sensible King
 James was of the Emperor's proceedings to-
 wards him; and that he should demand of the
 King of Spain a Promise under Hand and Seal,
 that *Heidelberg* should be delivered within se-
 venty dayes after Audience, and the like for
Manheim and *Frankendale*, if they be taken; and
 if this be denied, to press to have leave to march
 through the King of Spain's Territories with an
 Army, for the recovering of his Childrens Pa-
 trimony; and that the King of Spain should assist
 us with his Forces.

The Duke desired the Houses to take for
 truth whatever he should say, granted and attest-
 ed by the Princes presence; and declared, That
 this Letter was not put home to the uttermost of
Bristol. Hereupon a Dispatch was sent away
 to my Lord of Bristol, expressly commanding
 him to press his Directions more home than
 yet he had done, and in case he should be denied
 or delayed by the King of Spain, then to take
 his leave, and come away: This was not so
 fully exacted by my Lord of Bristol.

Porter, that carried these Letters, was com-
 manded not to stay above Ten days; who, af-
 ter he had been there some four or five days,
 and saw nothing towards a Dispatch, went him-
 self to the *Conde Olivares* (having been his Crea-
 ture) and desired him he would speed his Dis-
 patch. *Olivares* asked him what he would have?
 Who replied, No more than what had been for-
 merly promised, that in case the Emperor
 should deny the Restitution of the *Palatinare*,
 the King of Spain should assist our King by Arms
 to recover it, or else give way to our Forces to
 march thither through his Countrey. *Olivares*
 replied, That this was a preposterous Demand;
 What, to assist with Arms against the Kings Un-
 cle, and the Catholick League! Porter speaking
 to him of the Marriage of our Prince with
 the *Infanta* of Spain, he told him, That he un-
 derstood not a word of it.

Porter acquainted Bristol herewith; he said,
 He would call *Olivares* to an account, if he
 held his Language with him, and would make

him understand, That an Earl of England was as good a man as a Conde of Spain. But sending for Porter the next day, he changed his Resolution, and concluded to carry the Business more calmly; and said, the Conde was so reserved, because he was shy and dainty to report those Mysteries with that freedom to him, who was not qualified as a publick Minister. The Conde was angry with Porter, for communicating what he said to Bristol. Mr. Porter returned with a Dispatch fraught with Generalities, without any one Particular or Certainty at all made in relation to the Princes Highness; who thereupon took his resolution to go in person to Spain, and gave himself these Reasons for the Enterprize.

He saw his Father's Negotiation plainly deluded, Matters of Religion gained upon, and extorted; his Sisters Cause more and more desperate; and that this was the way to put things off or on; and that in this Particular, Delay was worse than a Denial; and that according to the usual Proverb, *A desperate Disease must have a desperate Remedy.*

Hereupon the King commanded the Duke to accompany his Highness in his Journey.

II. The Treaty of the Marriage severed, and by it self.

When the Prince had arrived at Madrid, the Conde gave him a Visit, magnified exceedingly the Princes Journey, amplified the Obligations his Highness had put upon that King; and said, That now without all peradventure, it must be a Match, and we must part and divide the whole World between us.

The next day the Conde taking the Duke into his Coach, and Mr. Porter for his Interpreter, falling into Discourse of the Match, he said unto the Duke, Let us dispatch this Match out of hand, and strike it up without the Pope:

The Duke answered, He liked the manner very well, but desired to understand the Means. The Means, quoth the Conde, is very easie; it is but the Conversion of the Prince; which we cannot conceive but his Highness intended upon his Resolution for this Journey.

The Duke answered forthwith, That with freedom they came thither, and with freedom they would return again; they were no Juglers, neither came they to Spain to make new Bargains; that the Prince was settled in his Religion; his Conscience was troubled with no Scruples in that kind; if they struck any more upon that string, they would mar all the Harmony. Then said the Conde, There is no way but to send to Rome to hasten the Dispensation: To which the Duke assented. Hereupon the Conde wrote his Letter to the Cardinal Lodovisia, the Popes Nephew; which being shewed to the Duke, seemed to him to be very heavy; the Duke therefore desired to quicken it with this Post-script; *That now the Prince being arrived, must not be sent back without a Wife; That delay to a Suitor is a kind of Refusal; That clogging Instructions would amount to a Denial, and new Conditions, to an absolute Breach.* The Conde fell into Choler, said directly it could not be done. This the Prince affirmed to be acted in his presence; but the Earl

of Bristol made a more benign Construction thereof, the Duke a downright Conclusion, That this People never intended either Match or Restitution; and so wished his Highness fairly at home again: However the Messenger was dispatched to Rome.

Four or five days after his Highness was placed to see his Mistress in her passage through the Streets, as she made her Visits from Church to Church; but pressing for Access, he was delayed; but at last obtained a Visit; but a very strange one: He was not suffered to speak unto her, but as they had set it down in Words and Syllables in writing; saying, They were no Astrologers, and could not foresee the Event of this Marriage: and therefore they resolved to admit him as a Prince only, and not as a Suitor. But the Conde salved this up with a Complement, That if the Dispensation were once returned, he should lie with her even that very night; nay, have her he should upon any Terms. If he could not be qualified to enjoy her as a Wife, he should have her as a Mistress.

Soon after, riding in a Coach, it was urged by the Conde, That the Infanta was of a tender Conscience, and if she should come into England, and find the Prince an Enemy to her Religion, it would quite dishearten her. His Highness consented to hear her upon this Subject; because he was as like to convert her, as she was to pervert him. A Conference with Divines was pressed upon his Highness, which he refused; and said, If after Disputation with them, they should not prevail against a young man, they would remain much disgusted, and ill-affected to the whole Negotiation. This kind of importunity was still used toward the Prince, till the return of the Dispensation.

Six weeks after the Princes Arrival, came the Dispensation; but his Highness understood from Rome by Mr. Gage, that the Dispensation was returned much clogged in Matter and Manner, especially with the annexed new Condition. The King of Spain before the receiving of the Dispensation, was to take an Oath to see all the Articles performed; whereupon Faculty was issued, really performed, or else to make War in case of any failure, upon the King of England.

His Highness signified his Resolution unto them, that he neither could nor would add or alter any thing of the first Articles sent to England.

A Junta of Divines are appointed to meet, and consider, whether the King might safely take the Oath. By this time the Prince had gone through all the Articles, sitting in person with the Committee; only leaving three undiscussed; That of the Church, that of the Nurse, and that of the Education of the Children; which his Highness reserved till he should speak with the King. Then said the Conde, now the Business is in a better way than ever it was; a Match, and without more ado she was his Wife.

But the next day came Gondomar, and spake unto the Prince of the same Matter as of a new thing; and told him plainly, that unless his Highness came to all the Conditions of the Dispensation, as they were sent from Rome, clearly and entirely, nothing would be done; for they had no power to remove or alter a word of false Latin. Whereupon his Highness was justly distasted,

Anno 1623. distasted, and offered to break. Then they presented the Prince, that he would be pleased to stay twenty days, until the King of Spain might receive an Answer from England. The Prince resolved to stay upon condition that Sir Francis Cottington might be dispatched away within two dayes, and some Messenger that might overtake him with the Articles that should be sent after, as soon as ever they could be made ready; but the two dayes of their hammering spun out to twenty; at the end thereof they brought them with new Additions.

The Articles being at last sent to England, the Juncto of Divines delivered their Opinions, that the *Infanta* could not be sent over before the Spring; at which his Highness was offended; but the *Conde* prevailed with him to stay until their Ambassador should certify out of England, that the Articles were assented unto by King James, and put in execution, and then the Lady should go with the Prince.

The Bishop of Segovia was pleased to say to the Duke, That he had heard something of the Estate of our Kingdom, and had received it from good hands; That our King could not make a Toleration without a Rebellion, and easily believed it; because the King of Spain is not able in his Dominions to effect the least Enterprize, without incurring the like danger; therefore he concluded, it was unsafe to send the Lady thither at this time; because we having granted as much in effect as a Toleration, it was very probable she should be welcomed with a Rising and Rebellion. To which the Duke replied, That if the Favours which the King his Master had exhibited to his Catholicks at the Mediation of that King, and the Advice of that very Committee of which that Bishop was one, be of so dangerous a consequence; it seems their Lordships who gave the Advice for that Article, though they pretended Religion, intended plain and open Rebellion. But you must know, quoth the Duke, if his Highness had been of my Lord Bishop's opinion, That these Conferences had amounted to a Toleration, he had never accepted of these Articles to have gained any allowance: For what was agreed unto, was but a Temporary Suspension of Penal Laws, but no Toleration; for that could not be done, but by consent of Parliament. Then Gondomar hereupon said, that for his part, he did not hold it fit to send the *Infanta* thither, before the Articles be perfectly put in execution. And Gondomar privately infused to the Prince his Highness, being incensed against the Duke, That the Duke was in heart (as he said all his Kindred were) a Roman Catholick; and he said to a Jesuit of great account and zeal in those parts, that the Duke was a most obstinate, perverse and refractory Puritan.

About this time it was reported, that the Prince intended to steal away; whereupon they laid in wait to intercept him: Hereupon the Duke was sent to tell them, That although they had stolen thither out of love, they would never steal thence out of fear.

About this time, the Prince sent a Message to his Father, That if he should receive any Advertisement, that he was detained by that State as a Prisoner, he would be pleased for his sake, never to think upon him any longer

as a Son, but reflect upon the Good of his Sister, and the Safety of his own Kingdoms. *Fac. 21.*

III. The Treaty of the Match and Restitution reciprocally subordinated.

IT is fit to observe this Passage, which is the thing whereupon all his Highness subsequent Actions are turned and moved. He had never staid a seven-night longer in Spain; he had never left any Proxy with Bristol; he had never taken any Oath at the *Escorial*; or ever so much as written a Letter of Complement to the Lady; but that he had still before his eyes; as his Cynosure, the Promise made by the *Conde*, for the Restitution of the *Palatinate*.

To hasten the Delivery of the Lady, the Duke presented unto the *Conde*, how his Master was now in years, the Prince his only Son; and he would suffer in Honour and Reputation, to return home without his Wife. The *Conde* consented hereunto, and desired the Prince would name a day for his Departure.

This News came to the *Infanta*, who seemed to be apprehensive of the Princes going away, and prevailed with his Highness to return this Complement unto her, That rather than he would give her *Alteza* any disgust, he would stay for seven years.

By this time Sir Francis Cottington is arrived with all things perfected by the King, and Letters from the Ambassadors of full satisfaction, and a Command from the King to his Highness, to make his Return within one Month.

Now began the *Conde* to enter into a Treaty for the Restitution of the *Palatinate*; saying, The Lady should by no means go to England, before that Business was accommodated. And it was projected, That there should be a Restitution of the Land to the Prince *Palatine*, upon a Condition of Marriage with the Emperors Daughter, and that he should be bred in the Emperors Court. The Prince demanding of the *Conde*, whether in case the Emperor proved refractory, the King his Master would assist him with Arms, to reduce him to reasonable Terms? The *Conde* answered negatively; because they had a Maxim of State, That the King of Spain must never fight against the Emperor; for they would not employ their Forces against the House of Austria.

Hereupon his Highness made his Protestation to the *Conde*; Look to it Sir, for if you hold your self to that, there is an end of all; for without this, you may not rely upon either Marriage or Friendship.

By this time the Prince is grown cheap and vulgar in the Court of Spain, so that they will scarce bestow a visit upon him; and the *Conde* came very seldom to him: and two Letters came to the Dukes hands, which shewed, that all that the *Conde* did, was nothing but Flashes and Lightning; notwithstanding he seemed at this time

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1623. to be in a good humour, and told the Duke, that now certainly it must be a Match, and the Devil could not break it: The Duke replied, He thought so: and the Match had need be very firm and strong, it had been seven years in soldering. The Conde denied, and said plainly, it had not been really intended seven Months; and said, I will fetch that out of my Desk that shall assure you thereof; and so produced two Letters; the first was written with the King of Spain's own Hand, Dated the Fifth of November 1622. And the other from the Conde Olivares, of the Eighth of November, 1622. Both which Letters are mentioned before.

IV. The Princes Return from Spain.

And now the Prince returning for England, being engaged to leave his Proxy, did deposite the same in the hands of the Earl of Bristol, who was to keep it, and use it as his Procurator; that is, as he should receive his Highness his Direction from time to time: His words for the present were (said the Duke) That if the Confirmation came from Rome, clear and entire, (which it did not) then within so many days he should deliver it to the King of Spain.

The second Direction sent to him, was by a Letter which his Highness sent him between his Departure from the Escorial, and coming to the Sea-side, to this effect; That for fear a Monastery should rob him of his Wife, he should stay the Delivery of the Powers until the Doubts were cleared; and that his Highness would send him in the Premises some further Directions: Here, because my Lord of Bristol in his Letter of the First of November, 1623. doth press so vehemently the Prince his Highness concerning this Proxy, and the Prince vowed openly before both Houses, that he had never by Oath or Honour engaged himself not to revoke the Powers more than by the Clause *De non revocando Procuratore*, inserted in the Instrument it self, and that he conceived the Clause to be matter of Form; and although Essentially of no binding Power; yet usually thrust into every such Instrument; and that the *Civilians* do hold; That it is lawful by the Civil and Canon Law, for any man to revoke his Proxy of Marriage, notwithstanding it hath the Clause, *De non revocando Procuratore*, inserted in it. Therefore, as to this Point, the Duke concluded, That the Earl of Bristol in charging this Matter so highly on the Prince, had much forgot himself.

V. The subsequent Proceedings of His Majesty in both the Treaties, since the Return of his Highness.

The Prince by the Mercy of God came to Royston, and made his Relation to the King

of all that had passed. His Majesty was glad, and told him, That he had acted well the part of a Son; and now the part of a Father must come upon the Stage, which was to provide with all circumspection, That his only Son should not be Married with a Portion of Tears to his only Daughter. And therefore his Majesty commanded by an express Dispatch, the stay of the Proxy in the Earl of Bristol's hands, until he had some better assurance of the Restitution of the Palatinate.

Then was read his Majesties Letter to the Earl of Bristol, Dated the Eighth of October, 1623. wherein the Earl of Bristol was positively required by the King, That before he deliver the Powers, he move to the Contract, to procure from the King of Spain a direct Restitution of the Palatinate, and the Electoral Dignity, or to assist with Arms within a time limited.

You would perceive that by this Dispatch, Bristol would lay hold on all Hints and emergent occasions to put off the *Desponsarios* without this required Assurance by Arms first obtained; but the truth is he did not so.

For first, The Confirmation came from Rome, clogg'd and mangled; and instead of challenging thereupon, he labours with no small strength of wit to hide and palliate the same.

Secondly, In the Temporal Articles, the Portion was altered, six hundred thousand pounds in ready Cash, to Eighty thousand pounds in Money, and a few Jewels, and a Pension of two thousand pounds *per annum*. Instead of quarrelling with this main Alteration, he seems to approve and applaud the payment.

Thirdly, For the assurance of Restitution of the Palatinate, the main Foundation both of Match and Friendship, he is so far from providing for it before (which was the Method prescribed him by the King) that he leaves it to be Mediated by the *Infanta* after the Marriage.

Lastly, Instead of putting off the Contract, as any man in the world (upon the Dispatch from Royston) would have done, he comes to prefix a precise day for the *Desponsarios*.

Now from this rash fixing of the Day for the *Desponsarios* in Spain, which was controlled again by an Express, from hence issued an unnecessary Discourtesie put upon the King, and in a manner upon the *Infanta*, by the Earl of Bristol: From that proceeded a greater Affront put upon the Prince; the taking away the Title *La Princesa* from the *Infanta*, and the debarring of our Ambassadors from any further Access to her person.

Then was produced an Answer of the King of Spain to the Memorial of the Ambassador, implying a Refusal to assist by Arms for the Recovery of the Palatinate, in case the Emperor consent not to a Restitution; which we have inserted in Series of Time.

VI. The

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super totam Materiam.

THIS Question the Duke stated on this manner, Whether this being the full effect and product of all the Negotiation, which I have opened unto you, be sufficient *Super totam Materiam*, for his Majesty to rely upon with any safety; as well for the Marriage of his only Son, as for the relief of his only Daughter: Or, that these Treaties set aside, his Majesty were best to trust in his own strength, and to stand upon his own feet? So the Duke ended with this conclusion, That if the bringing us from darkness to light, did deserve any thanks, we owe it, and must wholly ascribe it to the Prince his Highness.

The Spanish Ambassador here takes great exception at the Duke's Narrative, but it being attested in every particular by the Prince, the Houses of Parliament acquit the Duke in every point in the Narrative following.

YOur Majesties most Loyal Subjects, the Lords, Knights, Citizens, and Burgesses, Assembled at this time in both Houses of Parliament, being informed of a Complaint made unto your most Excellent Majesty against the Duke of Buckingham, That in the Narrative, which by your Majesties command, he made unto both Houses the four and twentieth of February last, he should let fall some passages, grievous to the Honour of the King of Spain, and inferred to be of so high a nature, as if the same had been delivered by any Subject of that King against your Majesty, it could not otherwise have been expiated than with the loss of his Head that spoke it: Taking this into their mature deliberation, and conceiving that this Accusation doth in an oblique manner fasten an Aspersions upon themselves also; do in all submission and humility make unto your Majesty a Threefold Representation: First, Concerning that great King; Secondly, Concerning that eminent Lord; Thirdly, Concerning themselves.

First, Concerning that King, they do with unanimous Vote of both Houses, absolutely acquit, and clear the Lord Duke from letting fall any words at all derogatory to the Honour of that King.

For the second, That concerns my Lord, they do in the like humility attest unto your most Sacred Majesty, That if my Lord the Duke had omitted any matter represented unto them that day, he had for so much failed in the performance of that duty and fidelity which he oweth unto your Majesty, and to the business, and unto both Houses.

For the last, Which concerneth themselves, they make bold in like humility to represent unto your Majesty, That they do much honour my Lord the Duke for that Narration, and do render unto him all possible thanks, for that fidelity and industry expressed therein; and so without your further trouble, Do humbly beseech your most Excellent Majesty, to interpret fair of this their Representation, which they held themselves bound to offer unto your Ma-

jefty, for the clearing of so eminent a person, who, as they verily believe, hath in his Negotiation, well deserved of your Majesty and the Commonwealth: So they heartily pray unto God to preserve your most Excellent Majesty.

To which Representation his Majesty returned this Answer.

MY Lords and Gentlemen all, I might have reason to speak nothing in regard of the person whereof you speak; but in regard of your Motion, it were not Civil: For if I be silent, I shall wrong neither my self, nor that Nobleman, which you now speak of, because he is well known to be such an one, as stands in no need of a Prolocutor, or *Fidejussor*, to undertake for his fidelity, or well carrying of the business: and indeed to send a man upon so great an Errand, whom I was not resolved to trust for the carriage thereof, were a fault in my discretion scarce compatible to the love and trust I bear him. It is an old and true saying, *That he is a happy Man that serves a good Master*; and it is no less truth, *That he is a happy Master that enjoys a faithful Servant*.

The greatest fault (if it be a fault) or at leastwise the greatest error. I hope he shall ever commit against me, was his desiring this Justification from you; as if he should have need of any Justification from others towards me, and that for these Reasons.

First, Because he being my Disciple and Scholar, he may be assured I will trust his own Relation.

Secondly, Because he made the same Relation unto me, which he did afterwards unto both Houses; so as I was formerly acquainted both with the matter and manner thereof: And if I should not trust him in the carriage, I was altogether unworthy of such a Servant. He hath no Interest of his own in the business; he had ill thoughts at home for his going thither with my Son, although it was my command, as I told you before. And now he hath as little thanks for his Relation on the other part; yet he that serveth God and a good Master, cannot miscarry for all this.

I have noted in his Negotiation these three markable things, Faith, Diligence, and Discretion, whereof my Son hath born record unto me; yet I cannot deny, but as he thought to do good service to his Master, he hath given ill example to Ambassadors in time to come, because he went this long journey upon his own charges. This would prove an ill example, if many of my Ambassadors should take it for a President. He ran his Head into the yoke with the People here, for undertaking the journey; and when he there spent above Forty or fifty thousand pounds, never offered his accompt, nor made any demand for the same, or ever will. I hope other Ambassadors will do so no more. I am a good Master, that never doubted of him; for I know him to be so good a Scholar of mine, that I say without vanity, he will not exceed his Masters Dictates; and I trust the report not the worse he made, because it is approved by you all; yet I believe an honest man, as much as all the World, and the rather, because he was a Disciple of mine. And I am glad he hath so well satisfied you, and thank you heartily for taking it in so good part, as I find you have done.

And

And now both the Houses concur in one Vote,
Anno That the King cannot honourably go on in the
 1623. Treaty with *Spain* for the restitution of the *Palatinate*, which they fortifie with the subsequent Reasons and Addresses following.

May it please your Most Excellent Majesty,

WE are come unto you, imployed from your most faithful Subjects, and Servants, the Lords and Commons assembled in this present Parliament.

And First, They and we do give most humble and hearty thanks unto Almighty God, that out of his Gracious goodness he hath been pleased now at last to dispel the Clouds and Mists which for so many years have dimmed the eyes of a great part of Christendom, in the business whereof we do now consult.

And secondly, We acknowledge our selves most bound unto your Majesty, that you have been pleased to require the humble Advice of us your obedient Subjects in a Case so important as this is, which hitherto dependeth between your Majesty and the King of *Spain*, Which we joyntly offer from both Houses, *no one person there dissenting or disagreeing from the rest.* And it is upon mature consideration, and weighing many particulars of sundry natures, that finding so much want of sincerity in all their proceedings We, *super totam Materiam*, present this our Address unto your Majesty; That the Treaties both for the *Marriage* and the *Palatinate* may not any longer be continued with the honour of your Majesty, the safety of your People, the welfare of your Children and Posterity, as also the assurance of your antient Allies and Confederates.

Reasons were also presented, to fortifie this Vote.

Whereas the Propositions of the *Match* were at the first no more than *Liberty of Conscience* to the *Infanta* and her Family, which the King might in honour grant; the *Spaniards* taking advantage of the Prince's being in *Spain*, importuned a General Connivance of Religion, to the diminution of the King's Sovereignty and against the usage of other Catholick Princes in the like Treaties, and to the discouragement of all his well-affected Subjects. And this they have laboured with the Pope, being of mischievous consequence. During this Treaty, the Popish Faction hath mightily increased: and whereas heretofore they were wont to be divided, some taking part with the *Secular Priests*, and some with the *Jesuites*, they are united; which is a matter of great consequence, considering they do as well depend on *Spain* for Temporal matters, as on *Rome* for Spiritual: And they cannot be suppressed, as long as the Treaty holds.

They have by this Treaty devoured our Allies, and the Protestant Party in *Germany* and elsewhere, to the decay of true Religion, and to the jealousy of our Friends beyond the Seas. During this Treaty of *Love*, they have spoiled his Majesties Son-in-law of his Lands and Honours; and notwithstanding promises of Restitution, still invaded his Rights and at length turned pretended Difficulties into apparent Impossibilities. They have deluded our King, and offered indignity to our Prince, by im-

tuning him again and again to a *Conversion*, contrary to the Law of Hospitality, and the Priviledge of Princes.

The insincerity of their Proceedings is to be seen by that former Overture of Marriage for the late Prince *Henry*, which after many specious Motions, was followed with a disavowing of their own Ambassador, and a scornful Proposition made to the King, of the Prince's altering his Religion. As also by the Treaty of *Bruxels*, where the Lord *Weston* found nothing but delays and deceit; and after divers peremptory Commands from *Spain* for his Majesty's satisfaction, it wrought no other effect than the besieging and taking of *Heidelberg*; insomuch that the Ambassador was forced to *Protest*, and return.

To these things were added, the Translation of the *Electorate* to the Duke of *Bavaria*, and the Letter of the King of *Spain* to *Conde Olivares*, with the *Conde's* answer, which imported, that the Match was never intended. And also, after the Prince had taken a hazardous Journey, they devised a shift, by a *Juncto* of Divines, to let him come home without the *Lady*.

Upon these Reasons the King comes to Parliament, and adviseth with the Houses about the means and manner to carry on the intended War. His Speech followeth,

My Lords and Gentlemen all,

I Have cause first to thank God with all my Heart, and all the faculties of my Mind, that my Speech which I delivered in Parliament hath taken so good effect amongst you, as that with an unanimous consent you have freely and speedily given me your advice in this great Business, for which I also thank you all as heartily as I can.

I also give my particular thanks to the Gentlemen of the Lower House, for that I heard, when some would have cast jealousies and doubts between me and my People, they presently quelled those motions, which otherwise might indeed have hindred the happy Agreement I hope to find in this Parliament. You give me your advice to break off both the Treaties, as well concerning the *Match* as the *Palatinate*: And now give me leave, as an old King, to propound my Doubts, and hereafter to give you my Answer.

First, It is true, that I, who have been all the days of my life a peaceable King, and have had the honour in my Titles and Impresses to be stiled *Rex Pacificus*, should be loth, without necessity, to embroil my self with War, far from my Nature, and from my Honour, which I have had at home and abroad, in endeavouring to avoid the effusion of Christian Blood, of which, too much hath been shed, and so much against my heart; I say, that unless it be upon such a necessity, that I may call it, as some say merrily of Women, *Malum necessarium*, I should be loth to enter into it. And I must likewise acquaint you, that I have had no small hope given me of obtaining better Conditions for the Restitution of the *Palatinate*; and that even since the sitting down of the Parliament; But be not jealous, nor think me such a King, that would, under pretence of asking your advice, put a scorn upon you, by disdain and rejecting it: for you remember, that in my first

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Speech unto you, for proof of my love to my People, I craved your advice in this great and weighty affair; but in a matter of this weight, I must first consider how this course may agree with my Conscience and Honour; and next, according to the Parable uttered by our Saviour, after I have resolved of the necessity and justness of the Cause, to consider how I shall be enabled to raise Forces for this purpose.

As concerning the Cause of my Children, I am now old; and as Moses saw the Land of Promise from an high Mountain, though he had not leave to set his foot on it, so it would be a great comfort to me, that God would but so long prolong my days, as if I might not see the Restitution, yet at least I might be assured that it would be; that then I might, with old Simon, say, *Nunc dimittis servum tuum, Domine, &c.* Otherwise it would be a great grief unto me, and I should die with a heavy and discomforted heart. I have often said, and particularly in the last Parliament, and I shall ever be of that mind, That as I am not ambitious of any other mens Goods or Lands, so I desire not to enjoy a Furrow of Land in England, Scotland, or Ireland, without restitution of the Palatinate: And in this mind I will live and die.

But let me acquaint you a little with the Difficulties of this Cause. He is an unhappy man, that shall advise a King to War; and it is an unhappy thing to seek that by Blood, which may be had by Peace. Besides, I think your intentions are not to engage me in War, but withal you will consider, how many things are requisite thereunto.

I omit to speak of my own necessities (they are too well known:) Sure I am, I have had the least help in Parliament of any King that ever Reigned over you this many years. I must let you know, that my Disabilities are increased by the Charge of my Son's Journey into Spain; which I was at for his Honour, and the honour of this Nation: By sending of Ambassadors, by maintaining of my Children, and by assisting of the Palatinate, I have incurred a great Debt to the King of Denmark, which I am not able yet to pay.

The Low Countries, who, in regard of their nearness, are fittest to help for the Recovery of the Palatinate, are at so low an ebb, that if I assist them not, they are scarce able to subsist. The Princes of Germany, that should do me any good, are all poor, weak, and disheartned, and do expect Assistance from hence. For Ireland, I leave it to you, whether that be not a Back-door to be secured. For the Navy, I thank God, it is in a better case than ever it was, yet more must be done; and before it can be prepared as it ought to be, it will require a new Charge, as well for its own strength, as for the securing of the Coasts.

My Children, I vow to God, eat no Bread but by my means; I must maintain them, and not see them want. In the mean time, my Customs are the best part of my Revenues; and in effect, the substance of all I have to live on; all which are farmed out upon that condition, That if there be War, those Bargains are to be dissolved, which enforce a great defalcation.

Subsidies ask a great time to bring them in: Now, if you assist me that way, I must take them up before-hand upon Credit, which will eat up a great part of them. This being my Case, to enter into War, without sufficient

means to support it, were to shew my Teeth, and do no more. In the mean time, I heartily thank you for your Advice, and will seriously think upon it; as I pray you to consider of those other parts.

My Treasurer, to whose Office it appertains, shall more at large inform you of those things that concern my Estate. Thus freely do I open my heart unto you; and having your Hearts, I cannot want your Helps; for it is the Heart that openeth the Purse, not the Purse the Heart. I will deal frankly with you: shew me the Means how I may do what you would have me, and if I take resolution by your Advice to enter into a War, then your selves, by your own Deputies, shall have the disposing of the Money; I will not meddle with it; but you shall appoint your own Treasurers; I say not this with a purpose to invite you to open your Purse, and then to slight you so much as not to follow your Counsel, nor engage you before I be engaged myself. Give me what you will for my own Means, but I protest, none of the Monies which you shall give for those uses, shall be issued but for those ends, and by men elected by your selves. If, upon your offer, I shall find the Means to make the War honourable and safe, and that I resolve to embrace your Advice, then I promise you, in the word of a King, that although War and Peace be the peculiar Prerogatives of Kings, yet, as I have advised with you, in the Treaties on which War may ensue, so I will not treat nor accept of a Peace, without first acquainting you with it, and hearing your Advice; and therein go the proper way of Parliament, in conferring and consulting with you: and, happily, the Conditions of Peace will be the better, when we be prepared for War; according to the old Proverb, that *Weapons bode Peace*.

Your kind Carriage gives me much Content; and that comforts me, which my Lord of Canterbury said, *That there was not a contrary voice amongst you all; like the Seventy Interpreters, who were led by the Breath of God.* I am so desirous to forget all Rents in former Parliaments, that it shall not be in my default, if I am not in love with Parliaments, and call them often, and desire to end my life in that Inter-course between me and my People, for the making of good Laws, reforming of such Abuses as I cannot be well informed of but in Parliament, and maintaining the good Government of the Common-wealth. Therefore go on cheerfully, and advise of these Points, and my Resolution shall then be declared.

The Matter of the Supply is readily entered upon by the Commons, and Sir Edward Sackville, Lord of Dorset, spake thus in the House of Commons concerning it.

Since Supply unto his Majesty is now in question, of which, I hope, there will be no question, I humbly ask leave of this Honourable Assembly to speak my Opinion; assuring you, that when a Treaty of Grievances shall be on foot, it shall appear I will not sit silent, if I find myself able to say any thing that may lead a hand to unload my Country of that heavy burden it now groans under, by reason of the innumerable number of Monopolies, which like so many Incubusses and Succubusses, exhaust the Vital Spirits, and so press down those parts, which

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which ought to enjoy free respiration, as without some speedy remedy, is like to run to extream hazard. But this I refer to its proper time, and reserve my self for it; and now proceed to the matter in hand.

'Sure I do think, there are very few that serve in this House (if there be any) who do not confidently believe, that the chief Motive which induced his Majesty at this time to Assemble this Parliament, was a meer necessity to be by us enabled for the Recovery of the Patrimony belonging to the King of *Bohemia*, now almost traversed from him, and in the possession of a powerful Enemy. If there be any who doubt of this truth, I hope he may easily rest satisfied, when I shall assure him (out of my own knowledge) that many dayes before this Session, his Majesty commanded a select number of Noblemen and Gentlemen, the most part whereof have been Commanders in the Wars, and some yet are, to consult together of what number of Men an Army ought to be composed, which might be able to recover the *Palatinate*, and protect it from a second Invasion. These, according to his Majesties good pleasure, divers days met together at one appointed place, and there contributed their best Endeavours: At least they have finished their task, advised the King of the Number of Souldiers; they have estimated the present Charges his Majesty must be at for the Relieving, Arming, Cloathing, Munition and Habiliments of War; these have likewise calculated the annual Expence for the maintenance of them.

'The first I will now inform you; and for the last point, because of a greater Charge and Consequence, I will allow more time of consideration. Twenty five thousand Foot, and five thousand Horse is the portion they all agree on; and lest they could not consider to be sent, considering they were to combat with an Enemy so far from hence, already in possession of a great part of the Countrey, well fortified in many places, Master of an Army, composed with twenty thousand Foot, and four thousand Horse, most Veterane Souldiers, commanded by the best Captains now known in the Christian world, except the Prince of *Orange*; after whom, to be esteemed second, is the highest praise: I say, all these respects duly weighed, there could not in their Judgments be abated of this proportion: And this Army was framed on that Mould, which the Secretaries of State gave them of the Enemies strength.

'The Issue of Battels is in the hand of God: The eyes of humane Providence cannot see beyond its Horizon; it cannot ascertain future Contingents, it can only judge of what seems fit to be done, guided by the Rules of Probability and Reason. Events happen often contrary, and never more contrary than in Matters of Warfare: yet, admit a sinister success to happen, a Counsel wisely taken ought not therefore to lose the due Commendations.

'Sirs, I have told you the Number; you now expect to know the present Charge, in which I shall deal most truly with you. Believe me, His Majesty must disburse Thirty thousand pounds for provision of Necessities to furnish such an Army to be sent; the most part of the Provisions must be made beyond the Seas; for there, Arms are best, and best cheap. This Army must (if such an Army) go by the end of April.

'It was God that said, *Let there be Light, and it was so*: Kings (though they be stiled Gods) *fac. 21.* enjoy no such power, incommunicable to any Kings. Whatever their Ends or Desires are, they must allow time to the consummation of them: They be Sovereigns over us, but subject unto Time. But what need I add Spurs to a forward Horse? In my Conscience, there are few Members in this House, that to that *Holy War* (as I may justly stile it) would not as willingly and as heartily contribute the Service of their Persons, as the Assistance of their Purfes. I know I speak the Language of all your hearts; let us shew our Faith by our Works: Time was, to have done much better than now we can; Time is, that we may do well; but if we attend somewhat longer, time will be past, so as all we do then, will be so out of season, as it can produce neither any great, nor any good effect. But stay, methinks I hear some say, Why, his Majesty told us, that by way of Treaty he hoped to prevail, as the *Palatinate* should be restored. I confess I heard so too; and Heaven be pleased to Crown his Actions with success, as the Piousness of his Intentions deserves. But I must be excused, if I doubt it, if I fear it, if I despair of it: For, it is no Article of my Faith to believe in Miracles. But suppose this might be brought to pass; what then? Shall this Gift of ours be lost, or cast away? No sure, it will be well bestowed, if as a Sacrifice of our thankfulness, we offer it unto his Majesty, by whose wisdom that is regained; which certainly by any other course must needs have exposed our Persons to great danger, and our Purfes to much more expence. And in this we shall do, as he that receiveth a rich Present, and returns a small Reward. Perhaps this way may not quadrate with every man's Conceit; if not, then let this which his Majesty demands, to make provision for a Foreign Army, be employed in rearing a Magazine here at home, since so great is the want of Munition, as I wonder we all cry out for want of Money, and never think how to be stored of that, which, of the two, is more necessary; seeing by the one, we are only enabled to live more plentifully and sumptuously; and by the other, our Lives are preserved free from Misery and Slavery. In matters of Moment, I know it is as laudable to use Deliberation before a Resolution, as after that once taken, Celerity in Execution. Counsel is the Compass by which all great Actions ought to be guided; it is the Steer by which wise men do shape their courses. I allow it, I commend it, I advise it; yet to be so slow, so discursive, so long in resolving; all we then can do, will be no more worth; than a Physician after death. Sure such a dulness must needs accuse us of much weakness, if it admit of no worse construction (*Bis dat, qui cito dat*) freeness in giving, graceth the Gift: *Dimidium facti qui bene cepit habet*. We have a long journey to go, and to set forward is half the way. How pressing the occasion is, my Tongue faints to tell; (*Vox faucibus hæret*) The Foxes have Holes, and the Birds of the Air have Nests; but the Daughter of our King and Kingdom scarce knows where to lay her Head; or if she do, not where in safety.

'Lastly, When we had no other Object in our Contemplations, but the memory of her Virtue (which remaineth in durable Characters in the heart of every honest man) what a forwardness and ferventness did we express in these our voluntary

Anno 1625. voluntary contributions, notwithstanding that some base, fordid, and avaritious men, who adored their Mammon, deterred men from that noble and pious work. They were then but Panick terrors, clouds cast before the Sun, which now shines out so bright, as all those mists are vanished. His Majesty calls to us for aid, he invites us to it; and he that was born to Command, now vouchsafes to Entreat us: now if ever, now is the time to do our Countrey good. Do we desire to sweep all Grievances out of this Land? Do we desire to extinguish the core of them, that they may never more germinate in this Commonwealth? Do we desire to destroy those Spiders that spin this Net; Now if ever, now is the time to effect it. And to arrive at this blessing, methinks I discover a plain and easie way; let us please the King first, and I speak it with Faith, he will be graciously pleased to reward us: Prove rich Merchants, and make a brave Return. Great and generous Spirits are then most apt to make requests, when first they have obtained their own. In the Region of Kings, the way to Conquer, is to Submit; and nothing more obligeth an honest Heart to perform what is expected, than to believe and trust in him.

This is the way to make his Majesty not onely love, but fall in love with Parliaments: this is the way to recall them home from exile, and again render them frequent amongst us: This is the way to fix this, until we have purchased present ease, and future happiness to our Countrey. Let his Majesty have Hearts-ease among us, and we shall receive from his Royal hand that *Dictandum*, which must expel these Arrows that hang in the sides of the Commonwealth.

Thus have I delivered my opinion, which if it be not the same with every one here present, I shall beg that favourable censure which Charity commands me to afford to all. Let him believe I have spoken my Conscience, as I shall of him, though he happen to dissent from my opinion: For, from what Circumference soever the Lines be drawn, the Centre is the same, which is our Countrey's good; at which the desire of every man ought to aim, and the duty of every man ought to desire.

He that would take another course, and have Grievances first preferred; if he wished that out of a good to his Countrey, as unwilling to innovate antient Proceedings; of this man I will only say, *Optime sentit Cato, sed nocet interdum Respublica*: But if there be any other, who, out of a corrupt and imposthume heart, looking to false and foreign ends, would endeavour to put a Partition-wall between the King and his People, this man I dare pronounce neither good Subject, nor good Englishman, nor good Christian; but the Agent of base and beggerly Promoters, needy and greedy Projectors, and a friend to those Monsters which I hope have no generation; who not born to any Fortune, nor have Virtue nor Industry; by which they might hope to obtain any, yet, like *Harpies*, greedy to devour other mens Possessions, care not what way they take to become Masters of them, slighting the latter day of Judgment, so they may rest secured from yielding any Account in this World.

I have no more to say, but that God would be pleased to incline our hearts to do that, which may be most for his Glory; next, for the Kings Service; then, for the Countreys Happiness.

The Kings Doubts were answered by a Committee of both Houses, delivered by the Archbishop of Canterbury, in the Declaration following.

May it please your Sacred Majesty,

WE are come to you again, from your most faithful Subjects, and loyal Servants, the Lords and Commons assembled in this present Parliament.

The Parliaments Answer to the Kings Speech.

And first, We humbly let your Majesty know, how much we hold our selves bounden unto Almighty God, that he hath sent a King to rule and reign over us, who is pleased in the greatest and weightiest Causes to speak and to be spoken to in Parliament, by his good and loving People, which causeth the King to understand them over whom he beareth rule, and them again to understand him: And is a true Bond that tieth the heart of the Sovereign to the Subject, and of the Subject reciprocally to their Liege Lord and Sovereign. And next we rejoyce, that your Majesty hath shewed your self sensible of the Insincerity of the King of Spain, with whom, of late, you have had a double Treaty; and of the Indignities offered by them unto your blessed Son, the Prince, and to your Royal Daughter. And that your Kingly heart is filled with an earnest desire to make Reparation to her Noble Consort, and her self, of the Palatinate, their Patrimonial Possession, which is agreeable to Justice, and to all Laws of God and Man.

For the effecting whereof, to certifye with what Alacrity, with what Expedition and Uniformity of heart, both your Houses of Parliament, in the name of your whole Kingdom, have born themselves unto your Majesty, with offer to give their Loyal Assistance, we have digested it into writing; lest by the Verbal or Vocal Delivery of any Person, it may miscarry, or the expression of our Zeal be weakened or diminished. Which we humbly pray your Majesty to give leave to be read unto you.

Most Gracious Sovereign:

WE your Majesties most humble and loyal Subjects, the Lords and Commons in this present Parliament assembled, do first render to your most Sacred Majesty our most dutiful thanks, for that, to our unspeakable comfort, you have vouchsafed to express your self so well satisfied with our late Declaration made unto your Majesty, of our general Resolution, in pursuit of our humble Advice, to assist your Majesty in a Parliamentary way with our Persons and Abilities.

The Parliament offer his Majesty Three Subsidies, and Three Fifteens if he break off both Treaties.

And whereas your Majesty, in your great Wisdom and Judgment, foreseeing that it will make a deeper impression, both in the Enemies of that Cause, and in your Friends and Allies, if they shall not only hear of the Chearful Offers; but also see the Real Performance of your Subjects to

wards so great a Work. Your Majesty was pleased to descend to a particular Proposition, for the advancing of this great Business. We therefore, in all Humbleness, most ready and willing to give your Majesty, and the whole World, an Ample Testimony of our sincere and dutiful Intentions herein, upon mature Advice and Deliberation, as well of the Weight and Importance of this Great Affair, as of the present Estate of this your Kingdom (the Deal and Safety whereof is, in our Judgments, apparently threatened, if your Majesties Resolution, for the dissolving of the Treaties now in question, be longer deferred; and that Provision for defence of your Realm, and Aid of your Friends and Allies, be not seasonably made) have with a cheerful Consent of all the Commons (no one dissenting) and with a full and cheerful Consent of the Lords, resolved, That upon your Majesties publick Declaration, for the dissolution and utter discharge of both the said Treaties, of the Marriage and of the Palatinate, in pursuit of our Advice therein, and towards the support of that War which is likely to ensue, and more particularly for those four points proposed by your Majesty, namely, for the defence of this your Realm, the securing of Ireland; the assistance of your Neighbours, the States of the United Provinces, and other your Majesties Friends and Allies, and for the setting forth of your Royal Navy, we will grant for the present the Greatest Aid which ever was given in Parliament: that is to say, Three intire Subsidies, and Three Fifteens, to be all paid within the compass of one whole year, after your Majesty shall be pleased to make the said Declaration, the Money to be paid into the hands, and expended by the direction of such Committees or Commissioners as hereafter shall be agreed upon at this present Session of Parliament.

And we most humbly beseech your Majesty to accept of these First-Fruits of our hearty Oblation, dedicated to that Work which we infinitely desire may prosper and be advanced. And for the future, to rest confidently assured, That we your loyal and loving Subjects will never fail in a Parliamentary Way, to assist your Majesty in so Royal a Design, wherein your own honour, and the honour of your most Noble Son, the Prince, the antient Renown of this Nation, the welfare and very subsistence of your noble and onely Daughter, and her Consort, and their Posterity, the safety of your own Kingdom and People, and the Prosperity of your Neighbours and Allies, are so deeply engaged.

His Majesty's Reply.

My Lords and Gentlemen all,

His Majesty's Reply I Have nothing to say to the Preamble of my Lord of Canterbury, but that he intimated something in it, which I cannot allow of: for whereas he said, I have shewed my self sensible of the insincerity of those, with whom I had

lately to deal, and of the Indignity offered to my Children: In this you must give me leave to tell you, that I have not expressed my self to be either sensible or insensible of the good or bad dealing; it was Buckingham's Relation to you which touch'd upon it; but it must not bar me, nor make Jupiter speak that which Jupiter speaks not: For when I speak any such thing, I will speak it with that Reason, and back it with that Power, which becomes a King. As for the matter of the Declaration unto my Demands, which you have couched in that Paper, which I now heard read unto me, I confess, it is without example, that any King hath had such an offer. And, with your favour, I need fear nothing in this World, having so much the hearts of my People. For the large offer of Assistance, I hold it to be more then millions of Subsidies; and indeed it is an Ample Reward for the Trust and Freedom which I have used with you.

But my Lords and Gentlemen, you must give me leave on the one side to consider the Possibility of the Action: For in this case I must do, as a man that maketh a Fortification, which must have Out-Works and In-Works; so I must not deal only with mine own People, but with my Neighbours Advice, to assist me in so great Business for Recovery of the Palatinate. And in this case it is not sufficient to have the Hearts of my Subjects, without the Help of my Neighbours and Allies: On the other side, unless particular means be set down, it will neither be a Bridle to our Enemies, nor a Comfort to my Friends who shall joyn with me. General words will not carry it, therefore I must resort to particular means, and follow the Counsel of our Saviour Christ in the Gospel, before I begin a War, to see how I can maintain it. God knows it is a longsome Work, yet I desire with Moses, as I said before, but to see the Land of Promise, though I live not till it be recovered. But unless particular means be discovered, it is little to the point: Therefore since you give me such fair general Promises, I will deal freely with you, I will tell you in particular, the way I will propose, either by way of Subsidies, or otherwise; which being done in Parliament, is a Parliamentary way. I would require you to be pleased to bestow upon me Five Subsidies, and Two Fifteens to every Subsidy, for the War: And for mine own Necessities, my crying Debts are so heavy, that no man can bear them with a greater grief of Heart, and sting of Conscience, than I have done, and do. And I now growing old, would be glad to see a means for the satisfying of my Debts, before I go out of the World. And for this end, I desire you would give me One Subsidy and Two Fifteens yearly, until my Debts be paid.

If this may be done, or that I may see a fair Way for it, I will follow your Advice; for I would never have asked your Advice to reject it, or to put a scorn upon you. For the Levying of these Subsidies and Fifteens, I would have you consider how to clear these two Difficulties. If you Levy them too suddenly, it may be heavy for the People; if you stay too long, it will not serve the turn. But this I leave to your consideration: And since I leave it to your selves to receive the Money, and expend it by your own Committees of both Houses, you may be the more secure. And yet I would not have you to

Anno 1624. to be too hasty in the Levying of it, that no extremity be shewed to my People by imposing too heavy a Burden upon them, which God forbid. On the other side, the Business will not suffer too long lingring about it. I told you before, I had in this great Business, to look to my Conscience and Honour, as well as to the Means: For the Means, I must have it from you; my Conscience and Honour is mine own, of which I have thought, and do think daily; and how I shall be able to discharge them as a King ought to do, yet not without taking help of your Advice, which I would never have moved, unless I had meant to follow it.

The Prince here declared, That his Majesty was satisfied that he might on good grounds undertake the War; and for the manner of Publishing, he would take the Advice of Parliament.

Then the Duke of *Buckingham* said, The Reason why his Majesty used these Words, was, That having formerly spoken of his Honour and Conscience, if he should now have left them out, it might have been thought that Money only had drawn him to it: But the King said, He was already satisfied and resolved, yet would have your Advice for the manner of declaring it.

The King again proceeded. 'I told you before, that this was the way to make me in love with Parliaments, and to shew mine inclination to continue them still. My Resolution is to make this a Session for the passing of as many good Laws, as in convenient time may be prepared; and at *Michaelmas*, or within a few dayes after, to have a new Session, and another at the Spring. And in the mean time, you may go down and acquaint your selves with the Grievances of my People; and you shall see my care to make good Laws, and to reform abuses; that so my Subjects may find the good fruits of Parliaments, and rejoyce in them; and I protest, as I have asked your Advice in these Points, which I needed not to have done; so I will never enter any Agreement or Treaty of Composition for Peace, which is the end of War (else it is unjust and unchristian) without your Advice; and I will help you my self, if we enter into a War, to make it allowable to the World, and Honourable for me.

The King declaring his Resolution to dissolve the Treaties, Bonfires were made in *London*, and the Parliament granted three Subsidies, and three Fifteens; which he accepts, as followeth.

The King accepts the Aid proffered him.

MY Nobles and Gentlemen, the last time I spake to you anent this great Business, I told you what in my opinion was necessarily required to the beginning of it. The Reasons whereof you have truly set down out of my last Speech, wherein I shewed you what good it would do, and what harm it might free us from; to expresse particular Aids at this time as well as general Promises. It is true, I must confess that how far you declare your selves, is sufficient for the present entrance into the business, though a great deal short of what I told you it would require. But as God bears me record, and I think the hearts of all my Loving Subjects will testify for me, I never did stick for Money, but

only desired you to clear your selves by particulars, that I may see how I may be able to go through so great a matter, at least to make a good beginning of the War; for what the end will be, God knows.

So on the other part, I gave you thanks for your general Offer, by which you did engage your selves and your Lives and Estates, which is more than forty Subsidies, if you had named them, and more worth than a Kingdom; for the strength of a King, next under the protection of God, stands in the hearts of his People; and I must needs say, in this particular, it is without example, that ever any Parliament for a beginning, gave to a King so great a Supply to be levied in so short a time: This may well serve for a preparation. And for my part, first, considering your general Offer (which is ten times more to me than all Subsidies) and next considering that these particulars coming from you, be as much as at once you are able to pay in so short a time, being within a year, and as much as may be well expected: Therefore with as much Love, and as great Thanks, as a loving and kind King can give to so loving and dutiful People, I thank you for your Offer, and do accept it.

I told you before, that I would never have craved your Advice to reject it, and so to put a Scorn upon you: Think me not the Man.

It is true, I think no wise King can undertake so great a Bargain, but he must well bethink himself beforehand: and I account it better that a King advise well before he take a Resolution, than advise rashly, and after repent. Therefore my Lords and Gentlemen, I declare unto you, That as I am willing to follow your Advice in the annulling and breach of the two Treaties, both of the Match and of the *Palatinate*: so on the other part, I assure my self, you will make good what you have said; That what you advise me unto, you will assist me with your Wisdom, and Council, and Forces, if need require.

I pray you have a charitable opinion of me, as you are to have of a King who hath so long ruled and governed over you (and I may vaunt my self thus far to have done it with Justice and Peace. But as I told you before, all my forbearance hath been for sparing the effusion of Christian Blood, and as the most easie and probable way for recovering the *Palatinate* for my Children. It is true I have been so long delayed, and paid with Generals, that I dare not longer trust unto that which made me err. The Duke of *Buckingham* made a particular Relation unto me, of all that Business; and I am sure such an Account was never before given in Parliament, that thereby you may know what to trust to. I could in this case have resolved my self; but I thought it could not but be both a strength and honour to me to have the Advice of my People.

My Lords, in the late Parliament I then declared it unto you, that I was resolved without respect of Friendship, or March, or whatsoever, to have the *Palatinate* one way or other: I hope you remember it.

God is my Judge and Saviour, I never had any other end, and it is pity I should live to have any other end; and for my part, except by such means as God may put into my hands, I may recover the *Palatinate*, I could wish never to have been born. I am old, but mine only Son is young; and I will promise for my self and him

Anno 1624. both that no means shall be unused for the recovery of it; and this I dare say, as old as I am, if it might do good to the Business, I would go in mine own person, and think my Labour and Travel well bestowed, though I should end my days there. For if I should spare any means possible for the recovery of it, then let me be thought not worthy to Reign over you; and in good faith, I never resolved to live with other mind; and I will say more, there was never any Enemy of my Son-in Law, with whom I talked of the business, or any that ever I spake with of the same, which did not say, and confess I had reason to have the Palatinate one way or other: And when they say that it is good reason, and themselves allowed it, it is a good Spur to him to think on it.

My Lords and Gentlemen, thus far assure yourselves, I will go cheerfully about it, to prepare all things possible for it; and as you have given the Means, so I will employ them toward it.

In the next degree, I hope you will think of me; but that I leave to your own Counsel and Consideration; But I protest to God, a penny of this Money shall not be bestowed but upon this Work, and by your own Committees; And I assure my self, you will think of me for a double Reason; My Customs are likely to fall, by occasion of the War, and my Charges increase; but undertaking the War, I must go through with it one way or other, though I sell my Jewels and all.

In the next Session you will consider how this hath been Husbanded; and according to that, think what is next to be done; and it will spur you the more to enable me for the rest, whereof I speak to you before.

His Majesty further said, I will clear you in some things; for I will not deal with you in any thing, but fairly and clearly as a King; though I have broken the Necks of Three Parliaments, one after another: I hope that in this Parliament you shall be so resolved of the sincerity of my heart, and of your duties and affections, that this shall be a happy Parliament, and make me greater and happier than any King of England ever was.

In my last Speech I promised you, that if I accepted your Offer, I would follow your Advice, and would not after hearken to any Treaty of Peace without first acquainting you, and requiring your Advice; and I likewise promised nothing should be spent of your Monies, but by your own Committees. But I desire you to understand, That I must have a faithful secret Council of War, that must not be ordered by a Multitude; for so many Designs may be discovered before-hand: and one penny of this Money shall not be bestowed, but in sight of your own Committees. But where I shall send twenty Thousand pounds, or ten Thousand pounds; whether by Sea or Land, East or West, by Diversion, or otherwise by Invasion upon the Bavarian, or Emperor, you must leave that to your King.

Assure your selves, my delay hitherto was upon hope to have gotten it without a War. I held it by a hair, hoping to have gotten it by a Treaty; but since I see no certainty that way, I hope that God who hath put it into your hearts thus to advise me, and into my heart to follow your Advice, will so bless it, That I shall clear my Reputation from obloquy; and in de-

spight of the Devil and all his Instruments, shew that I never had but an honest Heart. And I desire that God would bless our Labours for the happy Restitution of my Children; and who-soever did the wrong, I deserved better at their hands.

However his Majesty resolved, That this should not be made a War of Religion; as may be seen by his Letter to Secretary Conway.

I Doubt not but you have heard what a stinging Petition against the Papists the Lower House hath sent to the Higher House this day, that they might joyntly present it unto me. Yet know my firm resolution not to make this a War of Religion; and seeing I would be loth to be Cony-catch'd by my People, I pray you stay the Post that is going to Spain, till I meet with my Son, who will be here to morrow morning: Do it upon pretext of some more Letters ye are to send by him; and if he should be gone, hasten after him, to stay him upon some such pretext; and let none living know of this, as you love me, And before Two in the Afternoon to morrow, you shall without fail hear from me; Farewel.

JAMES REX.

The Petition which the King called a stinging one, was intended to be presented to his Majesty from both Houses in Form as followeth; but it was afterward presented and new-Moulded.

May it please your Excellent Majesty,

WE your Majesties most humble and Loyal Subjects, the Lords and Commons in this present Parliament Assembled, having to our singular Comfort received your Princely Resolution upon our humble Petition, to dissolve the 2 Treaties of the Match and of the Palatinate; and having on our parts with all alacrity and readiness humbly offered our assistance to your Majesty, to maintain the War which may ensue thereupon: yet withal sensibly finding what Seditious and Traiterous Positions those Incendiaries of Rome, and professed Engines of Spain, Priests and Jesuites infuse into your natural born Subjects; what Numbers they have seduced, and do daily seduce, to make their dependance on the Pope of Rome and King of Spain, contrary to their Allegiance to your Majesty their Liege Lord; what daily resort of Priests and Jesuites into your Kingdoms, what concourse of Popish Recusants, much more than usual, is now in and about the City of London, what boldness, yea, what insolency they have discovered out of the Opinion conceived of their Foreign Patronage, what public resort to Masses and other Exercises of the Popish Religion in the Houses of Foreign Ambassadors there is daily to the great grief and offence of your good Subjects, what great preparations are made in Spain, fit for an Invasion, the vent whereof is as probable to be upon some part of your Majesties Dominions, as upon any other place, what encouragement that may be to your Enemies, and the Enemies of your Crown, to have a party, or but the Opinion of a party within your King.

The Petition.

Anno 1624. Kingdoms, who did increase and combine themselves together for that purpose; what disheartning of your good and loving Subjects, when they shall see more cause of fear from their false-hearted Countrey-men at home, than from their professed Adversaries abroad; what apparent dangers by Gods providence and your Majesties wisdom and goodness they have very lately escaped, which the longer continuance upon those Treaties, upon such unfitting Conditions, fomented by your own ill-affected Subjects, would surely have drawn upon your Majesty and your State; do in all humbleness offer unto your sacred Majesty these their humble Petitions following.

I. That all Jesuites and Seminary Priests, and all others, having taken Orders by any Authority derived from the See of Rome, may, by your Majesties Proclamation be commanded forthwith to depart out of this Realm, and all other your Highnesses Dominions: and neither they, nor any other to return or come hither again, upon peril of the severest penalty of the Laws now in force against them; and that all your Majesties Subjects may hereby also be admonished not to receive, entertain, comfort, conceal any of that viperous brood, upon penalties and forfeitures which by the Laws may be imposed upon them.

II. That your Majesty would be pleased to give streight and speedy charge to the Justices of Peace in all parts of this Kingdom, that (according to the Laws in that behalf made, and the Orders taken by your Majesties Privy-Council heretofore for policy of State) they do take from all Popish Recusants legally convicted, or justly suspected, all such Armor, Gunpowder, and Munition of any kind, as any of them have either in their own hands, or in the hands of any other for them, and to see the same safely kept and disposed, according to the Law; leaving for the necessary defence of their house and persons, so much as by the Law is prescribed.

III. That your Majesty will please to command all Popish Recusants, and all other who by any Law or Statute are prohibited to come to the Kings Court, forthwith under pain of your heavy displeasure, and severe execution of your Laws against them, to retire themselves, their Wives and Families from or about London, to their several dwellings or places by your Laws appointed, and there to remain confined within five Miles of their dwelling places, according to the Law of this your Realm: and for that purpose to discharge all by-past Licenses granted unto them for their Repair hither; and that they presume not any time hereafter to repair to London, or within ten Miles of London, or to the Kings Court, or the Princes Court, wheresoever.

IV. That your Majesty would forbid and restrain the great resort and Concourse of your own Subjects, for the hearing of Mass, or other Exercises of the Romish Religion, to the Houses of Foreign Ambassadors or Agents, residing here for the Service of their several Princes or States.

V. That where of late in several Counties in this Realm some have been trusted in the places of Lord Lieutenants, Deputy Lieutenants, Commissioners of Oyer and Terminer; Justices of Peace; and Captains of their Countries, which are either Popish Recusants, or Non-Communicants; by the space of a year now last past, or which do not usually resort to the Church to Divine Service, and can bring no good Certificate thereof; that your Majesty would be pleased to discharge them from these places of Trust, by which they have that power in the Countrey where they live, as is not fit to be put into the hands of persons so affected.

VI. That your Majesty would be pleased generally to put the Laws in due execution, which are made and stand in force against Popish Recusants; and that all your Judges, Justices and Ministers of Justice, to whose care these things are committed, may by your Majesties Proclamation be commanded to do their duty therein.

VII. That seeing we are thus happily delivered from that danger which these Treaties now dissolved, and that use which your ill-affected Subjects made thereof would certainly have drawn upon us; and cannot but foresee and fear lest the like may hereafter happen, and inevitably bring such peril to your Majesties Kingdoms: We are most humble Suitors to your Gracious Majesty, to secure the hearts of your good Subjects by the engagement of your Royal Word unto them; That upon no occasion of Marriage or Treaty, or other request in that behalf from any Foreign Prince or States whatsoever, you will take off or slacken the Execution of your Laws against the Popish Recusants.

To which our humble Petitions, proceeding from our most Loyal and Dutiful Affections toward your Majesty, our Care of our Countreys good, and our confident Perswasion that this will much advance the Glory of Almighty God, the everlasting Honour of your Majesty, the Safety of your Kingdom, and the Encouragement of all your good Subjects: We do most humbly beseech your Majesty to vouchsafe a Gracious Answer.

To which His Majesty returned this Answer.

My Lords and Gentlemen of both Houses,

I Cannot but commend your Zeal in offering this Petition to me, yet on the other side, I cannot but hold my self unfortunate, that I should be thought to need a Spur to do that which my Conscience and Duty binds me unto. What Religion I am of, my Books do declare, my Profession and Behaviour doth shew; and I hope in God I shall never live to be thought otherwise; surely I shall never deserve it; and for my part, I wish it may be written in Marble, and remain to Posterity as a mark upon me, when I shall swerve from my Religion; for he that doth dissemble with God, is not to be trusted with Men.

Anno 1624. My Lords, for my part, I protest before God, that my heart hath bled when I have heard of the increase of Popery; God is my Judge, it hath been such a great grief to me, That it hath been as Thorns in my Eyes, and Pricks in my Sides; and so far I have been and shall be from turning another way. And my Lords and Gentlemen, you shall be my Confessors, that one way or other it hath been my desire to hinder the Growth of Popery; and I could not have been an honest man if I should have done otherwise. And this I may say further, that if I be not a Martyr, I am sure I am a Confessor; and in some sence I may be called a Martyr, as in the Scripture Isaac was persecuted by Ishmael by mocking words; for never King suffered more ill Tongues than I have done; and I am sure for no cause; yet I have been far from persecution; for I have ever thought that no way more encreased any Religion than Persecution, according to that Saying, *Sanguis Martyrum Semen Ecclesie*.

Now my Lords and Gentlemen, for your Petition, I will not only grant the Substance of what you crave, but add somewhat more of my own; for the two Treaties being already annulled (as I have declared them to be) it necessarily follows of its self, that which you desire, and therefore it needs no more; but that I do declare by Proclamation (which I am ready to do) that all Jesuites and Priests do depart by a day; but it cannot be as you desire by our Proclamation to be out of all my Dominions; for a Proclamation here extends but to this Kingdom.

This I will do, and more; I will command all my Judges, when they go their Circuits, to keep the same Courses for putting all the Laws in execution against Recusants, as they were wont to do before these Treaties; for the Laws are still in force, and were never dispensed with by me: God is my Judge, they were never so intended by me; but as I told you in the beginning of the Parliament, you must give me leave, as a good Horse-man, sometimes to use the Reins, and not always to use the Spurs; so now there needs nothing but my Declaration for the Disarming of them; that is ready done by the Laws, and shall be done as you desired: and more, I will take order for the shameful disorder of the resorting of my Subjects to all Foreign Ambassadors; for this I will advise with my Council how it may be best reformed. It is true that the Houses of Ambassadors are privileged places; and though they cannot take them out of their Houses, yet the Lord Mayor and Mr. Recorder of London may take some of them as they come from thence, and make them Examples; another point I will add concerning the education of their Children, of which I have had a principal care as the Lord of Canterbury, and the Bishop of Winchester, and other Lords of my Council can bear me witness; with whom I have advised about this business: for in good faith it is a shame their Children should be bred here as if they were at Rome. So I do grant not only your desire, but more. I am sorry I was not the first mover of it to you; but had you not done it, I would have done it my self.

Now for the second part of your Petition, you have here given me the best Advice in the World; for it is against the Rule of Wisdom, that a King should suffer any of his Subjects to transgress the Laws by the Intercession of other

Princes: and therefore assure your selves that (by the Grace of God) I will be careful that no such conditions be foisted in upon any other Treaty whatsoever; for it is fit my Subjects should stand or fall to their own Laws.

The Spanish Ambassadors are resolved to ruine Buckingham if possible; and therefore having an Audience, suggest that the Duke plotted to confine his Majesty to a Country-House, and Pastimes there; and to commit the Mannage of publick Affairs to the Prince and himself; but the King demands particular Proofs; which they declining, it did produce in our King no other effect, than a representation of their Miscarriages herein to the King of Spain, and a demand of Justice upon them; but nothing was done in it; only they were preferred for it: Bristol is not admitted to the King's Presence, but is Committed to the Tower, and protests against the Dukes Narrative; the Sequel of whose Story you may expect hereafter.

May 29. the Parliament is Adjourned, and several Bills passed: The Speaker's Speech followeth.

That God, to his own great Glory, had brought this Session of the Parliament, so happily begun, to so happy an end, that both Houses, and every particular Member thereof, hath given their willing Assent, even with one Voice, unto the Advice which His Majesty was pleased so low to descend, as to demand of them. As there was not an Hammer heard in the Building of the House of God, so in this great Business there was not a Negative Voice, nor any jarring amongst them: But their time was wholly spent in the Business of Parliament, in which they had prepared many Bills profitable for the Common-wealth, and shewed the several natures of those Bills; some for the Service of God, and Restraint of Recusants; some to redress the Enormities of the Common-wealth; others of his Majesties Grace and Bounty to his People; and some concerning the Prince's Highness touching his own Lands; and others to settle strife in particular Estates: All which do wait for, and humbly desire his Majesties Royal Assent.

He shewed also what great joy they all received for the Dissolution of the two Treaties with Spain; and that Commissioners are required to see the Edicts perform'd against Recusants and Jesuits, the Locusts of Rome, wherein will consist his Majesties chiefest Safety. And they do render him humble Thanks for their ancient Privileges, which they fully enjoyed in this Parliament, and their so often access unto his Majesties presence; and more especially for his Majesties general, large, liberal and free Pardon; shewing the Benefit thereof, and reciting the Particulars. He also presented the Bill of three entire Subsidies, and three Fifteens and Tenths granted this Session, and declared the Chearfulness of the Grant thereof; and making his earnest Prayers unto Almighty God to direct his Majesties heart to make his own Sword his Sheriff, to put his Son-in-Law in possession of his Palatinate, the ancient Inheritance of his Royal Grand-children, he ended, humbly craving pardon for himself, and his own Errors committed this Session.

Unto

The Speaker and the Kings Speech at the Adjournment of the Parliament.

Anno 1624. Unto which his Majesty presently made Answer, beginning with the last of the Speaker's Speech, touching their Freedom, which he promised to continue unto them in as large a manner as ever they enjoyed the same. And for the Restitution of his Son-in-Law, protested his continual care thereof, and his great grief if he should not see an assured hope before he died; and vowed that all the Subsidies, for which he heartily thanked them, though it had not been so tied and limited, should have been bestowed that way. His Majesty remembered them, that nothing was given to relieve his own wants; which he expecteth at the next Session the beginning of Winter. He acknowledged the Obedience and good Respect of the Commons in all things this Parliament; for which (as he was pleased to say) he thanks them heartily, and without complement; and if they please to continue the same at the next Meeting, it will make this the happiest Parliament that ever was.

His Majesty spake also of the Grievances presented unto him yesterday by the Commons at Whitehall, promising them a full Answer at their next meeting: That he had looked over them, and was glad they were of no greater importance. His Majesty remembered the House to handle Grievances at their next Meeting, and to hunt after none, nor to present any but those of Importance. He promised to go over them all, and to give a free Answer, such as should be Good for his People, not respecting any Creatures whatsoever; and that he will advise herein with his Council and Judges. At this time his Majesty said, he would shew them his Grievances: First, That they grieve at the Reformation of Building about London with Brick; which he intended only for the Beauty and more Safety of the City; therefore he will go through with it; and if the Commissioners offend herein, let the party aggrieved complain, and he will redress it; and that the form of proceedings used by the Commons in this Parliament is also a Grievance unto his Majesty; for that they did not call the Commissioners, whom they complained of, before them, touching their Complaint against Doctor Aynan; his Majesty said, their Oath of Supremacy forbids them to meddle with Church-matters; besides, they complain against him, and never heard him. Touching their Complaint against the Apothecaries, his Majesty protested his Care therein to be only for his Peoples health; it is dangerous for every one to meddle with Apothecaries Ware, and the Grocers have a Trade beside.

His Fourth Grievance is, That Seditious Books are so frequently Printed; which he will be careful to prevent hereafter.

Fifthly, For calling so many Patents, appointing the Patentees to wait so many dayes with their Council, and never to hear them; wherefore his Majesty warned them to call for no more hereafter, unless they first knew them to be grievous to the People. And so his Majesty concluded, with Thanks for the Commons good Carriage towards him and his Lords this Session.

Then the Lord Keeper spake to the Particulars of the Speakers Speech, and by his Majesties Command approved them all, alluding the general consent of both Houses to the Septuagint,

directed by the Holy Ghost; and touching the Speaker's Desire for the King's Assent to the Bills past both Houses, he said, The Royal Assent is proper to the Law-giver; and shewed, that it is best for the People, that this is in his Majesties power, and not in themselves; for the King knoweth what is best to be granted unto his People; as may appear by the Petition that Bathsheba made to King Solomon, to give unto Adonijah Abishag to wife; which had Solomon granted, he had given Adonijah means to usurp the Kingdom, contrary to Bathsheba's meaning; and such is his Majesties intent this day, for such Bills which he will not pass. That his Majesty hath given his Consent to all the Bills of Grace, and to the Bill of the Continuance of some Statutes, and Repeal of others, so necessary, and for the good of the People. That his Majesty accepteth in good part their Thanks for his general Pardon, which he hath so freely granted unto his Subjects; but his especial Command is, That those that are in Office, do look strictly to the execution of Laws against Recusants: The Subsidies his Majesty graciously accepteth, and therefore imitates not the Story in Macrobius, of one who had all his Debts paid, and instead of Thanks, answered, *Mihi nihil*: Though this be given to the Palatinate, his Majesty interpreteth it as given to himself, and rendreth to you all hearty thanks for the same.

The Lord Keeper having ended his Speech, the Clerk of the Crown stood up, and read the Titles of the Bills passed both Houses; and Clerk of the Parliament read his Majesties Answer to each Bill. The Bills were in all seventy three.

This Summer four Regiments of Foot were raised for the Service of the United Provinces, to be employed against the Emperor, under the Command of four Noble Colonels, the Earls of Oxford, Essex, Southampton, and the Lord Wiltoughby; and King James demanding the Town of Frankendale in the Palatinate, deposited in the Arch-Dutcheffes hands, Spinola marcheth out of it, and finding none of the King of Great Britain's Forces to take possession of it, re-enters it immediately.

The French perceiving our King's Desires of an Alliance and Affinity with that Crown, enlarge their Demands in favour of the Papists; which the King would not grant: Richelieu then Chief Minister there, labours what in him lay, for them; notwithstanding, in November the Articles were sworn to by both Kings, and by the Prince; but were not so high in favour to the Papists, as those of the Spanish Match were to have been. All expressions of Joy are made both here at London, and in Paris: And now Count Mansfield arrives here; where, at St. James's he is splendidly Treated; and Commissions are given out for the raising 12000 Foot, and two Troops of Horse, to be employed under his Command, for the Recovery of the Palatinate; which the Duke of Bavaria hearing, for the preservation of his new acquired Dignity and Conquest, enleagues himself more strictly with the Spaniard; pretending wholly to relie on the House of Austria; whilst on the other hand, the Elector of Saxony perswades the Emperor to apply himself sincerely for the settling of the Peace of the Empire, which could no otherwise be

Anno 1625. be done, than by the Restitution of the most Ancient House of the *Palatinate*. The Army raised for *Mansfield* is on its March for *Dover*; where, as is usual, great complaints are made of the Disorders of the Souldiers; the Duke of *Buckingham*, Lord High Admiral, is required to Land them at *Calice*; but the *French* deny their Landing, notwithstanding the Treaty and Alliance now on foot; and the Souldiers being closely pent up in the Ships, contract an ill Distemper; so that the third part of those Souldiers came never safe to Land: And they put again to Sea in order to their Landing in *Zealand*; but the *States* having no notice thereof, and being in some scarcity of Victuals, they are not there also permitted to Land; so that the Design came to nothing.

A great Difference had now been for several years here in *England* between the Secular and Regular Priests about Episcopal Jurisdiction; the former desiring a Bishop to be sent from *Rome*, for the conferring of Orders, and Conservation of Unity amongst them; and herein they were seconded by the *Benedictines*; so that at last (amongst others) *Matthew Kellison* and *Richard Smith* being Presented, *Urban* the Eighth Consecrated the latter, and sent him into *England* with Episcopal Authority over the Seculars; a thing much opposed and disliked by the other Faction; but all in vain: for sent he is; and great hopes, say the *Benedictines*, had they of a plentiful Harvest by this mans promotion.

The King had now been a week sick of a *Tertian* Fever, and finding himself much to decay, sent for the Prince to come to him; to whom he heartily recommended the Care of the Church of *England*; commands him to love his Wife, but not her Religion; exhorts him to take special Care of his Grand-Children, the Children of the *Palsgrave*, by all means to endeavour his Restitution to his Estate and Dignity; and lastly, he recommends to him his Servants and Officers, who had faithfully served him: and upon the 27th. of *March*, 1625. he gave up the Ghost. Of whom the Learned Viscount *Verulam* gave this Character:

Representing (saith he) Your Majesty many times unto my mind, and beholding you, not with the eye of Presumption, to discover that which the Scripture tells me is inscrutable; but with the observant eye of Duty and Admiration, laying aside the other parts of your Virtue and Fortune, I have been touched, yea, and possessed with an extream wonder at these your Virtues and Faculties, which the *Philosophers* call Intellectuals, [The largeness of your Capacity, the faithfulness of your Memory, the swiftness of your Apprehension, the penetration of your Judgment, and the faculty and order of your Elocution.] And I have then thought, that of all the persons living that I have known, your Majesty was the best Instance to make a man of *Plato's* Opinion; That all Knowledge is but Remembrance, and that the Mind of Man by nature knoweth all things, and hath but her own Native and Original Notions (which by the strangeness and darkness of the Tabernacles of the Body are sequestered) again revived and restored. Such a Light of Nature I have observed in your Majesty, and such a readiness to take flame, and blaze from the least occasion presented, or the least spark of anothers Knowledge delivered. And as the

Scripture saith of the wisest King, *That his Heart was as the sand of the Sea*, which though it be one of the largest Bodies, yet it consisteth of the smallest and finest Portions: So hath God given your Majesty a composition of Understanding admirable, being able to compose and comprehend the greatest matters, and nevertheless to touch and apprehend the least; wherein it should seem an impossibility in Nature for the same Instrument to make it self fit for great and small Works. And for your gift of Speech, I call to mind what *Cornelius Tacitus* saith of *Augustus Caesar*, *Augusto profluens & qua Principem deceret Eloquentia fuit*: For if we mark it well, Speech that is uttered with labour and difficulty, or Speech that favoureth of the affectation of Arts and Precepts, or Speech that is framed after the imitation of some pattern of Eloquence, though never so excellent, all this hath somewhat servile and holding of the Subject; but your Majesties manner of Speech is indeed Prince-like, flowing as from a Fountain, and yet streaming and branching it self into Natures Order, full of Facility and Felicity, *Imitating none, and inimitable by any.* &c. And there seemeth to be no little contention between the excellency of your Majesties Gifts of Nature, and Universality and perfection of your Learning; for I am well assured of this, that what I shall say is no amplification at all, but a positive and measured Truth; which is, *That there hath not been since Christ's Time, any King or Temporal Monarch, which hath been so learned in all Literature and Erudition, Divine and Humane*: For let a man seriously and diligently revolve and peruse the Succession of the Emperors of *Rome*, of which *Cesar* the Dictator, before Christ, and *Marcus Antonius* were the best learned; and so descend to the Emperors of *Grecia*, or of the *West*, and then to the Lines of *France*, *Spain*, *England*, *Scotland*, and the rest, and he shall find this Judgment truly made; for it seemeth much in a King, if by the compendious extractions of other mens Wits and Learning, he can take hold of any superficial Ornaments; and Shews of Learning; or if he countenance or prefer Learning or Learned men: But to drink indeed of the true Fountain of Learning, nay to have such a Fountain of Learning in himself, in a King, and in a King born, is almost a Miracle; and the more, because there is met in your Majesty a rare conjunction as well of Divine and Sacred Literature, as Prophane and Humane. So as your Majesty stands invested of that Triplicity which in great veneration was ascribed to the ancient *Hermes*, the Power and Fortune of a King, the Knowledge and Illumination of a Priest, and the Learning and Universality of a Philosopher. This Propriety inherent and individual Attribute in your Majesty, deserveth to be expressed not only in the Fame and Admiration of the present time, nor in the History or Tradition of the Ages succeeding, but also in some solid Work, fixed Memorial, and immortal Monument, bearing a Character or Signature, both of the Power of a King, and the Difference and Perfection of such a King.

Memoria Justi cum Laudibus, & Impiorum Nomen pure scis.

And a Reverend Prelate of our Church, then of *Christ's-
Church Oxon*, the Epitaph following.

Those that have Eyes, awake and weep,
For *He*, whose waking wrought our sleep,
Is fallen asleep; and shall never
Awake again, till wak'd for *Ever*.

Death's Iron Hand hath clos'd those *Eyes*,
Which were at once Three Kingdoms *Spies*;
Both to foresee, and to prevent
Dangers so soon as they are meant.

That *Head* (whose working Brain alone
Wrought all mens Quiet; But *His* own)
Now lies at Rest. Oh let *Him* have
The Peace (He purchas'd) in His Grave.

If that no *Naboth* all *His* Reign,
Was for his Fruitful Vineyard, slain;
If no *Uriah* lost his Life,
For having had so fair a Wife;

Then let no *Shemei's* Curses wound
His Honour, or prophane His Ground;
Let no Black-Mouth, no Rank-breath'd Cur
Peaceful *James* his Ashes stir.

Kings are as Gods; O! do not then
Rake in their Graves to proye them Men.

For his daies toyl, and his Nights watches;
For the craz'd sleep he stole by Snatches;
For two fair Kingdoms, join'd in One;
For all he did, or meant t'have done;
Do this for Him; write on His Dust;
King JAMES the Peaceful and the Just.

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The above is a list of the names of the persons who have been appointed to the various offices of the County of New York, for the year 1880.

[illegible]



ANNALS

OF THE

REIGN

OF

King CHARLES I.

Anno
1625.



On the 27th. of *March*, 1625, King *JAMES* the First Monarch of *Great Britain*, died at *Theobalds*; a Learned, Wise and Just Prince was he; who had from his Cradle Conflicted with great variety of humors, both of Times and Men, and left the Diadem of his Three Kingdoms to his Son *Charles* the First, of ever Blessed Memory; who being acquainted with his Father's Death by the Privy Council, and they desiring Admittance to his Presence, he desired them to forbear their Attendance till next Morning: In the mean while he was Proclaimed, as is usual, at the Court-Gate at *Theobalds*; and the great Officers being commanded to Attend the King, they, as is usual, surrender their Offices and Employments; which, he immediately restored to them again; and Order being sent by the Privy Council to the Lord Mayor of *London*, to Attend with his Brethren the Aldermen in their Gowns at *Ludgate*, in order to the Proclaiming of the King: Which being begun by the Lords of the Privy-

Council, and others the Nobility in Cavalcade at *Whitehal*, *Charing-Cross*, *Denmark-Honse*, *Temple-Bar*, and the great Conduit in *Fleet-Street*: they proceeded to *Ludgate*, where the Mayor and Aldermen of *London* attending within the Gate in their Robes, they being entred again, there Proclaim the King; and all together, in the same manner ride to *Cheap-Cross*, where again they Proclaimed his Majesty; and so leaving the Lord Mayor to carry on the Work by them begun, they returned, and on the Evening of the same day King *Charles* came to *St. James's*, and the Day following the Privy Counsellors and Nobility, both Spiritual and Temporal, being Assembled to wait on the King, he by his Secretary commands that the Lord Keeper of the Great Seal should be sworn of his Majesties Privy Council; and that he should in like manner give the Oath of a Privy Counsellor to the Lord President; and he in like manner to all the rest of the late King's Privy Counsellors; who were respectively continued in their places; and the rest of the Lords who were not of the Privy Council, repaired to *St. James's*, and there kissed his Majesties Hand; and the Council being Sworn, as before, immediately sat, and

Car. I.

and Resolved on these Particulars to be Presented to his Majesty:

Anno

1625.

That a Commission be granted to Authorize the Great Seal, Privy Seal and Signet, till New ones be prepared.

That Commissions be Issued out with all convenient speed, for the Authorizing of all Judges, Justices of the Peace, Sheriffs, and other the Officers of Civil Government.

That Proclamation be made to Authenticate Proceedings of Justice, and Preservation of the Peace.

That all Powers of the Respective Embassies be continued, and Notice given to Foreign States and Potentates; and the like Proclamations and Commissions be Ordered in Scotland and Ireland, &c.

That a Parliament be summoned according to his Majesties Pleasure; and the Solemnization of his late Majesties Funeral, and his own Coronation be likewise then Represented.

The Council attending the King at St. James's, the Lord Keeper in the Name of the rest, gave great thanks to his Majesty for his Majesties Affiance in them who before served his Father; and presenting their Resolves for his Majesties Approbation, they were all allowed, and Proclamations ordered to be issued out accordingly; and did by a particular Proclamation of the same Date, take notice of his Father's Death, and 'that he being his only Son, and undoubted Heir, is invested and established in the Crown Imperial of this Realm, and all other his Majesties Realms, Dominions and Countries, with all the Royalties, Pre-eminences, Stiles, Names, Titles and Dignities to the same belonging; and he declared, That as he, for his part, shall, by God's Grace, shew himself a most benign, and gracious Sovereign Lord to all his good Subjects, in all their lawful Suits and Causes; so he mistrusteth not, but that they, on their parts, will shew themselves unto him their Natural Liege Lord, most loving, faithful and obedient Subjects.

The Council likewise moved the King about his Father's Funerals, that they be Solemnized five weeks; and some time afterwards the Ceremonies of the Nuptials in France; but all this, before the Parliament should begin; which were likewise granted accordingly. On the 23th. of April the Body and Herse of King James were brought from Theobalds to Denmark-House in London, by the Nobility and great Officers of the King, and there placed till the 17th day of May, the day appointed for the Burial; whence it was taken and carried in great State and Solemnity to the Abbey-Church of Westminster, where in King Henry the Seventh's Chappel the Kings of England are usually interred; the Herse was followed by the King himself; who to shew his Piety and Respect to his Deceased Father, laid aside Majesty, and was then chief Mourner; supported by the Earls of Arundel and Pembroke; and his Train being carried up by 12 Peers of the Realm; and thus that Great, Peaceable, and Wise Prince was laid to sleep with his Fathers and Progenitors.

In the great Affairs of Church and State, his Majesty did much consult the Duke of Buckingham and Bishop Laud, and began his Reign with preparation for War for the Recovery of the Palatine; and accordingly 8000 were appointed

to Rendezvous at *Plimouth*, and the Charge of their Coat and Conduct were ordered to be paid by the Country, and the Country to be repaid by the King's Exchequer, according to the use of former times; but these Souldiers were very disorderly in their March; and therefore a Proclamation was issued to prevent Disorders, and Commission given to select persons to cause Execution to be done upon them according to the Demerit of their Crimes.

The Consummation of the Marriage with *Henrietta Maria* of France now draws on; the Articles of Marriage were Signed in King James his Life on the 11th. of May, and by the King of France on the 14th. of August following; and in March following the Articles were Signed at Paris by the English Ambassadors, the Earls of Carlisle and Holland; the Dispensation being come from Rome, the Espousals were made at Paris, by Cardinal Richelieu, the Duke of Chevreux being Procurator for his Majesty of Great Britain, and the Solemnity was performed on a Theater erected for this purpose before *Nostre Dame* Church in Paris, and publick Rejoycings made there on that occasion: in the mean time the Duke of Buckingham is sent into France, to conduct the Queen hither; and in all places through which she passed, all Honours are by the King's Order paid to her Majesty. The Naval Royal of England attended her at *Boloigne*, and in 24 hours conveyed her to *Dover*; where she Landed; but somewhat indisposed by the Sea. On the 22d. of June, *New Stile*, the King went to receive her at *Dover*, whence she was Conducted to *Canterbury*, and there in the Evening the Marriage was consummated. In her Journey to London, the Knights and Gentlemen of Kent were commanded to attend her Majesty as she passed along, in such manner as became the Dignity of his Majesty; and on the 16th. of June their Majesties entred London; where great preparations were made to receive them, but omitted by reason of the Plagues increasing in the City and Suburbs. For her Reception *Somerset-House* was fitted up, and her Chappel; according to the Articles of Marriage, prepared with Conveniences thereunto adjoynd for Capuchin-Friers. The Pestilence now raging in London, the Term is Adjourned; and on the 18th. of June the Parliament began at Westminster; where his Majesty Seated in his Royal Throne, the Lords being Habited in their Robes, and the Commons present, his Majesty spoke thus:

The King's Speech in Parliament.

I Thank God, that the Business to be Treated on at this time, is of such a nature, that it needs no Eloquence to set it forth; for I am neither able to do it, neither doth it stand with my Nature to spend much time in words. It is no new Business, being already happily begun by my Father of blessed Memory, who is with God; therefore it needeth no Narrative: I hope in God you will go on to maintain it, as freely as you advised my Father to do it. It is true, he may seem to some to have been slack to begin so just and so glorious a Work; but it was his wisdom that made him loth to begin a work, till he might find a time to maintain it: But after that he saw how much he was abused in the Confidence he had with other States, and was confirmed by your Advice to run the Course we are in, with your Engagement to maintain it,

Anno 1625. it, I need not press to prove how willingly he took your Advice; for the preparations that are made, are better able to declare it, than I to speak it. The assistance of those in *Germany*, the Fleet that is ready for Action, with the rest of the Preparations, which I have only followed my Father in, do sufficiently prove, that he entered into this Action.

My Lords and Gentlemen, I hope you remember you were pleased to employ me to advise my Father, to break off those two Treaties that were on foot; so that I cannot say, that I came hither a free unengaged man. It's true, I came into this Business willingly and freely, like a young man, and consequently rashly; but it was by your interest, your engagement; so that though it were done like a Young man, yet I cannot repent me of it, and I think none can blame me for it, knowing the Love and Fidelity you have born to your King, having my self likewise some little experience of your affections. I pray you remember, that this being my first Action, and begun by your Advice and Entreaty, what a great dishonour it were to you and me, if this Action, so begun, should fail for that Assistance you are able to give me. Yet knowing the constancy of your Love both to me and this Business, I needed not to have said this, but only to shew what care and sense I have of your Honours and mine own. I must entreat you likewise to consider of the times we are in, how that I must adventure your Lives (which I should be loth to do) should I continue you here long; and you must venture the business, if you be slow in your Resolutions. Wherefore I hope you will take such grave Counsel, as you will expedite what you have in hand to do; which will do me and your selves an infinite deal of honour; you, in shewing your love to me; and me, that I may perfect that Work which my Father hath so happily begun.

Last of all, because some malicious men may, and as I hear, have given out, that I am not so true a Keeper and Maintainer of the true Religion that I profess; I assure you, that I may with *St. Paul* say, that I have been trained up at *Gamaliel's* feet: And although I shall be never so arrogant as to assume unto my self the rest, I shall so far shew the end of it, that all the world may see, that none hath been, nor ever shall be more desirous to maintain the Religion I profess, than I shall be.

Now because I am unfit for much speaking, I mean to bring up the fashion of my Predecessors, to have my Lord Keeper speak for me in most things: Therefore I have commanded him to speak something unto you at this time; which is more for Formality, than any great matter he hath to say unto you.

Then the Lord Keeper *Coventry* declared,

The Lord
Keeper's
Speech in
Parliam.

That the King's main reason of Calling the Parliament, besides the beholding of his Subjects Faces, was to mind them of the great Engagements for the Recovery of the *Palatinate*, imposed on his Majesty by the late King his Father, and by themselves, who brake off the two Treaties with *Spain*. Also to let them understand, That the succeeding Treaties and Alliances, the Armies sent into the *Low-Countries*, the repairing of the Forts; and the Fortifying of *Ireland*, do all meet in one Center, the *Palatinate*; and that the Subsidies

granted in the last Parliament, are herein already spent, whereof the Account is ready, together with as much of the King's own Revenue. His Lordship further commended three Circumstances.

First, the *Time*; all *Europe* being at this day as the Pool of *Bethesda*, the first stirring of the Waters must be laid hold on: Wherefore his Majesty desires them to bestow this Meeting on him, or rather on their Actions; and the next shall be theirs, as soon and as long as they please, for Domestick Business.

Secondly, *Supply*; If Subsidies be thought too long and backward, his Majesty desires to hear, and not to propound the way.

Thirdly, The *Issue of Action*; which being the first, doth highly concern his Majesties Honour and Reputation; for which he relies upon their Loves, with the greatest confidence that ever King had in his Subjects; witness his Royal Poetic, *Amor Civium Regis Munimentum*: And he doubts not, but as soon as he shall be known in *Europe* to be their King, so soon shall they be known to be a Loving and Loyal Nation to him.

On the 21th. of *June* the Commons Presented Sir *Thomas Crew* for their Speaker, who was approved by the King; and afterwards the House proceeded to appoint a Committee, and Sir *Edward Cooke* being sent by the Commons to the Lords with a Petition for their Concurrence therein, against *Recusants*; to which, being presented, his Majesty answered, that he was very glad that the Parliament were so forward in Matters of Religion; and assured them that he should meet them in any Overtures of that Nature; and for which he gave them his Thanks. Mr *Montague*, for his Book, Entituled, *Appello Caesarem*, is complained of in Parliament, and brought to the Bar of the Commons-House; but the matter was referred to the Archbishop of *Canterbury*, and he was admonished by his Grace to forbear to proceed any further to write of those Controversies; but the King was displeased with the Commons, for that *Montague* was his Servant and Chaplain; and so he took the Matter into his own hands; However the Parliament presented his Majesty with 2 Subsidies, as the First-Fruits of their Love; which the King accepts; acquainting them that his Affairs and the Necessities of State would require more; for that he was engaged for the Recovery of the *Palatinate*, by his Father, and also by their Advice.

The Parliament, by reason of the increase of the Plague at *London*, was Adjourned till the first of *August*, to be Convened at *Oxford*, whether the News of some Ships of the Naval Royal being lent to the *French King*, soon came, and gave great Ombrage to the Parliament; for that those Ships were said to be employed against the Protestants of *Rochel*; whereas King *James* only engaged against them of *Genova* with the *French King*, for the bringing down of the Power of the King of *Spain* in *Italy*; neither were the *English* Mariners under Admiral *Penington*, willing to fight against the Protestants of *Rochel*; and therefore they disobey Secretary *Conway's* Letter, which did command the Delivery of those Ships to the *French King*, and in a Tumult get up their Anchors and come for *England*; which the Admiral acquainting the Duke with, is commended back for *Diep*, there to put the Fleet into the hands of the Marquess *de Effiat*, which was done accordingly, only the *Neptune* was carried off by

Anno 1625. Sir *Ferdinando Gorges*; but all the Companies did unanimously decline the *French Service*, and relinquished the Ships every man, except one Gunner. On the first of *August* the Parliament met at *Oxford*, who were not well pleased with the Dukes management of Affairs; particularly in the matter of these Ships; Grievances were likewise insisted on; as the mispending of the Publick Treasure, the neglect of guarding the Seas, and Dr. *Montague* is again summoned before the House of *Commons*, according to the condition of his Bond; and the *Arminian* Controversies were again brought upon the Stage, to the great disquiet both of Church and State; for ever and anon *Popery* and *Arminianism* were cried out upon by a party of men, who afterwards made use of these frightful Names, to amuse the Nation, and to disturb the Peace of the Church, and at last to ruine both the Church and State.

On the 4th. of *August* the Lords and Commons were commanded to attend the King in *Christ Church-Hall* in *Oxford*; where he spake as followeth:

The Kings
Speech in
Christ Church.

MY Lords, and you of the Commons, We all remember, that from your Desires and Advice, my Father, now with God, brake off those Treaties with *Spain*, that were then in hand: Well you then foresaw, that as well for regaining my dispossessed Brother's Inheritance, as home-defence, a War was likely to succeed; and that as your Councils had led my Father into it, so your Assistance, in a Parliamentary-way to pursue it, should not be wanting. That aid you gave him by Advice, was for Succour for his Allies, the Guarding of *Ireland*, and the home-part, Supply of Munition, preparing and setting forth of his Navy. A Council you thought of, and appointed for the War, and Treasurers for issuing of the Moneys: And to begin this Work of your Advice, you gave Three Subsidies, and as many Fifteens, which, with speed, were levied, and by direction of that Council of War (in which, the Preparation of this Navy was not the least) disbursed.

It pleased God, at the entrance of this Preparation (by your Advice begun) to call my Father to his Mercy, whereby I entred as well to the care of your Design, as his Crown. I did not then, as Princes do, of Custom and Formality re-assemble you, but that by your further Advice and Aid, I might be able to proceed in that, which, by your Counsels, my Father was engaged in. Your Love to me, and forwardness to further those Affairs, you expressed by a Grant of Two Subsidies, yet ungathered; although I must assure you, by my self and others, upon Credit taken up, and beforehand disbursed, and as far short, as yet, to set forth that Navy now preparing; as I have lately the Estimate of those of Care, and who are still employed about it, whose particular of all expences about this Preparation, shall be given you, when you please to take an Account of it.

When His Majesty had ended his Speech, he commanded the Secretaries more particularly to declare the present State of his Affairs; which was done accordingly,

THAT our Sovereign Lord King *James*, of Famous Memory, at the Suit of both Houses

of Parliament, and by the powerful operation of his Majesty that now is, gave consent to break off the two Treaties with *Spain*, touching the Match and the *Palatinate*, and to vindicate the many wrongs and scorns done unto his Majesty and his Royal Children: Besides, if the King of *Spain* were suffered to proceed in his Conquests, under pretence of the Catholick Cause, he would become the Catholick Monarch, which he so much affects and aspires unto. Also amidst these Necessities, our late King considered, that he might run a hazard with his People, who being so long inured to Peace, were unapt to War; that the uniting with other Provinces in this undertaking, was a matter of exceeding difficulty. This drew him to new Treaties for regaining his Children's Right, which were expelled by the Friends and Agents of *Spain*; and wherein his Majesty proceeded as far as the wisest Prince could go, and suffered himself to be won unto that, which otherwise was impossible for his Royal Nature to endure. He considered also the many difficulties abroad, the Duke of *Bavaria* by Force and Contract had the *Palatinate* in his own Possession, most of the Electors and Princes of *Germany* were joyned with him. The Estates of the other Princes most likely to joyn in a War of Recovery, were seized and secured, and all by a Conquering Army: Besides, the Emperor had called a Diet, in which he would take away all possibility of recovering the Honour and Inheritance of the *Palatinate*; thus it stood in *Germany*. And in *France*, the King there chose to sheath his Sword in the Bowels of his own Subjects, rather than to declare against the Catholick Cause. In the *Low-Countries*, the Sect of the *Arminians* prevailed much, who inclined to the *Papists*, rather than to their own Safety, notwithstanding that the Enemy had a great and powerful Army near them; so that his Majesty was enforced to protect and countenance them with an Army of six thousand from hence, with a Caution of the like Supply from thence, if required. Moreover, he sought Alliance with *France*, by a Match for his Royal Majesty that now is, thereby to have interest in that King, and to make him a Party. The last consideration was, his Majesties own Honour, who had laboured with the two Kings of *Denmark* and *Sweden*, and the *German* Princes, from whom he received but cold Answers; they refusing to join, unless they first saw his Majesty in the Field. But of this he was very tender, unless the League were broken, or he first warred upon. The Forces of an Army were considered, and the way of proceeding, whether by *Invasion* or *Diversification*: The Charges thereof appeared in Parliament to be Seven hundred thousand pounds a year; besides *Ireland* was to be fortified, the Forts here repaired, and a Navy prepared; he thought it feasible to enter into a League with the *French* King and the Duke of *Savoy* and *Venice*.

Hereupon an Army was Committed to Count *Mansfield*; the Charge whereof came to Seventy thousand pounds a Moneth for his Majesties part; also he commanded the preparing of this great Fleet, All which so heartned the Princes of *Germany*, that they sent Ambassadors to the Kings of *Denmark* and *Sweden*; and those two Kings offered a greater Army both of Horse and Foot, to which his Majesty was to pay a proportion. Count *Mansfield's* Army (though dastrous)

Anno 1625. 'disastrous') produced these happy effects; First, 'It prevented the Diet intended by the Emperor. 'Secondly, The German Princes gained new 'courage to defend themselves, and oppose their 'Enemies. Thirdly, The King of Denmark hath 'raised an Army with which he is marched in per- 'son as far as Minden. Moreover, the Confede- 'rates of France and Italy have prosecuted a War 'in Milan, and Peace is now made by the French 'King with his own Subjects; so that by this 'means breath is given to our Affairs.

'This Parliament is not called in meer For- 'mality upon his Majesties first coming to the 'Crown, but upon these real occasions, to con- 'sult with the Lords and Commons: Two Sub- 'sidies are already given, and Graciously accept- 'ed; but the Moneys thereof, and much more, 'are already disbursed. A Fleet is now at Sea, 'and hastning to their Rendezvous; the Army 'is ready at Plymouth, expecting their Comman- 'ders. His Majesties Honour, Religion, and the 'Kingdoms Safety is here engaged; besides, he 'is certainly advised of Designs, to infest his 'Dominions in Ireland, and upon our own Coasts, 'and of the Enemies increase of Shipping in all 'parts. These things have called the Parliament 'hither, and the present Charge of all amounts 'to above Four hundred thousand pounds; the 'further prosecution whereof, the King being 'unable to bear, hath left it to their Consultati- 'ons. His Majesty is verily perswaded, That 'there is no King that loves his Subjects, Religi- 'on, and the Laws of the Land better than him- 'self; and likewise that there is no People that 'better love their King, which he will cherish to 'the uttermost. It was thought, that this place 'had been safe for this Assembly, yet since the 'Sickness hath brought some fear thereof, his 'Majesty willet the Lords and Commons to put 'into the Ballance, with the fear of the Sickness, 'his and their great and weighty Occasions.

Lord Treasurer proceeds in that Subject. Then the Lord Treasurer added, 'That the 'late King, when he died, was indebted to the 'City of London 120000 l. besides Interest; and 'indebted for Denmark & the Palatinats 150000 l. 'and indebted for his Wardrobe 40000 l. That 'these Debts lie upon His Majesty that now is, 'who is indebted unto London 70000 l. That he 'hath laid out for his Navy 20000 l. and 20000 l. 'for Count Mansfeld. And for Mourning and 'Funeral Expences for his Father, 42000 l. For 'Expences concerning the Queen, 40000 l. The 'Navy will require to set forth in that Equipage, 'as is requisite for the great Design his Majesty 'hath in hand, and to pay them for the time in- 'tended for this Expedition, 300000 l.

After this Conference, the Commons fell into very high Debates, with very severe Reflections upon the Duke of Buckingham, That Popery and Papists are favoured and advanced, notwithstanding the Kings Promise to the contrary: That the Kings Pardon is made a *Supersedeas* to the Laws established against Popery: That the Pardon was Signed by the Principal Secretary of State, the Lord Conway, who said he did it by the King's exprefs Command; though it highly reflected upon the Secretary himself: And now both Houses are Ordered to attend the King in Christ-Church-Hall in Oxford, to receive an Answer to their Petition concerning Religion: To every Clause whereof his Majesty answered distinctly, and in a Parliamentary way. The Petition and Answers follow.

To the Kings Most Excellent Majesty.

Car. I.

Most Gracious Sovereign:

I being infallibly true, That nothing I can more establish the Throne, and assure the peace and prosperity of the People, than the unity and sincerity of Religion; We your most humble and loyal Subjects, the Lords Spiritual and Temporal, and Commons of this present Parliament Assembled, hold our selves bound in Conscience and Duty to represent the same to your Sacred Majesty, together with the dangerous consequences of the increase of Popery in this Land, and what we conceive to be the principal Causes thereof, and what may be the Remedies.

The Petition concerning Religion, together with his Majesties Answer.

The Dangers appear in these Particulars.

- I. In their desperate ends, being both the subversion of the Church and State; and the restlessness of their spirits to attain these ends, the Doctrine of their Teachers and Leaders, perswading them, that therein they do God good service,
- II. Their evident and strict dependency upon such Foreign Princes, as no way affect the Good of your Majesty & this State.
- III. The opening a way of Popularity to the ambition of any, who shall adventure to make himself Head of so great a Party.

The Principal Cause of the increase of Papists.

- I. The want of the due execution of the Laws against Jesuits, Seminary Priests, and Popish Recusants; occasioned partly by the connivance of the State, partly by defects in the Laws themselves, and partly by the manifold abuse of Officers.
- II. The interpoling of Foreign Princes by their Ambassadors and Agents in favour of them.
- III. Their great concourse to the City, and frequent Conferences and Conventicles there.
- IV. The open and usual resort to the Houses and Chappels of Foreign Ambassadors.
- V. The Education of their Children in Seminaries and Houses of their Religion in Foreign parts, which of late have been greatly multiplied and enlarged for the entertaining of the English.
- VI. That in some places of your Realm, your people be not sufficiently instructed in the knowledge of the true Religion.
- VII. The Licentious Printing and Dispersing of Popish and Seditious Books.
- VIII. The employment of men ill-affect- ed in Religion in places of Government, who do, shall, or may countenance the Popish party.

The Remedies against this outrageous and dangerous Disease, we conceive to be these ensuing.

- I. That the Youth of this Realm be carefully educated by able and Religious Schoolmasters, and they to be enjoined to Catechize and instruct their Scholars in their Grounds and Principles of true Religion.

Anno 1625. religion. And whereas by many complaints from divers parts of the Kingdom it doth plainly appear, that sundry Popish Scholars, dissembling their Religion, have craftily crept in, and obtained the places of Teaching in divers Counties, and thereby infected and perverted their Scholars, and so fitted them to be transported to the Popish Seminaries beyond the Seas; that therefore there be great care in choice and admitting Schoolmasters, and that the Ordinaries make diligent enquiries of their Demeanors: and proceed to the removing of such as shall be faulty, or justly suspected.

His Majesties Answer.

'This is well allowed of, and for the better performance of what is desired, Letters shall be written to the two Archbishops, and from them, Letters to go to all the Ordinaries of their several Provinces to see this done; the several Ordinaries to give account of their doings herein to the Archbishops respectively, and they to give account to his Majesty of their proceedings herein.

II. That the ancient Discipline of the Universities be restored, being the famous Nurseries of Literature and Vertue.

Ans. 'This is approved by his Majesty, and the Chancellor of each University shall be required to cause due execution of it.

III. That special care be taken to enlarge the Word of God throughout all the parts of your Majesties Dominions, as being the most powerful means for planting of true Religion, and rooting out of the contrary: To which end, among other things, let it please your Majesty to advise your Bishops, by fatherly entreaty, and tender usage, to reduce to the peaceable and orderly Service of the Church, such able Ministers as have been formerly silenced, that there may be a profitable use of their Ministry in these needful and dangerous times; And that Non-residencies, Pluralities and Commendams may be moderated. Where we cannot forbear most humbly to thank your Majesty for diminishing the number of your own Chaplains; not doubting of the like Princely care for the well bestowing of the rest of your Benefices, both to the comfort of the People, and the encouragement of the Universities, being full of grave and able Ministers, unfurnished of Livings.

Ans. 'This his Majesty likes well, so as it be applied to such Ministers as are peaceable, orderly, and conformable to the Church-Government. For Pluralities and Non-residencies, they are now so moderated, that the Archbishops affirm, there be now no dispensations for Pluralities granted; nor no man now is allowed above two Benefices, and those not above thirty Miles distant: And for avoiding Non-residence, the Canon in that case provided shall be duly put in execution. For Com-

mendams, they shall be sparingly granted, only in such case where the exility and smallness of the Bishoprick requireth. Also his Majesty will cause that the Benefices belonging to him, shall be well bestowed. And for the better propagating of Religion, his Majesty recommendeth to the House of Parliament, that care may be taken, and Provision made, That every Parish shall allow a competent maintenance for an Able Minister; and that the Owners of Parsonages Improprate, would allow to Vicars, Curates and Ministers in Villages and Places belonging to their Parsonage, sufficient Stipend and Allowance for Preaching Ministers.

IV. That there may be strict provision against transporting English Children to the Seminaries beyond the Seas, and for the recalling of them who are already there placed, and for the punishment of such your Subjects as are maintainers of those Seminaries, or of the Scholars; considering that besides the seducing of your people, great Sums of Money are yearly expended upon them, to the impoverishing of this Kingdom.

Ans. 'The Law in this case shall be put in execution: And further, there shall be Letters written to the Lord Treasurer, and also to the Lord Admiral, That all the Ports of this Realm, and the Creeks and Members thereof, be strictly kept, and strait Searches made to this end: A Proclamation shall be to recall both the Children of Noblemen and the Children of any other men, and they to return by a day; also Maintainers of Seminaries of Scholars there, shall be punished according to Law.

V. That no Popish Recusant be permitted to come within the Court, unless your Majesty be pleased to call him upon special occasion, agreeable to the Statute of 3 Jac. And whereas your Majesty for the preventing of apparent mischiefs both to your Majesty and the State, hath in your Princely wisdom taken order, that none of your natural born Subjects; not professing the true Religion, and by Law established, be admitted into the Service of your Royal Consort the Queen. We give your Majesty most humble Thanks, and desire that your Order herein may be observed.

Ans. 'If his Majesty shall find, or be informed of any Concourse of Recusants to the Court, the Law shall be strictly followed: And his Majesty is pleased, that by Proclamation the British and Irish Subjects shall be put in the same case. And as his Majesty hath provided in his Treaty with France, so his purpose is to keep it; That none of his Subjects shall be admitted into his Service, or into the Service of his Royal Consort the Queen, that are Popish Recusants.

VI. That all the Laws now standing in force against Jesuites, Seminary Priests, and others having taken Orders by Authority derived from the See of Rome, be put in execution. And to the intent they may not pretend to be surprized, That a speedy and

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1625. and certain Day be prefired by your Majesties Proclamation for their departure out of this Realm, and all other your Dominions, and not to return upon the severest penalties of the Laws now in force against them; And that all your Majesties Subjects may be thereby admonished not to receive, comfort, entertain or conceal any of them, upon the penalties which may be lawfully inflicted: And that all such Papists, Jesuites, and Recusants, who are and shall be imprisoned for Recusancy, or any other cause, may be so strictly restrained, as that none shall have Conference with them, thereby to avoid the Contagion of their corrupt Religion: And that no man that shall be suspected of Popery, be suffered to be a Keeper of any of his Majesties Prisons.

Answ. 'The Law in this case shall be put in execution, and a Proclamation shall be to the effect desired; and such restraint shall be made, as is desired; and no man that is justly suspected of Popery, shall be suffered to be a Keeper of any of his Majesties Prisons.

VII. That your Majesty be pleased to take such Order as to your Princely wisdom shall be expedient, That no natural-born Subject, or strange Bishops, nor any other by Authority from the See of Rome, confer any Ecclesiastical Orders to exercise any Ecclesiastical Function whatsoever, toward or upon your Majesties natural Subjects within your Dominions.

Answ. 'This is fit to be ordered according as is provided; and it shall be so published by Proclamation.

VIII. That your Majesties Learned Council may receive Order and Commandment to consider of all former Grants of Recusants Lands, that such of them may be avoided as are made to the Recusants use or interests out of which the Recusant receiveth any benefit, which are either void, or voidable by the Law.

Answ. The King will give Order to his Learned Council to consider of the Grants, and will do according as is desired.

IX. That your Majesty will be likewise pleased strictly to Command all your Judges and Ministers of Justice Ecclesiastical and Temporal, to see the Laws of this Realm against Popish Recusants, to be duly executed; And namely, that the Censure of Excommunication be declared and certified against them; and that they be not absolved upon publick satisfaction by yielding to Conformity.

Answ. 'His Majesty leaves the Laws to their Course, and will order in the point of Excommunication as is desired.

X. That your Majesty will be pleased to remove from places of Authority and Government all such Persons as are either

Popish Recusants, or according to direction of former Acts of State, to be justly suspected.

Answ. 'This his Majesty thinks fit, and will give order for it.

XI. That present Order be taken for disarming all Popish Recusants, legally convicted, or justly suspected, according to the Laws in that behalf, and the Orders taken by his late Majesties Privy Council upon reason of State.

Answ. 'The Laws and Acts in this case shall be followed, and put in due execution.

XII. That your Majesty be also pleased in respect of the great resort of Recusants, to and about London, to Command forthwith upon pain of your indignation, and severe execution of the Laws, that they retire themselves to their several Countreies, there to remain confined within five Miles of their places.

Answ. 'For this the Laws in force shall be forthwith executed.

XIII. And whereas your Majesty hath strictly Commanded and taken Order, that none of the natural born Subjects repair to the hearing of Masses, or other Superstitious Service at the Chappels or Houses of Foreign Ambassadors; or any other places whatsoever; we give your Majesty most humble thanks, and desire, that your Order and Commandment therein may be continued and observed, and that the Offenders herein may be punished according to the Laws.

Answ. 'The King gives Assent thereto, and will see the same observed which herein hath been Commanded by him.

XIV. That all such Insolencies, as any that are Popishly affected, have lately committed, by their hereafter coming to the dissonance of the Religion, or to the wrong of the true Protestants thereof, be severely punished.

Answ. This shall be done as is desired.

XV. That the Statute of 1 Eliz. for the payment of Church rates, every Sunday, by such as shall be absent from Church Service in the Church, without a lawful excuse, may be put in due execution, the other, for that the penalty of Law is given to the Parish, and the same may be enforced by the Justice of the Peace.

Answ. It is his Majesty's pleasure that the Statute be executed, and the Penalties shall not be dispensed withal.

XVI. Lastly, That your Majesty would be pleased to extend your Princely care also over the Kingdom of Ireland, that the like courses may be there taken for the restoring and establishing of the true Religion.

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Answer. His Majesties cares are, and shall be extended over the Kingdom of Ireland; and he will do all that a Religious King should do for the restoring and re-establishing of true Religion there.

And thus (most Gracious Sovereign) according to our Duty and Zeal to God and Religion, to your Majesty and your safety, to the Church and Commonwealth, and their Peace and Prosperity, we have made a faithful Declaration of the present Estate, the Causes and Remedies of this increasing Disease of Popery; humbly offering the same to your Princely Care and Wisdom. The Answer of your Majesties Father, our late Sovereign of famous Memory, upon the like Petition, did give us great comfort of Reformation; but your Majesties most Gracious Promises made in that kind, do give us Confidence and Assurance of the continual performance thereof; In which Comfort and Confidence reposing our selves, we most humbly pray for your Majesties long continuance in all Princely Felicity.

At this time the Duke is commanded by the King to give an Account of the Fleet to both Houses of Parliament; which he then did, by way of Question and Answer, and seemed fully to satisfy the most persons who were not over-prejudiced against him; but there lacked not those in the Lower House, who were his secret and close Enemies, and could at any time conjure up, under the Names of Religion and Grievances, Quarrels, which they managed ever to the Dissolution of the Parliament itself; which was Dissolved on the 12th. of August, by a Commission directed to several Peers; but before this hapned, the Commons agreed on the Declaration following.

VVE the Knights, Citizens and Burgesses of the Commons House of Parliament, being the Representative Body of the whole Commons of this Realm, abundantly comforted in his Majesties late Gracious Answer touching Religion, and his Message for the care of our health, do solemnly protest and bow before God and the World, with one heart and voice, that we are all resolved, and do hereby declare, that we will ever continue most Loyal and Obedient Subjects to our most Gracious Sovereign Lord King Charles; and that we will be ready, in convenient time, and in a Parliamentary way, freely and dutifully to do our utmost endeavours to discover and reform the Abuses and Grievances of the Realm and State, and in like sort to afford all necessary Supply to his most Excellent Majesty, upon his present, and all other his just Occasions and Designs; most humbly beseeching our said Dear and Dread Sovereign, in his Princely Wisdom and Goodness, to rest assured of the true and hearty Affections of his poor Commons, and to esteem the same to be (as we conceive it is indeed) the greatest worldly reputation and security that a just King can have: and to account all such as slanderers of the peoples affections, and enemies to the Commonwealth, that shall dare to say the contrary.

The King notwithstanding the Parliament's Dissolution, carries on the War against the House

of Austria, and to that purpose dispatcheth the Duke of Buckingham and the Earl of Holland to the Hague, to conclude a League with the United Netherlands against those Princes, and by Proclamation calls home the Children of Recusants, and all English, Scotch or Irish in the Spaniards Service, who before that time took pay under the Emperor and Spaniard: And because Money, the Sinews of War, was wanting, his Majesty proposed to supply those wants by the way of Loan, upon Privy-Seals directed to several persons who were judged best able to lend; which bred matter of Grievance and Complaints in the ensuing Parliaments; and amidst these Preparations for War, the Privy Council issued out warrants for the Disarming of the Popish Recusants, and seizing of their Arms.

The Fleet being now ready, Sir Edw. Cecil, now Viscount Wimbledon was made Commander in Chief for the Expedition to Cadiz, and the Earl of Essex was Vice-Admiral. In the beginning of October they put to Sea, in all 80 Ships, and had on Board 10 Regiments; After 4 days Sail, they were encountred with a great Storm, with which they were dispersed; however they met afterwards all together on the Coast of Spain, and found a Conquest ready, the Spanish Shipping in the Bay of Cadiz, but they neglected the setting upon it; and part of them Land under Sir John Burroughs, who abused themselves with the Wines of that Place, almost to their Ruine, if the Spaniard had had the Courage to have attacked them; so they were presently Shipp'd again, and the General designs to wait for the Spanish Plate-Fleet, which was shortly expected; but Sickness happened amongst the Souldiers, by reason of a general Contagion; and so they were forced to return home in November following, without any honour gained. After their Return, they are commanded not to Disband; and the Trained Bands throughout England are exercised; but the Plague still continuing in London, part of Michaelmas Term was adjourned to Reading in the County of Berks; which was accompanied with a Speech of the Calling of a Parliament; for that Sir Edward Cooke and several other Gentlemen, who had appeared against the Duke in the last Parliament, were pricked Sheriffs. Sir Edw. excepts against the Oath of a Sheriff, for that by it he was sworn to suppress the Lollards in his Bayliwick; these were persons in former times disaffected to the then established Religion; the Oath was by Order of the Council-Board amended in that particular, and he took his Oath as High-Sheriff of the County of Bucks. The Great Seal had been formerly taken from John L. Bishop of Lincoln, and he Sequestred both from that Office, and that of a Privy Counsellor likewise; who continuing at some distance from the D. of Buckingham, the Seal, Oct. 30. is given to Sr. Tho. Coventry at Hampton-Court. The Archbishops in both Provinces are required by his Majesty to proceed against Popish Recusants, by Excommunication and other the Censures of the Church, and they are by Proclamation confined not to stir above 5 miles from their own Houses. His Majesty now declared his purpose for his Coronation on Candlemas day next, at Westminster, and for the greater Solemnity thereof, the Earls of Arundel & Surrey, L. Marshal of Engl. and of Pemb. L. Chamberl. are appointed to perform the Rites and Ceremonies of Creation of the Knights of the Bath. A Proclamation was likewise issued out for all that have 40 l. per An. to come and receive the Order of Knighthood, which was made a matter of Grievance in the ensuing Parliament. On

Anno 1625. On *Candlemas* Day the King was Crowned at *Westminster*, by Bishop *Laud*, who had the honour to perform that Solemnity: the Bishop of *Lincoln*, then Dean of *Westminster*, being then in Disgrace; The Ceremony was in short thus;

THE King went that day from *Westminster-Hall* to the *Abbey-Church*, attended by the Aldermen of *London*, Eighty Knights of the *Bath*, in their Robes, the King's Serjeants at Law, Solicitor and Attorney-Generals, the Judges, Barons, Bishops, Viscounts, and such of the Earls (who bore no particular Office that day) in their Parliament-Robes, going two by two before the King all uncovered; and after them followed his Officers of State (being eight Earls and one Marquess) those persons according to their respective Places and Offices, carried the Swords, the Globe, the Scepter, the Crown; and the Lord Mayor of *London* carried the short Scepter, two Bishops carried, the one the Golden Cup, and the other the Plate for the Communion. Next before his Majesty went the Earl of *Arundel*, as Earl-Marshal of *England*, and the Duke of *Buckingham*, as Lord High Constable of *England* for that Day. The King being cloathed in White Sattin, went under a rich Canopy, supported by the Barons of the Cinque Ports, the King having on each Hand a Bishop, and his Train of Purple Velvet, was carried up by the Master of the Robes, and the Master of the Wardrobe. At the entring into the Church, Bishop *Laud* delivered into the Kings Hand the Staff of *Edward* the Confessor, with which the King walked up to the Throne; then the Archbishop of *Canterbury* presented his Majesty to the Lords and Commons there present, East, West, North and South; who gave their consent to his Coronation, as their Lawful Sovereign. After Sermon was done, the King went to the Altar (where the *Old Crucifix*, amongst other *Regalia* stood; as also the Ointment Consecrated by a Bishop) to take the Coronation-Oath, which (as is said) was performed in this manner, viz.

Archbish.
P.P.

SIR (says the Archbishop) will You grant and keep, and by Your Oath confirm to the People of *England*, the Laws and Customs to them granted by the Kings of *England*, Your Lawful and Religious Predecessors, and namely the Laws, Customs, and Franchises, granted to the Clergy, by the Glorious King *St. Edward* Your Predecessor, according to the Laws of God, the true Profession of the Gospel established in this Kingdom, agreeable to the Prerogative of the Kings thereof, and the Ancient Customs of the Realm?

The Kings
Answer.

I grant and promise to keep them.

Sir, will You keep Peace and Godly Agreement (according to Your Power) both to God, the Holy Church, the Clergy and the People?

I will keep it.

Sir, Will you (to Your Power) cause Law, Justice and Discretion to Perry and Truth, to be executed to Your Judgment?

I will.

Sir, Will You grant to hold and keep the Laws and Rightful Customs which the Commonalty of this Your Kingdom have; and will You defend and uphold them to the Honour of God, so much as in You lieth?

I grant and promise so to do.

Then one of the Bishops read this Passage to the King. *1 Car. 1.*

Our Lord and King, we beseech you to Pardon and so Grant, and to Preserve unto us, and to the Churches committed to your Charge, all Canonical Privileges, and do Law and Justice; and that you would Protect and Defend us, as every good King to his Kingdoms ought to be Protector and Defender of the Bishops and Churches under their Government.

The King answereth.

With a willing and devout Heart I promise, and grant my Pardon; and that I will preserve and maintain to you, and the Churches committed to your Charge, all Canonical Privileges, and due Law and Justice; and that I will be your Protector and Defender to my Power, by the Assistance of God, as every good King in his Kingdom in right ought to Protect and Defend the Bishops and Churches under their Government.

Then the King arose, and was led to the Communion-Table, where he takes a Solemn Oath in sight of all the People, to observe all the Premises, and laying his Hand upon the Bible, said,

The Things which I have here promised, I shall perform and keep; So help me God, and the Contents of this Book.

After the Oath, the King was placed in the Chair of Coronation, and was Anointed by the Archbishop with a Costly Ointment, and the Ancient Robes of King *Edward* the Confessor was put upon him, and the Crown of King *Edward* was put upon his Head, and his Sword girt about him; and he offered the same, and two Swords more, together with Gold and Silver at the Communion-Table. He was afterwards conducted by the Nobility to the Throne; where this Passage was read to his Majesty.

[Stand and hold fast from henceforth the Place, to which you have been Heir by the Succession of Your Forefathers, being now delivered to You by the Authority of Almighty God, and by the Hands of us, and all the Bishops and Servants of God: And as You see the Clergy to come nearer to the Altar than others, so remember that (in all places convenient) You give them greater Honour, that the Mediator of God and Man may establish You in the Kingly Throne, to be a Mediator between the Clergy and the Laity; and that You may Reign for ever with Jesus Christ, the King of Kings, and Lord of Lords.]

Afterwards the Nobility were sworn to be Homagers to the King, and some other Ceremonies were performed; which being done, the Lord Keeper, by the King's Command, read a Writing unto them, which declared the King's free Pardon to all his Subjects who would take the same under the Great Seal.

The Ceremonies of the Coronation being ended, the *Regalia* were offered at the Altar by Bishop *Laud* in the King's Name, and then reposit.

On Monday the Sixth of February, a Second Parliament was Convened, and his Majesty being Seated in his Royal Throne, belpake that Assembly by the Lord Keeper. The Speech followeth.

Anno.
1625

The Lord Keepers Speech.

My Lords,

The Lord
Keepers
Speech.

And you the Knights, Citizens and Burgesses of the House of Commons, you are here Assembled, by his Majesties Writs and Royal Authority to hold a new Parliament, the General, Ancient and Powerful Council of this Renowned Kingdom; whereof if we consider aright, and think of that incomparable distance between the Supreme Height and Majesty of a mighty Monarch, and the submissive Aw and Lowliness of a Loyal Subject, we cannot but receive exceeding comfort and contentment in the frame and constitution of this highest Court; wherein not only the Prelates, Nobles and Grandees, but the Commons of all degrees have their part; and wherein that high Majesty doth descend to admit, or rather to invite the humblest of his Subjects to Conference and Council with him, of the great, weighty and difficult Affairs of the King and Kingdom; a Benefit and Favour whereof we cannot be too sensible and thankful; for sure I am, that all good hearts would be both sensible and sorrowful, if we did want it, and therefore it behoveth all, with united hearts, and minds free from distraction and diversion, to fix their thoughts upon Counsels and Consultations worthy of such an Assembly; remembering, That in it is presented the Majesty and Greatness, the Authority and Power, the Wisdom and Knowledge of this Great and Famous Nation; and it behoveth us to magnifie and bless God, that hath put the power of Assembling Parliaments in the hands of him, the Virtue of whose Person doth strive with the Greatness of his Princely Linage and Descent, whether he should be accounted *Major* or *Melior*, a greater King, or a better Man; and of whom you have had so much trial and experience, that he doth as affectionately love, as he doth exactly know and understand the true use of Parliaments; witness his daily and unwearied Access to this House, before his Access to the Crown; his Gracious readiness to all Conferences of Importance; his frequent and effectual Intercession to his Blessed Father of never dying Memory, for the Good of the Kingdom, with so happy success, that both this and future Generations shall feel it, and have cause to rejoyce at the Success of his Majesties Intercession. And when the Royal Diadem descended unto himself, presently in the midst of his Tears and Sighs for the Departure of his most Dear and Royal Father, in the very first Consultation with his Privy Council, was resolved to meet his People in Parliament: And no sooner did the heavy hand of that destroying Angel forbear those deadly strokes, which for some time did make this place inaccessible, but his Majesty presently resolved to recall it, and hath now brought you together, and in a happy time, I trust, to treat and consult with uniform Desires, and united Affections, of those things that concern the general Good.

And now being thus Assembled, his Majesty hath commanded me to let you know, that his Love and Affection to the Publick, moved him to call this Parliament; and looking into the danger and the spreading of that late Mortality,

and weighing the multitude of his Majesties pressing occasions, and urging affairs of State, both at home and abroad, much importing the safety and state of this Kingdom; the same affection that moved him to call it, doth forbid him to prolong the Sitting of this Parliament: And therefore his Majesty resolving to confine this Meeting to a short time, hath confined me to a short Errand; and that is, That as a thing most agreeable to the Kingly Office, to the example of the best times, and to the frame of Modern affairs, his Majesty hath called you together to consult and to advise of provident and good Laws, profitable for the publick, and fitting for the present times and actions; for upon such depends the Assurance of Religion and of Justice, which are the surest Pillars and Buttresses of good Government in a Kingdom: For his Majesty doth consider, That the Royal Throne, on which God out of his Mercy to us, hath set him, is the Fountain of all Justice, and that good Laws are the Streams and Quits by which the benefit and use of this Fountain is dispersed to his People; and it is his Majesties care and study, that his People may see with comfort and joy of heart, that this Fountain is not dry, but they and their Posterity may rest assured and confident in his time to receive as ample benefit from this Fountain, by his Majesties Mercy and Justice, as ever Subjects did in the time of the most eminent Princes, amongst his Noble Progenitors; wherein, as his Majesty shews himself most sensible of the Good of the Publick, so were it an injury to this Great and Honourable Assembly, if it should be but doubted, that they shall not be as sensible of any thing that may add to his Majesties Honour; which cannot but receive a high degree of Love and Affection, if his Majesty succeeding so many Religious, Wise and Renowned Princes, should begin his Reign with some Additions unto those good Laws which their Happy and Glorious Times have afforded. And this his Majesty hath caused me to desire at this time, especially above others; for his Majesty having at his Royal Coronation lately Solemnized the Sacred Rites of that Blessed Marriage between his People and him; and therein by a most Holy Oath, vowed the Protection of the Laws, and Maintenance of Peace, both to Church and People, no time can be so fit for his Majesty to advise and consult at large with his People, as at this present time, wherein so lately his Majesty hath vowed Protection to his People, and they have protested their Allegiance and Service to him.

This is the Sum of that Charge which I have received from his Majesty to deliver unto you; wherein you see his Majesties intent to the Publick: And therefore his desire is, That according to that conveniency of Time, which his Affairs may afford, you may apply yourselves to dispatch the business of this Parliament.

Sir Henneage Finch chosen Speaker.

On Wednesday following the Commons chose for their Speaker Sir Henneage Finch, Serjeant at Law, and Recorder of the City of London; whose Excuse of himself being not admitted, he spake as followeth.

Since it hath pleas'd your Majesty not to admit my humble Excuse, but by your Royal Appointment to Crown this Election; after my Heart

Anno 1625. Heart and Hands first lifted up to God, that hath thus inclined your Royal Heart, I do render my humblest thanks to your Majesty, who is pleased to cast so Gracious an eye upon so mean a Subject, and to descend so low as in a service of this importance, to take me into your Princely Thoughts. And since we all stand for Hundreds and Thousands, for Figures and Cyphers, as your Majesty the Supreme and Sovereign Auditor, shall please to place and value us, and like Coyn to pass, are made currant by your Royal stamp and Impression; only I shall neither disable or undervalue my self, but with a faithful and chearful heart, apply my self with the best of my strength and abilities, to the performance of this weighty and publick Charge, wherein as I do and shall to the end, most humbly desire your Gracious acceptance of my good intentions and endeavours: So I could not but gather some confidence to my self, that your Majesty will look favourably upon the works of your own hands. And in truth besides this particular, these publick things which are obvious to every Understanding, are so many Arguments of Comfort and Encouragement where I contemplate and take a view of those inestimable Blessings, which by the goodness of God, we do enjoy under your Majesties most pious and prudent Government.

If we behold the frame and the face of the Government in general, we live under a *Monarchy*, the best of Governments, the nearest resemblance unto the *Divine Majesty* which the Earth affords, the most agreeable tonature, and that into which other States and Republicks do easily fall and reverse into the Ocean, and are naturally dissolved as into their *Primum Materiam*. The *Laws*, by which we are governed, are above any value my words can set upon them: time hath refined and approved them: they are equal at least to any *Laws Humane*, and so curiously framed and fitted, that as we live under a temperate climate, so the *Laws* are temperate, yielding a due observance to the Prerogative Royal, and yet preserving the Right and Liberty of the Subject: That which *Tacitus* saith of two of the best Emperors, *Res olim insociabiles miscuerunt, imperium & libertatem*: and so far is this from the least diminution of Sovereigns, that in this your Majesty is truly stiled *Pater Patria*, and the greatest King in the World, that is King of such and so many Free-born Subjects, whose persons you have not only power over, but, which is above the greatest of Kings, to command their hearts. If time or corruption of manners breed any Mists or Grievance, or discover any defect in the Law, they are soon reformed by Parliament, the greatest Court of Justice, and the greatest Council of the Kingdom, to which all other Courts and Councils are subordinate. Here your Royal person still enthroned in the State of Majesty, attended by a Reverend and Learned Prelacy, a great and full Nobility enthroned like Stars in the Firmament; some of a greater, some of a lesser magnitude, full of light and beauty, and acknowledging to whom they owe their lustre: and by a choice number of worthy Knights and Gentlemen, that represent the whole body of your Commons. But to leave generals: We live not under a *Monarchy* only the best of Governments, and under a Government the best of *Monarchies*: but under a King the best of *Monarchs*, Your Royal Person, and those eminent graces and vertues which are inherent in your Person (in whom Greatness and Goodness contend for Superiority) it were pre-

sumption in me to touch, though with never so good a meaning: they will not be bounded within the narrow compass of my Discourse: And such Pictures of such a King are not to be made in Limning but for publick things and actions which the least Eye may see and discern and in them obliquely and by reflection chearfully and with comfort behold your Person. What age shall not record and eternise your Princely magnanimities in that Heroick Action or venturous Journey into *Spain*, or hazarding your Person to preserve the Kingdom? Fathers will tell it to their Children in succession: After-ages will then think it a Fable. Your piety to the Memory of your dear Father, in following and bedewing his Heric with your tears, is full in every mans memory. The *Publick Humiliation* when Gods hand lay heavy upon us, and the late *Publick Thanksgiving* to Almighty God for removing his hand both commanded and performed in person by your Majesty is a work in piety not to be forgotten, and I trust the Lord will remember them and reward them with mercy and blessing to your Majesty and the whole Kingdom. Your love to Justice, and your care in the administration of Justice, we all behold with comfort, and rejoyce to see it; the great Courts of Justice from the highest to the lowest furnished with Judges of that wisdom and gravity, learning and integrity: the Thrones of Kings are established by Justice; and may it establish, and I doubt not but it will establish the Throne of your Majesty in your person, and in your Royal Line to the end of time. But above all, and indeed it is above all as far as Heaven is distant from the Earth, your care and zeal for the advancement of Gods true Religion and Worship, are clearly and fully expressed and do appear both in your Person and by your publick Acts and Edicts. It is true that it is said of Princes, *Quod faciunt precipiunt*: of your Majesty both are true, and a Proposition made convertible. We have received a most gracious answer from your Majesty to all our late Petitions concerning Religion, seconded with a Publick Declaration under the great Seal, and inrolled in all the Courts of Justice, for your Royal pleasure and Direction to awaken and put life into these *Laws* by a careful execution, with provision that the penalties be not converted to your private Coffers, and yet the Coffers of the King are not private Coffers, but by your express direction set apart to publick uses, such as concern the immediate Defence of the Kingdom, wherein we all have our share and interest. Your Royal Proclamation hath commanded those Romish Priests and Jesuites to Banishment, those Incendiaries that infect the State of this Church and Commonwealth. Their very entrance into this Kingdom, is, by a just and provident Law, made Treason: their aims being in truth (how specious soever their pretences be) nothing else but to plot and contrive Treason against the State, and to seduce your Natural born Subjects from their true Obedience, nourishing in their posterities Factions and Seditious: Witness those many Treasons and Conspiracies against the person of that glorious Lady, whose memory will never dye: and that horrible matchless Conspiracy, the *Powder-Treason*, the Master-piece of the Devil. But God that preserved Her, and your Royal Father against all their treacherous Conspiracies, and hath given you a Heart to honour him, will honour and preserve you: Religion will more truly keep your Kingdoms, than the Seas do compass

Car. I.

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 pass them: It is the joy of heart to your Majesties loyal and well affected Subjects, and will ever be the honour of your Regal Diadem, and the Crown of your Crown. The Spanish invasion in *Eighty Eight* I hope will ever be remembered in *England*, with thankful acknowledgment to God for so great a deliverance; and I assure my self it is remembered in *Spain*, but with another mind, a mind of Revenge; they are too constant to their Counsels, to acquit their Resolutions and Purposes that draw on that Attempt. It was long before discovered, and since Printed, not without their liking, That they affect an Universal Monarchy. *Videor mihi videre* (saith *Lipsius* of their State) *Solem Orientem ab Occidente*; a Monster in Nature. And one of their own, speaking of the two great Lights which God had placed in the Firmament, makes the Pope *Luminare majus præsidentis urbi & orbi*, and the King of *Spain*, *Luminare minus ut subdatur urbi & dominetur per totum orbem*: A great Flattery, and a bold and impudent Elusion. But I trust, as God hath put it into the heart of your blessed Father, by the matchless Book of his, written to all Christian Monarchs and Princes (a Work by which he raised a Monument to himself more lasting than Marble) to denounce War to that Adversary of God and Kings, the Pope; so he hath set your Sacred Majesty upon the Throne of your Father, to do as many things worthy to be written, as he had written things worthy to be read: amongst them to restrain that unlimited Pride, and boundless Ambition of *Spain*, to reduce him to his proper Current and Channel, who under the Title of *Catholick King*, makes his pretence to more Countries and Kingdoms than his own; and by colour of disguised Treaties he invades the *Palatinate*, and dispossesseth the Incomparable Lady, your Royal Sister, and the Children of this Kingdom, of their Right, and their Ancient Patrimony and Inheritance, to the discomfort and dishonour of this great and glorious Nation. God in his Mercy soon repair this Breach by your Royal Head; and I assure my self, the Hearts, the Hands, and the Purse of all good Subjects will say *Amen*.

But I may weary your Majesty, and lose my self, and forget for whom I am Speaker. Custom gives me the Privilege as an humble Suitor on the behalf of the House, to present their few Petitions unto our Majesty.

1. The first, That for our better attending this publick and important Service, our selves and our necessary Attendance may with your Majesties tender allowance, be free both in our Persons and Goods from Arrests and Troubles, according to our Ancient Privileges.

2. The next; That since for the preparing and drawing to conclusion such Propositions as shall be handled in the House, Debate and Dispute will be necessary, and by variety of Opinions, Truth is oftentimes best discerned; your Majesty will likewise according to your Ancient Usage and Privilege, vouchsafe us Liberty and Freedom of Speech, from which, I assure my self, Duty and Loyalty to our Majesty, will never be severed.

3. That when Occasions of moment shall require, your Majesty, upon our humble Suit, and at such times as may best sort with your occasions, will vouchsafe us access to your Royal Person.

4. That the Proceedings of the House may receive a favourable Interpretation at your Gra-

cious Hands, and be free from misconstructions.

The first Work of the Commons was to thank his Majesty for his Gracious Answer to their Petition about Religion; next, they took into consideration the Publick Grievances; as the miscarriage at *Cales*, Evil Councillors about the King; that an Account ought to be given of the Subsidies and three Fifteens Granted 21 *Jac.* And they appoint a Committee for Secret Affairs, and another, for the redressing of Grievances; also a Committee was appointed for Religion; for which Mr. *Pym* reports several erroneous Opinions contained in Mr. *Montagues* Book before-named; as, that he endeavoured to reconcile *England* to *Rome*, &c. and to alienate the King's Affections from his well affected Subjects, were humbly Represented to that House as matter of Impeachment against the said *Montague*; and accordingly Articles to that purpose were exhibited against him; the Main whereof were, That in his Answer to the *G A G*, he hath affirmed, That the Church of *Rome* hath ever remained firm upon the same Foundations of Sacraments and Doctrine instituted by God, and that the Controversies betwixt the Church of *England* and *Rome* are of a lesser and inferior nature, of which a man may be ignorant without any danger at all as to his Soul; whereas the 19th. Article of our Church saith, That that Church hath erred, not only in their Living and Matters of Ceremony, but also in Matters of Faith: Likewise, That he the said *Montague* hath affirmed in the said two Books, That Images may be used for Instruction of the Ignorant, and excitation of Devotion; contrary to the expresse words of the Second Homily against the Peril of Idolatry, which saith, That Images teach no good Lesson, neither of God nor Godliness, but all Error and Wickedness. Moreover, that he there asserts Tutelary Saints and Angels, and that Men once justified may fall from Grace; and sundry other *Arminian* Points. All which Offences and Errors, being a Dishonour to God, and of evil consequence to the Church and Commonwealth, they pray, That the said *Richard Montague* may be punished, and that his Book may be suppressed and burnt. About this time the Attorney General did by his Majesties Command direct a Letter to the several Judges in their Circuits to order Proceedings to be made against Recufants.

The Commons proceed in the matter of Grievances, about Ships taken by the *French* from our Merchants, and likewise ours making Reprisals upon theirs; as likewise, another Grievance, The ill management of the Moneys granted for the Relief of the *Palatinate*, 21 *Jac.* for which the several Commissioners were questioned, and gave their several and respective Answers: The King by the Secretary *Cooke* presseth the Commons for a Supply, which at a Conference of both Houses was likewise done by *William Earl of Pembroke*, who then represented the state of Affairs to the Commons, and what Confederations were made for the Recovery of the *Palatinate*: But the Commons decline any Supply, and call for the Report from the Committee to consider of the Cause and Remedies of Evils, wherein they more particularly point at the Duke, and order Notice to be given to him thereof, whilst the Lords consider of the state of the Kingdom; and desire a conference with the Commons thereupon, who decline it; saying, they desire to have in all things a good correspondence with their Lordships in the defence of the Kingdom; but they desire to maintain their own Privileges, and im-

Sir R. Charlton's Mella

immediately proceed in the Debate concerning the Duke; which was a little interrupted by the King's Message and Letter by Sir R. Weston, which were as followeth.

King Charles to the Speaker.

The Kings
Letter to
the
Speaker.

Trusty and Well-beloved, &c.

HAVING assembled the Parliament early in the beginning of the Year, for the more timely help and advice of Our People in Our great and important Affairs; and having of late, not only by Message, but also of Our Self, put Our House of Commons in mind of Our pressing occasions, and of the present estate of *Christendom*, wherein they have equal interest with Us, as well in respect of their own former engagements, as of the Common Cause; We shall not need to tell them with what care and patience We have in the midst of Our necessities attended their Resolutions; but because their unreasonable slowness may produce at home as ill effects as a Denial, and hazard the whole Estate of things abroad; We have thought fit by you the Speaker to let them know, that, without more loss of time, We look for a full and perfect Answer of what they will give for Our Supply, according to Our expectation and their promises; wherein, as we press for nothing beyond the present state and condition of our Subjects, so we accept no less than is proportionable to the greatness and goodness of the Cause; neither do we press them to a present Resolution in this, with a purpose to precipitate their Counsels, much less to enter upon their Privileges, but to shew, that it is unfit to depend any longer upon uncertainties, whereby the whole weight of the Affairs of *Christendom* may break in upon us upon the sudden, to our dishonour, and the shame of this Nation. And for the Business at home, we command you to promise them in our Name, that after they have satisfied us in this our reasonable demand, we shall not only continue them together at this time, so long as the season will permit, but call them shortly again to perfect those necessary businesses which shall be now left undone; and now we shall willingly apply fit and seasonable Remedies to such just Grievances which they shall present unto us in a dutiful and mannerly way; without throwing an ill odour upon our present Government, or upon the Government of our late blessed Father. And if there be yet who desire to find fault, we shall think him the wisest reprehendor of errors past, who without reflecting backward, can give us Counsel how to settle the present estate of things, and to provide for the future safety and honour of the Kingdom.

The other particulars of his Message were these.

Sir Richard Weston's
Message.

I. That his Majesty's Fleet being returned, and the Victuals spent, the Men must of necessity be discharged, and their Wages paid, or else an assured mutiny will follow, which may be many ways dangerous at this time.

II. That his Majesty hath made ready about forty Ships, to be set forth on a second voyage, to hinder the Enemy, which want only victuals and some Men, which, without present supply of Money, cannot be set forth and kept together.

III. That the Army which is appointed in every Coast, must presently be disbanded, if they be not presently supplied with victuals and clothes.

IV. That if the Companies of Ireland, lately sent thither, be not provided for, instead of defending of that Country, they will prove the Authors of Rebellion.

V. That the season of providing healthful victuals will be past, if this Month be neglected.

And therefore his Majesty commandeth me to tell you, that he desired to know, without further delaying of time, what supply you will give him for these his present occasions, that he may accordingly frame his Course and Counsel.

The Commons Answer hereunto.

Most Gracious Sovereign,

YOUR Majesty's Dutiful and Loyal Subjects, the Commons now Assembled in Parliament, in all humility present unto your Royal wisdom this their Loyal Answer to the Message which your Majesty was pleased, by the Chancellor of your Exchequer, to send unto them, desiring to know, without any further deferring of time, what supply they would give to your Majesty, for your present and extraordinary occasions, that you might accordingly frame your Courses and Counsels: First of all, they most humbly beseech your Majesty to know and rest assured, That no King was ever dearer to his People than your Majesty; no People more zealous to maintain and advance the Honour and Greatness of their King, than they; which, as upon all occasions they shall be ready to express, so especially in the support of that Cause, wherein your Majesty and your Allies are now justly engaged. And because they cannot doubt, but your Majesty in your great wisdom, even out of Justice, and according to the Example of your most famous Predecessors, will be pleased graciously to accept the faithful and necessary information and advice of your Parliament, which can have no end but the service of your Majesty, and safety of your Realm, in discovering the Causes, and proposing the Remedies of these great Evils, which have occasioned your Majesties Wants; and your People's Grief.

The Commons
Answer
to the
Kings
Message
by Sir
Richard
Weston.

They therefore, in confidence and full assurance of Redress therein; do, with one consent, propose (though in former time such Course hath been unused) that they really intend to assist and supply your Majesty in such a way, and so ample a measure, as may make you safe at home, and feared abroad; for the dispatch whereof they will use such diligence, as your Majesties pressing and present occasions shall require.

And his Majesty Replied as followeth,

Mr. Speaker,

THE Answer of the Commons delivered by you, I like well of, and do take it for a full and satisfactory Answer, and I thank them for it, and I hope you will, with all expedition, take a course for performance thereof, the which will turn to your own good as well as mine; but for your Clause therein, of presenting of Grievances, I take that but for a Parenthesis in your Speech, and not a Condition; and yet, for answer to that part, I will tell you, I will be as willing to hear your Grievances, as my Predecessors have been, so that you will apply your selves to redress Grievances, and not to enquire after Grievances. I must let you know, that I will not allow any of my Servants to be questioned amongst you, much less such as are of eminent Place, and near unto,

The Kings
Reply.

Anno 1626. unto me. The old question was, *What shall be done to the Man whom the King will honour?* But now it hath been the labour of some, to seek what may be done against him whom the King thinks fit to honour. I see you specially aim at the Duke of Buckingham; I wonder what hath so altered your affections towards him: I do well remember, that in the last Parliament in my Fathers time, when he was the Instrument to break the Treaties, all of you (and yet I cannot say all; for I know some of you are changed, but yet the House of Commons is always the same) did so much honour and respect him, that all the Honour conferred on him was too little; and what he hath done since to alter and change your minds, I wot not; but can assure you, he hath not medled, or done any thing concerning the Publick or Common-Wealth, but by special directions and appointment, and as my Servant, and is so far from gaining or improving his Estate thereby, that I verily think he hath rather impaired the same. I would you would hasten for my Supply; or else it will be worse for your selves; for, if any ill happen, I think I shall be the last shall feel it.

Now one Dr. Turner Proposeth certain *Queries* in the Commons House against the Duke and the Opinions of the Common Lawyers were then desired to know whether that House in their Proceedings against the Duke might make Common Fame a ground for their Proceedings, which was agreed to by that House, but is ill taken by the King, and accordingly Sr. Richard Weston doth acquaint the House with it, however they proceed against him, and particularly Sr. John Elliot spake to this purpose.

Sir John Elliot pursues the argument against the Duke.

WE have had (says he) a representation of great fear, but I hope that shall not darken our understandings. There are but two things considerable in this business: First, the Occasion of our Meeting: and secondly, the present State of our own Countrey. The first of these we all know, and it hath at large been made known unto us, and therefore needeth no dispute. The latter of these we ought to make known, and draw and shew it, as in a Perspective, in this House: For our Wills and Affections were never more clear, more ready as to his Majesty, but perhaps Bau'd and Check'd in our forwardness, by those the King intrusts with the Affairs of the Kingdom. The last Action, was the Kings first Action; and the first Actions and Designs of Kings are of great observance in the eye of the World; for thereon much dependeth the esteem, or disesteem of their future proceedings: And in this Action the King and Kingdom have suffered much dishonour; we are weakned in our strength and safety, and many of our Men and Ships are lost. This great Design was fixed on the Person of the Lord General, who had the whole Command both by Sea and Land: And can this great General think it sufficient to put in his Deputy, and stay at home? Count Mansfield's Actions were so miserable, and the going out of those men so ill managed, as we are scarce able to say they went out. That handful of Men sent to the Palatinate, and not seconded, what a loss was it to all Germany? We know well who had then the King's ear. I could speak of the Action of Algier, but I will not look so far backward. Are not Honours now sold, and made despicable? Are not Judicial places sold? and do

not they then sell Justice again? *Vendere jure potest, emerat ille prius.* Tully, in an Oration against Verres, Notes, That the Nations were Suitors to the Senate of Rome, that the Law, *De pecuniis repetundis*, might be recalled: Which seems strange, that those that were suitors for the Law, should seek again to repeal it; but the reason was, It was perverted to their ill. So it is now with us; besides inferiour and subordinate persons that must have Gratuities, they must now feed their great Patrons.

I shall to our present case cite two Presidents. The first is 16. H. 3. the Treasure was then much exhausted, many Disorders complained on, the King wronged by some Ministers; many Subsidies were then demanded in Parliament, but they were denied: And then the Lords and Commons joyned to desire the King, to re-assume the Lands which were improvidently granted, and to examine his great Officers, and the Causes of those Evils which the People then suffered. This was yielded unto by the King, and Hugo de Burgo was found faulty, and was displaced; and then the Commons, in the same Parliament, gave Supply. The second President was in the tenth year of Richard the Second: Then the times were such, and places so changeable, that any great Officer could hardly sit to be warmed in his place: Then also Moneys had been formerly given, and Supply was at that Parliament required; the Commons denied Supply, and complained, that their Moneys were misemployed; That the Earl of Suffolk then overruled all; and so their Answer was, *They could not give*: And they petitioned the King, that a Commission might be granted, and that the Earl of Suffolk might be examined. A Commission, at their request, was awarded, and that Commission recites all the Evils then complained of; and that the King, upon the Petition of the Lords and Commons, had granted that Examination should be taken of the Crown-Lands which were sold, of the ordering of his Household, and the Disposition of the Jewels of his Grandfather and Father. I hear nothing said in this House of our Jewels, nor will I speak of them; but I could wish they were within these Walls. We are now in the same case with those former times; we suffer alike, or worse: And therefore unless we seek redress of these great Evils, we shall find disability in the Wills of the People to grant. I wish therefore, that we may hold a dutiful pursuance in preparing and presenting our Grievances. For the Three Subsidies and Three Fifteens which are proposed, I hold the proportion will not suit with what we would give; but yet I know it is all we are able to do, or can give; and yet this is not to be the stint of our affections, but to come again, to give more upon just occasions.

However they minded the Kings Supply, and Voted Three Subsidies, and Three Fifteens, but proceed in the Debate against the Duke; upon which they are Commanded to Attend the King the Morrow after at Nine of the Clock in the Banqueting House in Whitehall, when the King spake to them as followeth.

My Lords and Gentlemen,

I Have called you hither to day, I mean both The Houses of Parliament; but it is for several distinct reasons: My Lords, you of the Upper House

1 Car. 2.

The King's Speech March

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House, to give you thanks for the care of the State of the Kingdom now; and not only for the care of your own Proceedings, but inciting your Fellow-House of the Commons to take that into their consideration. Therefore (my Lords) I must not only give you thanks, but I must also avow, That if this Parliament do not redound to the good of this Kingdom, (which I pray God it may) it is not your faults. And you, Gentlemen of the House of Commons, I am sorry that I may not justly give the same thanks to you; but that I must tell you, that I am come here to shew you your errors, and, as I may call it, Unparliamentary proceedings in this Parliament. But I do not despair, because you shall see your faults so clearly by the Lord Keeper, that you may so amend your proceeding, that this Parliament shall end comfortably and happily, though at the beginning it hath had some Rubs.

And his Majesty Commanded the Lord Keeper to proceed, which he did, and said.

The Lord
Keeper's
Speech.

MY Lords, and you the Knights, Citizens, and Burgesses of the House of Commons: You are here Assembled by his Majesty's Commandment, to receive a Declaration of his Royal Pleasure; which although it be intended only to the House of Commons, yet his Majesty hath thought meet, the matter being of great Weight and Importance, it should be delivered in the presence of both Houses, and both Houses make one General Council: And his Majesty is willing that the Lords should be Witnesses of the Honour and Justice of his Resolutions. And therefore the Errand which, by his Majesty's direction, I must deliver, hath Relation to the House of Commons. I must address my self therefore to you, Mr. Speaker, and the rest of that House.

And first, his Majesty would have you to understand, That there was never any King more loving to his People, or better Affectioned to the right use of Parliaments, than his Majesty hath Approved himself to be, not only by his long Patience since the sitting down of this Parliament, but by those Mild and Calm Directions which from time to time that House hath received by Message and Letter, and from his Royal mouth; when the irregular humours of some particular persons wrought Diversions and Distractions there, to the Disturbance of those great and weighty Affairs, which the Necessity of the Times, the Honour and Safety of the King and Kingdom, called upon. And therefore his Majesty doth assure you, that when these great Affairs are settled, and that His Majesty hath received satisfaction of his reasonable Demands, he will, as a Just King, hear and answer your just Grievances, which, in a dutiful way, shall be presented unto him; and this his Majesty doth avow.

Next, his Majesty would have you know of a surety, That as never any King was more loving to his people, nor better affectioned to the right use of Parliaments; so never King more Jealous of his Honour, nor more sensible of the Neglect and Contempt of his Royal Rights, which his Majesty will by no means suffer to be violated by any pretended Colour of Parliamentary Liberty; wherein his Majesty doth not forget, that the Parliament is his Council; and therefore ought to have the liberty of a

Council; but his Majesty understands the difference betwixt Council and Controlling, and between Liberty and the abuse of Liberty.

This being set down in general, his Majesty hath Commanded me to Relate some particular Passages and Proceedings, whereat he finds himself Aggrieved.

First, Whereas a Seditious Speech was uttered amongst you by Mr. Cook, the House did not, as they ought to do, Censure and Correct him. And when His Majesty, understanding it, did, by a Message by Mr. Chancellor of the Exchequer, delivered to the House, require Justice of you, his Majesty hath since found nothing but protracting and delays. This his Majesty holds not agreeable to the Wisdom and the Duty which he expected from the House of Commons.

Secondly, Whereas Doctor Turner, in a strange Unparliamentary way, without any ground of knowledge in himself, or offering any particular Proof of the House did take upon him to advise the House to enquire upon sundry Articles against the Duke of Buckingham, as he pretended, but in truth to wound the Honour and Government of his Majesty, and of his Renowned Father; and his Majesty, first, by a Message, and after by his own Royal Mouth, did declare, That that course of Enquiry was an Example, which by no way he could suffer, though it were against his meanest Servant, much less against one so near him; and that His Majesty did much wonder at the Foolish Insolency of any man that can think, that his Majesty should be drawn out of any end to offer such a Sacrifice so Unworthy of a King, or a good Master; yet for all this, you have been so far from correcting the Insolency of Turner, that ever since that time, your Committees have walked in the steps of Turner, and proceeded in an Unparliamentary Inquisition, running upon Generals and repeating that whereof you have made Fame the ground-work. Here His Majesty hath cause to be exceeding sensible, that upon every particular, he finds the Honour of his Father Stain'd and Blemish'd, and his own no less; and withal you have manifested a great forwardness rather to pluck out of his Bosom those who are near about him, and whom His Majesty hath cause to affect, than to trust His Majesty with the future Reformation of these things which you seem to aim at: And yet you cannot deny, but His Majesty hath wrought a greater Reformation in matters of Religion, Execution of the Laws, and concerning things of great Importance, than the shortness of his Reign (in which he hath been hindred, partly through Sickness, and the Distraction of things, which we could have wished had been otherwise) could produce.

Concerning the Duke of Buckingham, His Majesty hath Commanded me to tell you, That himself doth better know than any Man Living, the Sincerity of the Duke's Proceedings; with what Cautions of Weight and Discretion he hath been Guided in his Publick Employments from His Majesty and his Blessed Father; what Enemies he hath Procured at Home and Abroad; what Peril of his Person, and Hazard of his Estate he ran into for the Service of His Majesty, and his ever Blessed Father; and how forward he hath been in the Service of this House many times since his Return from Spain. And therefore His Majesty

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Anno 1626. Majesty cannot believe, that the aim is at the Duke of Buckingham, but findeth, that these Proceedings do directly wound the Honour and Judgment of himself and of his Father. It is therefore his Majesties express and final commandment, That you yield obedience unto those Directions which you have formerly received, and cease this Unparliamentary Inquisition, and commit unto his Majesties care, and wisdom, and justice, the future reformation of these things which you suppose to be otherwise than they should be: And his Majesty is resolved, that before the end of this Session, he will set such a course, both for the amending of any thing that may be found amiss, and for the settling of his own Estate, as he doubteth not but will give you ample satisfaction and comfort.

Next to this, his Majesty takes notice, That you have suffered the greatest Council of State to be censured and traduced in the House, by men, whose Years and Education cannot attain to that depth: That Foreign businesses have been entertained in the House, to the hinderance and disadvantage of his Majesties Negotiations: That the same year, yea, the first day of his Majesties Inauguration, you suffered his Council, Government, and Servants to be parallel'd with the times of most Exception: That your Committees have presumed to examine the Letters of Secretaries of State, nay, his own: and sent a general Warrant to his Signet-Office, and commanded his Officers, not only to produce and shew the Records, but their Books and private Notes, which they made for his Majesties Service. This his Majesty holds as unsufferable, as it was in former times unusual.

Next I am to speak concerning your supply of Three Subsidies, and Three Fifteens, which you have agreed to tender to his Majesty. You have been made acquainted with the greatness of his Affairs, both at home and abroad, with the strong preparation of the Enemy, with importance of upholding his Allies, strengthening and securing both England and Ireland; besides the encountering and annoying the Enemy by a powerful Fleet at Sea, and the charge of all: This having been calculated unto you, you have professed unto his Majesty, by the mouth of your Speaker, your carefulness to support the Cause wherein his Majesty and his Allies are justly engaged; your unanimous consent and real intention to supply his Majesty in such a measure, as should make him safe at home, and feared abroad; and that in the dispatch hereof you would use such diligence as his Majesties pressing and present occasions did require.

And now his Majesty having erected a proceeding suitable to this engagement, he doth observe, that in Two Days only of Twelve, this business was thought of, and not begun till his Majesty by a Message, put you in mind of it, whilst your Inquisition against his Majesties direction, proceeded Day by Day.

And for the measure of this supply, his Majesty findeth it so far from making himself safe at home, and feared abroad; as contrariwise, it exposeth him both to danger and disesteem; for his Majesty cannot expect, without better help, but that his Allies must presently Disband, and leave him alone to bear the fury of a provoked and powerful Enemy; so as both he and you shall be unsafe at home, and ashamed and de-

spised abroad. And for the manner of the Supply, it is in it self very dishonourable, and full of distrust; for although you have avoided the literal word of a Condition, whereof his Majesty himself did warn you, when he told you of your Parenthesis; yet you have put to it the effect of a Condition, since the Bill is not come into your House, until your Grievances be both preferred and answered. No such thing was in that expression and engagement delivered by your Speaker, from which his Majesty holdeth, that you have receded both in matter and manner, to his great disadvantage and dishonour. And therefore his Majesty commandeth, that you go together, and by Saturday next return your final Answer, what further Supply you will add to this you have already agreed on, and that to be without Condition, either directly or indirectly, for the supply of these great and important Affairs of his Majesty; which, for the reasons formerly made known unto you, can endure no longer delay; and if you shall not by that time resolve on a more ample Supply, his Majesty cannot expect a Supply this way, nor promise you to sit longer together; otherwise if you do it, his Majesty is well content, that you shall sit so long, as the season of the Year will permit; and doth assure you, that the present Addition to your Supply to set forward the work, shall be no hindrance to your speedy access again.

His Majesty hath commanded me to add this, That therein he doth expect your cheerful obedience, which will put a happy issue to this meeting, and will enable his Majesty, not only to a Defensive War, but to employ his Subjects in Forreign Actions, whereby will be added to them both Experience, Safety, and Honour.

Last of all, his Majesty hath commanded me, in explanation of the gracious goodness of his Royal intention, to say unto you, That he doth well know, that there are among you many wise and well tempered men, well affected to the Publick and to his Majesties service; and that those that are willingly faulty, are not many: and for the rest, his Majesty doubteth not but after his gracious admonition, they will, in due time observe and follow the better sort; which if they shall do, his Majesty is most ready to forget whatsoever is past.

Then his Majesty spake again,

I must withall put you in mind a little of times past; you may remember, that in the time of my blessed Father, you did with your Counsel and perswasion, perswade both my Father and me to break off the Treaties; I confess I was your Instrument, for two reasons; One was, the fitness of the time; the other, because I was seconded by so great and worthy a Body, as the whole Body of Parliament: Then there was no body in so great favour with you, as this man whom you seem now to touch, but indeed, my Father's Government and mine. Now that you have all things according to your wishes, and that I am so far engaged, that you think there is no retreat; now you begin to set the Dice, and make your own Game: But I pray you be not deceived, it is not a Parliamentary way, nor it is not a way to deal with a King.

Mr. Cook told you, *It was better to be eaten up by a Foreign Enemy, than to be destroyed at home.*

Indeed

Anno 1626. Indeed I think it more Honour for a King to be Invaded, and almost destroyed by a Forreign Enemy, than to be despised by his own Subjects.

Remember, that Parliaments are altogether in my power for their Calling, Sitting, and Dissolution; therefore as I find the fruits of them good or evil, they are to continue or not to be: And remember, that if in this time, in stead of mending your Errors, by delay you persist in your Errors, you make them greater, and irreconcilable: Whereas on the other side, if you do go on chearfully to mend them, and look to the distressed State of *Christendom*, and the Affairs of the Kingdom, as it lieth now by this great Engagement; you will do your selves Honour, you shall Encourage me to go on with Parliaments, and, I hope, all *Christendom* shall feel the good of it.

Upon these Speeches the Commons House turned themselves into a Grand Committee and ordered their Doors to be Locked, and that no Member go forth, till the House come to a Resolution, concerning some Speeches which fell from His Majesty and the Lord Keeper of which his Majesty having knowledge, Commands the Duke to Explain his Meaning at a Conference of both Houses held in the Painted Chamber, which accordingly the Duke did and farther Addressed himself to them on his own Behalf, which likewise is continued by the Lord Conway. Who gives in at that time an Account of the Disbursement of the Moneys Granted for the carrying on of the War; However the Commons still proceed in these matters, which they call'd Grievances, and the Peers in that mean while both Spiritual and Temporal Address to his Majesty by the way of Petition against the Precedency of *Scotch* and *Irish* Nobility as followeth.

The Duke, at a Conference, explains the King's late Speech, and the Lord Keeper's Declaration.

Whereas it is objected by some, who wish good Correspondency betwixt the King and People, that to Prefix a day to give or to break, was an unusual thing, and might express an inclination to the King to break; to remove this, as his Majesty was free from such thoughts, he hath descended to make his Explanation.

That as his Majesty would not have you condition with him directly or indirectly, so he will not lie to a day, for giving further Supply; but it was the pressing occasion of *Christendom* that made him to pitch upon a day.

His Majesty hath here a Servant of the King of *Denmark*, and another from the Duke of *Weymer*, and yesterday received a Letter from his Sister the Queen of *Bohemia*; who signified, that the King of *Denmark* hath sent an Ambassador, with Power to perfect the Contract which was made at the *Hague*; so it was not the King, but time, and the things themselves that pressed a time.

Therefore His Majesty is pleased to give longer time, hoping you will not give him cause to put you in mind of it again; so that you have a greater Latitude, if the business require to think further of it.

I am Commanded further to tell you, that if his Majesty should accept of a less sum than will suffice, it will deceive your expectation, disappoint his Allies, and Consume the Treasure of the Kingdom: whereas if you give largely now, the business being at the Crisis, it comes so seasonably, it may give a Turn to the Affairs of *Christendom*.

But while we delay and suffer the time to pass, others abroad will take advantage of it, as the King of *Spain* hath done, by concluding a Peace, as 'tis thought, in *Italy*, for the *Valteline*, where by our work is become the greater, because there can be no diversion that way.

As it was a good rule to fear all things and nothing, and to be Liberal was sometimes to be Thrifty; so in this particular, if you give largely, you shall carry the War to the Enemy's door, and keep that Peace at home that hath been: Whereas, on the contrary, if you draw the War at home, it brings with it nothing but disturbance and fear, all courses of Justice stopt, and each mans Revenue lessened, and nothing that can be profitable.

Another Explanation I am Commanded to make, touching the Grievances; wherein His Majesty means no way to Interrupt your Proceedings, but hopes you will proceed in the Ancient ways of your Predecessors; and not so much seek faults, as the means to redress them.

I am further Commanded to tell you, That his Majesty intends to Elect a Committee of both Houses, whom he will trust, to take the view of his Estate, the defects of which are not fit for the eyes of a Multitude; and this Committee will be for your ease, and may satisfy you, without casting any ill Odour on his Government, or laying open any weakness that may bring shame upon us abroad. That which is proposed is so little, that when the Payment comes, it will bring him to a worse Estate than now he is in; therefore wishes you to enlarge it, but leaves the Augmentation to your selves; but is sorry, and touch'd in Conscience, that the very burthen should lie on the poorest, who want too much already; yet he will not prescribe, but wish, that you, who were the Abettors and Counsellors of this War, would take a greater part of the burthen to your selves; and any man that can find out that way, shall shew himself best affected, and do the best service to the King and State.

The Duke then speak in Justification of himself.

My Lords and Gentlemen.

YOU were all Witnesses yesterday how good and Gracious a Master I serve; and I shall likewise be glad that you be Witnesses how thankful a heart I have.

And I protest I have a heart as full of Zeal to serve my Master, as any man; and it hath been my study to keep a good Correspondency betwixt the King and his People: and whatever thought hath been entertained of me, I shall not alien my heart from that intention, but shall add Spurs to my Endeavours and Actions, to vindicate my self from ill Opinions.

And however I lie under the Burden of the same, it lies in your hands to make me happy or not; and, for my parr, I wish my heart and actions were known to you all; then I assure my self, you would Resume me to your good Opinions.

When I had, with some hazard, waited on my Master into *Spain*, it is well known what Testimony I gave of my Religion; and no man that comes to a true and near view of my Actions, can Justly charge me. Let me be Excused, if I give account of this particular, when I should

The Duke renders an account of his Negotiation in the Low-Countries.

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‘speak of the general; for this goes near my Heart, and to dissemble with my Conscience, no ends of Fortune in the World can make me do it: For if I had any ill inclination, I had such offers made me in *Spain*, as might have tempted me.

‘If I would have been Converted my self, I might have had the *Infanta* to put in my Master’s Bed; and if my discontent should have risen here, I might have had an Army to have come with me: But I thought the Offer, Foolish, Ridiculous, and Scornful, in that point of Religion.

‘I will now take the boldness to speak a little in the general business; and I call it boldness to speak after one, who did so well the other day: But I had rather suffer in my own particular, than not refresh your Memories with that which is materially needful.

‘I shall not need to reflect so far back as to the beginning of those Counsels which engaged my Master into the War, they are well known; only I will so far touch it, as to say, That the last years preparations were not Voluntary, or out of Wantonness, but out of Necessity.

‘My Master had good Intelligence, that the King of *Spain*’s eye was maliciously bent this way, which had been pursued accordingly, if the Employment of the Low-Country-Men to the Bay of *Todos los Santos* had not diverted it.

‘Now for the counsel which was used in sending out the Fleets, I will refer you to the relation of the Lord *Conway*, who, as well in this as other Resolutions, can tell you, that nothing was carried with single Counsels: And for my self, I know, that in all those Actions, no man can stand up against me, to say, that I ever did go with single Counsels, or made breach of any; but have been an obedient Servant and Minister unto their Resolutions: The proof whereof will appear in a Journal thereof, which my Lord *Conway* keeps.

‘I confess, all Counsels were not ever as your selves would, nor have wished they should; if you had known them as my Master did, in whom the former Affairs of State had bred such Affections, that the business being altered, they were not to be trusted with the Change.

‘I will now give you an account of all my Negotiations, since my being at *Oxford*, both at home and abroad; and because there it was charged, that those things were carried with single Counsels, I was more careful to advise the King to have his Council with him in the Country, being to enter into War with an Active King.

‘And for my part, I did diligently wait on the Council, left all Recreations, all personal occasions; studying to serve my Master, and to gain the good Opinion of both Houses. The Council of *Woodstock* generally advised the going out of the Fleet. And though it were objected, that the Season were not fit, yet the Action shewed the contrary, for they all Arrived in safety. And for what was also objected, that the Provision was not good, experience tells you the contrary; for the preparations were all good in quality and proportion.

‘And if the success were not such as any Honest Man could wish, I hope I shall not be blamed, being not there in person, though I made the greatest suit for it to my Master, that ever I did for any thing: But his Majesty thought my service more useful in the Low-Countries, to comfort his

Sister, and to Treat with the Kings of *Denmark*, *Sweden*, and the States. 1 Car. 2.

‘And though the success (as I said) of the Fleet, were not answerable to the desires of Honest Men, yet it had these good effects; First, It put our Enemy to great charge in fortifying his Coasts. Secondly, they took so many Ships, as caused many of his Merchants to break, whereby the Army in *Flanders* suffered much: And lastly, they could carry no Treasure out to Pay their Forces in *Flanders*.

‘And for Omissions of what more might have been done, I leave that to its proper place and time, and let every Man bear his own burden.

‘From *Oxford*, the Council went to *Southampton*, where the States Ambassadors did wait often on the King and Council, and a League Offensive and Defensive betwixt us and them was thought fit to be resolved on, whereof some reasons I will express, but not all. First, they are of our own Religion. Secondly, they are our Neighbours, for situation so useful, as when they are in distress, it is Policy in us to give them Relief; therefore the King thought fit to do it in such manner, as might lay an Obligation on them; which if it had not been done, they had been pressed with a long War, and such a Faction among themselves, as if the King had not joyned, and, in a manner, appeared their Protector, they had broke among themselves. And in this the King’s care was not only of them, but of all *Christendome*, and of his own particular.

‘For, as before he only assisted them, his Majesty’s care now used Arguments to draw them to Contribution; so that they bear the Fourth part of the Charge of the War at Sea, according to such Conditions as by the Lord Chamberlain you have heard.

‘This League being perfected between the States and us, his Majesty, by Advice of his Council, thought fit to send me to get such a League with the other Princes as I could: The Rendezvous was in the Low-Countries, being in a manner the Centre for repair for *England*, *France*, and *Germany*; I had Latitude of Commission to make the League with most advantage I could.

‘Now I had discovered from Monsieur *B.* the French Ambassador here that a League Offensive and Defensive would be refused; and I found the King of *Denmark* shie, and loath to enter into such a League against the King of *Spain*; and so partly out of Necessity, and partly out of reason of State, I was forced to conclude the League in general terms for the restoring of the Liberty of *Germany* without naming the King of *Spain*, or the Emperor, that other Princes might come in; and this to continue till every one had satisfaction, and nothing to be Treated of, Debated, or Concluded on, but by consent of all Parties. It did appear, that the Charge was so great, that the Kingdom could not endure it; and therefore I endeavoured in the Low-Countries to lessen it, and so the Sea charge was helped, and the Land Assistance given unto them, is to cease six Months hence, which the Lord *Conway* said was to end in *September* next.

‘Also by this Treaty it is conditioned with the King of *Denmark*, That when my Master shall

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But all is in the discreet taking of the time; for if not, we may think the King of Denmark will take hold of those fair Conditions which are each Day offered him; and then the Enemies Army will fall upon the River of Elbe, (and the Lord Conway added) upon East Friezland, from whence they would make such progress, as (in my poor experience) would ruine the Low-Countries.

And thus I think I have satisfied all of you, or at least given an account of my Negotiation in the Low-Countries, with the King of Denmark, Sweden, and the rest.

I should be glad before I end, to say somewhat of my self, but I shall request your favourable construction, for I have been too long already; but I fear I shall offend, and therefore I will restrain my self to generals.

If in any of these employments, my Errors may be shewed me, I shall take him for my best Friend that will manifest them in particular. I have bent all my thoughts on nothing but my Masters Honour, the Service of the State, and Safety of them both. I never had any end of mine own, and that may be perceived and proved by the expence of mine own estate. I am ashamed to speak it, and it would become another Mans Tongue better than mine own.

My Journey into Spain was all at my own charge; my Journey into France, was at my Masters charge; my Journey into the Low-Countries was all at my own charge.

I am accused by Common Fame, to be the cause of the loss of the Narrow Seas, and the damage there sustained. That I can say, is this, since the War begun with Spain, I have always had Twelve Ships on the Coasts, and allowance but for Four, the rest my own care supplied. And for the Office of Admiral, when I came first to it, I found the Navy weak, not neglected by my Noble Predecessor (for I cannot speak of him, but with honour; and I shall desire to go to my Grave with the honour he carried hence) but the not paying of Monies in time, there were such defects his care could not prevent; that if the War had then broken out, there would have been found few Ships, and those unserviceable. I was first perswaded to take this Office by perswasion of Sir Robert Mansel, and though I objected I was young, and unexperienced, yet he said that by my favour with my Master, I might do more good in procuring payment for that charge; And because I was young and unexperienced, I took advice, as I do in all things, and am not ashamed of it. I desired my Master to grant as it were a Commission over me. I have found a great Debt, the Ships defective, and few in number, the yearly charge of Fifty four thousand pounds, which was brought to Thirty thousand pounds per annum, we built every Year two Ships, and when so many were built as were requisite, we brought it to Two and twenty

thousand pounds per annum, which comes not to my hands, but goes into its proper streams, and issues from the Officers to that purpose deput-
ted.

Now if any can shew me a project, how to maintain a War against Spain, Flanders, and the Turkish Pirates with less charge, he will do a great work and good service: I have had sometimes Twenty, sometimes Thirty Ships, though sometime disasted by Tempest, which dispersed the Hollanders Ships, and caused them to cut their Masts, and forsake Ancors.

There are now Twelve Ships victualled for Two Months; and though many Reports have been, that they do not do their duty, yet I have advertised them thereof from time to time, and find no such fault in them.

There are Thirty Ships more at Plymouth, Victualled for Six Months, and Ten more ready, so soon as they may be Victualled: I have been so frugal of making use of the old remain, that there is no need of Ammunition, or other necessities.

Besides all these, there are Twenty Ships to come from the Low-Countries; so you have Twelve, Twenty, Thirty, and Ten more, which I think you have not heard of.

And therefore if any have blamed me, I do not blame him, but think he hath done well; but when you know the truth, and when all this shall appear, I hope I shall stand right in your Opinions.

Gentlemen, It is no time to pick Quarrels one with another; we have Enemies enough already, and therefore more necessary to be well united at home.

Follow not Examples, at least not ill Examples of Gondemar and Inojosa, who would have had my Head, when you thought me worthy of a Salute. Now though I confess there may be some Errors, I will not justify my self; yet they are not such gross defects, as the World would make them appear. I desire they may be admitted Cum Nota.

They are no Errors of wilfulness, nor of Corruption, nor Oppressing of the People, nor Injustice, but contrary; and then may I say, For what good done by me do I suffer?

And now I might answer more particulars, but I have been long, and so will forbear; and will conclude, if your Supply answer not your Promises and Engagements to my Master; you will make this place which hath been in Peace when others were in War, the Seat of War when others are in Peace.

Now Gentlemen, you that were Antient Parliament men when this Council was first given, strive to make good your own Engagement, for the honour of your King, and your own safety. Let Religion, in which I would be more watchful and industrious than any, unite your hearts both at home and abroad; and you that are young men, may in these active times gain honour and reputation, which is almost sunk, and gain the Ancient Glory of your Predecessors: and remember it is for restoring to her Inheritance, the most vertuous Lady I think in the World.

I have nothing more but to entreat your charitable Opinion of me, and my Actions.

And for his further vindication the Lord Conway said,

That

Annals of the Reign of

Anno
1626.

The Lord
Conway
vindicates
the Duke.

That whereas divers Jealousies have been raised in the House, that the Moneys have been expended unusefully and without Council; himself, who was the only Secretary, and had the hand in guiding the Business, could best give an Account of it.

When King James of Glorious Memory, at the Request of both Houses, had broken both the Treaties, he considered how to maintain the War: for he saw that the King of Spain was awaked, and that the Palatinate must be got by the Sword, and that Spain would oppose it with all the power they could; and computing the Charges, found the Subsidies granted too short; for that it could not be done without an Army of five and twenty thousand Foot, and five thousand Horse, which would amount to Six hundred thousand pounds for the Armies yearly, and Three hundred thousand pounds for the Navy; but finding all his Means short, and as the Proverb is, *Not knowing of what Wood to make his Arrows to hit the Mark wishal*, Count Mansfield stirred up by his own Judgment, came over, and made Overture, That for twenty thousand pounds a Month he would raise an Army of Thirty thousand men, and draw in the French King, Denmark, Sweden, Venice, Savoy, the Cantons of the Switzers perhaps, and some other German Princes, and raise a War in *Alsatia*, of great consequence to make a Division.

Now about this time the Council of Austria resolved to call a Diet, and exclude the Count Palatine, and put in a Popish Elector; and for that end offered a General Peace in Germany, and so left not a Crevice to look into for Assistance; but if any of them should aid the Count Palatine, he should be out of the Peace.

The King accepts Mansfield's Offer, conditionally that he drew in the French King: So Mansfield went over into France, and the King, by Advice of his Council, sent Ambassadors into France, Denmark, Venice, Savoy, and the Cantons of the Switzers, from whom he received cold Answers; for King James had stood so long on Terms of Peace, as they doubted he would not be brought to enter into a War. But Count Mansfield procured the King of France to contract to receive our Troops, with promise to enter into the War, upon condition it might be regulated by the Council of the French King and England. This Favour to Count Mansfield, That France agreed that his Armies should join with the King's Troops, wrought the Princes of Germany to believe, that the King would enter into a War. Thereupon the Imperialists left their Diet, and sent Tilly to Friesland; and to take up the River of Embden; which if he had obtained, they would have trampled the Low-Countries under foot, and would have become Governors of the Sea.

Upon this, the King of Denmark sent to our King, and offered to raise an Army of thirty thousand men, if our King would allow Thirty thousand pounds a Month, and said, he would admit no time of Respite; for if Tilly had not been presently met and headed, all had been lost. Whereupon our King called a Council, and appointed Commissioners; and from that time all the Warrants for the issuing of the Moneys, were all under the Kings own hand to the Council of War, and from them to the Treasurers; and the Warrants were from the

Lords of the Council for the Levying of Men, and for Coats and Conduct-Money. A List whereof is hereunder specified.

Thereupon, the Duke asked the Question, whether any thing was done by single Council?

To which the Lord Conway answered, No; For the Treaty of Denmark, Project of Count Mansfield's Treaties with France, and the Business of Navy, were done all by the King himself; and who can say it was done by single Council, when King James commanded it, whose Council every man ought to Reverence, especially in Matters of War, whereunto that King was not hasty?

The Total of Moneys paid by Warrants of the Treasurers of the Subsidy-Money.

IN Toto for the Four Regiments of the Low-Countries, from the Thirteenth of June, 1624, till the One and twentieth of July, 1625, 99878 l. 0 s. 6 d.

A List of
Moneys
disbursed
for the
War.

For the Navy, from July 1624, till December 23. 37530 l. 8 s. 4 d.

For the Office of the Ordnance and Forts in England, from July 20. 1624. till June 15. 1625. 47126 l. 5 s. 5 d.

To defray Charges for Forts in Ireland, about October 1624. 32295 l. 18 s. 4 d.

For the Service under Count Mansfield; for Provisions of Arms, Transporting of Souldiers, from October 1624, till December 1624. 61666 l. 13 s. 4 d.

Sum Total---278497 l. 4 s. 11 d.

Memorandum, That over and above the several Services before specified, and the several Sums issued, and to be issued by our Warrants for the same, we did long since resolve and order accordingly, that out of the Money of the second and third Subsidies, these further Services should be performed, and Moneys issued accordingly, viz.

'In full of the Supply of all the Forts and Castles before-mentioned (Surveyed per Sir Richard Morison, Sir John Ogle, Sir John Kay, in September 1613. with all sorts of Munitions according to several Proportions and Warrants for the same, 4973 l.

'In full for the Reparations of all the said Forts and Castles, according to their said Survey. 10650 l. 6 s. 8 d.

'But the said Subsidies being not like to afford means to perform these so necessary Works, We humbly commit the Supply of what shall be wanting for the same, unto your Majesties Princely Consideration.

During these Heats in the Commons House, the Lords Present a Grievance relating to their own Order, to His Majesty, by Petition; as followeth:

Anno
1626. To the Kings Most Excellent
Majesty.

The Petition of your ever
Loyal Subjects, the Lords
Spiritual and Temporal
now in Parliament Assem-
bled,

In all Humility sheweth,

The Lords
Petition
touching
preceden-
cy, chal-
lenged by
Scots and
Irish No-
bles.

That whereas the Peers and Nobility
of this your Kingdom of England, have
heretofore in Civility yielded as to stran-
gers Precedency, according to their seve-
ral degrees, unto such Nobles of Scotland
and Ireland, as being in Titles above them,
have resorted hither. Now divers of the na-
tural born Subjects of those Kingdoms re-
sident here with their families, and ha-
ving their chief Estates among us, do by
reason of some late created Dignities in
those Kingdoms of Scotland and Ireland,
claim Precedency of the Peers of this
Realm, which tends both to the Disser-
vice of your Majesty, and these Realms,
and to the great Disparagement of the
English Nobility, as by these Reasons may
appear.

I. It is a Nobility without President, that
men should inherit Honours, where they
possess nothing else.

II. It is Injurious to those Countries
from whence their Titles are derived, that
they should have a Vote in Parliament,
where they have not a foot of Land.

III. It is a Grievance to the Countrey
where they inhabit, that men possessing ve-
ry large fortunes and Estates, should by
reason of foreign Titles, be exempted
from those Services of Trust and Charge,
which through their default become great-
er pressures upon others who bear the bur-
den.

IV. It is a shame to Nobility, that Per-
sons dignified with the Titles of Barons,
Viscounts, &c. should be obnoxious and expo-
sed to Arrest, they being in the view of the
Law no more than meet Plebeians.

We therefore humbly beseech your Maje-
sty, that you will be pleased according to
the examples of the best Princes and
Times, upon consideration of these In-
conveniencies represented to your Majesty,
by the nearest Body of Honour to your Ma-
jesty, that some course may be taken, and
an Order timely settled therein by your
Princely Wisdom, so as the Inconveni-
ence to your Majesty may be prevented,

and the prejudice and disparagement of the
Peers and Nobility of this Kingdom be
repealed. 1 Car. 2.

About which the King acquainted the Peers;
that he would take Order therein.

The Commons Address to His Ma-
jesty about the Duke, and the
Proceedings of the House con-
cerning him; and likewise about
Mr. Cooke's Mifs-becoming Words
in their House.

That with extream Joy and Comfort we ac-
knowledge the Favour of His Majesties
most Gracious Expressions of Affection to his
People, and this present Parliament.

That concerning Mr Cooke, true it is, he let
fall some few Words which might admit
of an ill construction; and that the House
was displeased therewith, as they declared
by a general Check; and though Mr. Cookes
explanation of his Mind more clearly, did
somewhat abate the Offence of the House,
yet were they resolved to take it into further
consideration; and so have done; the effect
whereof had appeared ere this, had they not
been interrupted by this his Majesties Message:
and the like interruption befell them also in
the Business of Dr. Turner.

As concerning the Examination of the Let-
ters of his Secretary of State, as also of his
Majesties own, and searching the Signet-Office,
and other Records, they had done nothing
therein, not warranted by the Precedents of
former Parliaments upon the like occasions.

That concerning the Duke, they did humbly
beseech his Majesty to be Informed, That it
hath been the constant and undoubted usage
of Parliaments, to question and complain of
any Person of what degree soever; and what
they should do in relation to him, they little
doubted but it should redound to the Honour
of the Crown, and Safety of the King-
dom.

Lastly, as to the Matter of Supply; That if
Addition may be made of other things im-
porting his Service then in consultation amongst
them; they were resolved so to supply him,
as might evidence the Truth of their Inten-
tions, might make him safe at home, and formi-
dable abroad,

The Earl of Bristol being committed to the
Tower ever since his Return from his Embas-
sy from Spain, now petitions the Lords, That
he being a Peer of the Realm, and having not
received his Writ of Summons to Parliament,
might now enjoy the Priviledge of his Peerage,
and be tried by the Parliament concerning the
Crimes objected to him, as followeth;

The

Anno
1626.

The Humble Petition of John
Earl of Bristol.

Humbly shewing unto your Lordships,

The Earl
of Bristol
petitions
the House
of Lords
upon re-
ceipt of
his Writ.

That he hath lately received his Writ of Parliament, for which he returneth unto your Lordships most humble thanks, but jointly with it a Letter from my Lord Keeper, commanding him in his Majesties Name, to forbear his personal attendance; and although he shall ever obey the least intimation of his Majesties pleasure, yet he most humbly offereth unto your Lordships wise considerations, as too high a point for him, how far this may trench upon the Liberty and Safety of the Peers, and the Authority of their Letters Patents, to be in this sort discharged by a Letter missive of any Subject, without the Kings Hand: and for your Lordships due information, he hath annexed a Copy of the said Lord Keeper's Letter, and his Answer thereunto.

He further humbly petitioneth your Lordships, That having been, for the space of two years, highly wronged in point of his Liberty, and of his Honour, by many sinister aspersions which have been cast upon him, without being permitted to answer for himself; which hath been done by the power and industry of the Duke of Buckingham, to keep him from the presence of his Majesty and the Parliament, lest he should discover many Crimes concerning the said Duke.

He therefore most humbly beseecheth, That he may be heard both in the point of his wrong, and of his Accusation of the said Duke; wherein he will make it appear, how infinitely the said Duke hath both abused their Majesties, the State, and both the Houses of Parliament. And this he is most confident will not be denied, since the Court of Parliament never refuseth to hear the poorest Subject seeking for Redress of wrongs, nor the Accusation against any, be he never so powerful: And herein he beseecheth your Lordships to mediate to his Majesty, for the Suppliant's coming to the House, in such manner as you shall think fitting; assuring his Majesty, That all he shall say, shall not only tend to the Service of his Majesty, and the State, but highly to the Honour of his Majesties Royal Person, and of his Princely Attributes: And your Suppliant shall ever pray for your Lordships Prosperity.

This Petition is referr'd to the Committee of Privileges, who make Report, That 'tis the Opinion of that Committee, That his Majesty be humbly desired by that House, that the said Earl may have his Writ of Summons, and all other the Peers also absent, who had no Summons: which his Majesty Granted; and acquainted the House therewith, by the Duke.

Upon Bristol's receiving of his Writ, he Petitions the House of Peers again, that he may be heard in his Accusation of the Duke; which is taken by his Majesty in evil part; and concerning which the Lord Keeper delivers this following Message from his Majesty to this House.

1 Car. 2.

That his Majesty hath heard of a Petition preferr'd unto this House by the Earl of Bristol, so void of Duty and Respects to his Majesty, that he hath great cause to punish him: That he hath also heard with what Duty and Respectfulness to his Majesty their Lordships have proceeded therein; which his Majesty conceiveth to have been upon the knowledge they have, that he hath been restrained for Matters of State; and his Majesty doth therefore give their Lordships Thanks for the same, and is resolved to put the Cause upon the Honour and Justice of their Lordships and this House. And thereupon his Majesty commanded him (the Lord Keeper) to signify to their Lordships his Royal pleasure; That the Earl of Bristol be sent for as a Delinquent, to answer in this House his Offences, committed in his Negotiations before his Majesties being in Spain, and his Offences since his Majesties coming from Spain, and his Scandalizing the Duke of Buckingham immediately, and his Majesty by reflection; with whose privacy, and by whose directions the Duke did guide his Actions, and without which, he did nothing. All which his Majesty will cause to be charged against him before their Lordships in this House.

A Message
from the
King to
the House
of Lords.

The Lords attend the King by a Committee of their House, and present their humble Thanks to his Majesty for the Trust and Confidence he had placed in the Honour and Justice of their House.

In the House of Commons the Marshal of Middlesex gave in a Petition, for that he was resisted in the Clink-Prison in the County of Surrey, in his apprehending of several Popish Priests, whose Names were, Preston, Candon, Warrington and Praton; that he had found there several Cart-loads of Books, and in another Chamber an Altar furnished with Plate, Jewels, Church-Stuff, and many rich Pictures, Wax-Candles, and other such Popish Materials; That he had in executing his Warrant from Sir Edmund Bowyer and Sir George Paul, for their Apprehension; had been grievously threatened with Arrests and Imprisonments; and that once one Harrison, a Messenger was severely Treated, for performing the like Service; that he had lately also by a Warrant from the Lord Conway, searched the Bishops Prison in Maiden-Lane, London, and there found six Priests, and in several Chambers, Altars, and Furniture thereto belonging, as much as three Porters could carry off; all which were in the hands of the Lord Conway; but of these men see further the Account which was given by the Lord Archbishop of Canterbury; which followeth.

Anno
1626.Archbishop of Canterbury's Letter in
behalf of the Priests in the Clink,
directed to Master Attorney-Ge-
neral.

Good Mr. Attorney,

I Thank you for acquainting me what was done yesterday at the Clink: But I am of opinion, that if you had curiously enquired upon the Gentleman who gave the information, you should have found him to be a Disciple of the Jesuits; for they do nothing but put tricks on these poor men, who do live more miserable lives, than if they were in the Inquisition in many parts beyond the Seas. By taking the Oath of Allegiance, and writing in defence of it, and opening some points of high consequence, they have so displeased the Pope, that if by any cunning they could catch them, they are sure to be burnt or strangled for it. And once there was a plot to have taken Preston, as he passed the Thames, and to have shipped him into a bigger Vessel, and so to have transported him unto Flanders, there to have made a Martyr of him. In respect of these things, King James always gave his protection to Preston and Warrington, as may be easily shewed. Cannon is an old man, well affected to the Cause, but meddles not with any Factions or Seditions, as far as I can learn. They complain their Books were taken from them, and a Crucifix of Gold, with some other things, which, I hope, are not carried out of the house, but may be restored again unto them; for it is in vain to think, that Priests will be without their Beads or Pictures, Models of their Saints; and it is not improbable, that before a Crucifix they do often say their Prayers.

I leave the things to your best consideration, and hope that this deed of yours, together with my word, will restrain them for giving offence hereafter, if so be that lately they did give any. I heartily commend me unto you, and so rest;

Your very loving Friend,

G. Canterbury.

By this time the Commons had prepared an humble Remonstrance to the King, in answer to his Majesties and the Lord Keeper's Speech.

Most Gracious Sovereign,

The com-
mons Re-
mon-
strance to
the King in
answer to
his Maje-
sties and
the Lord
Keeper's
Speech.

Whereas your Majesty hath been pleased of late, at sundry times, and by several means, to impart unto us your Royal pleasure touching some passages and proceedings in this present Parliament; We do first, with unspeakable joy and comfort, acknowledge your Majesties grace and favour, in that it hath pleased you to cause it to be delivered unto us by the Lord Keeper of your Great Seal in your own Royal Presence, and before both Houses of Parliament, That never King was more loving to his People, nor better affected to the right use of Parliaments; withal professing your most gracious resolution to hear and redress our just Grievances. And with like comfort we acknowledge your Majesties goodness shining at the very entrance of your glorious Reign, in commanding the Execution of the Law established to preserve the true Religion of

Almighty God, in whose Service consisteth the happiness of all Kings and Kingdoms.

Car. 2.

Yet let it not displease your Majesty, that we also express some sense of just Grief, intermixed with that great Joy, to see the careful proceedings of our sincere Intentions so misrepresented, as to have wrought effects unexpected, and, we hope, undeserved.

First, touching the Charge against us in the matter concerning Mr. Cook. We all sincerely protest, That neither the words mentioned in your Majesties Message, nor any other of seditious effect were spoken by him, as hath been resolved by the House without one Negative voice. Howsoever, in a Speech occasionally uttered, he let fall some few words, which might admit an ill construction; whereat the House being displeased at the delivery of them, as was expressed by a general and instant Check, he forthwith so explained himself and his intention, that, for the present, we did forbear to take them into consideration, which since we have done: And the effect thereof had before this appeared, if by importunate business of your Majesties Service we had not been interrupted.

The like interruption did also befall us in the Case of Doctor Turner; wherein the Question being formerly stated, a Resolution was ordered to have been taken that very day, on which we received your Majesties Command to attend you.

But for our own proceedings, We humbly beseech your Majesty to be truly informed, That before that Overture from Doctor Turner, (out of our great and necessary care for your Honour and Welfare of your Realm) we had taken into serious consideration the Evils which now afflict your People, and the Causes of them, that we might apply our selves unto the fittest Remedies: In the pursuit whereof, our Committees (whatsoever they might have done) have in no particular proceeded otherwise, than either upon ground of knowledge in themselves, or proof by examination of Witnesses, or other Evidence. In which course of service for the publick good, as we have not swerved from the Parliamentary ways of our Predecessors; so we conceive that the discovery and reforming of Errors, is so far from laying an aspersion upon the present time and Government, that it is rather a great honour and happiness in both, yielding matter to great Princes, wherein to exercise and illustrate their noblest virtues.

And although the grievous complaints of the Merchants from all parts, together with the common service of the Subjects well affected to those who profess our Religion, gave us occasion to debate some businesses that were partly foreign, and had relation to Affairs of State; yet we beseech your Majesty to rest assured, it was exceeding far from our intention, either to traduce your Counsellors, or disadvantage your Negotiations.

And though some examples of great and potent Ministers of Princes, heretofore questioned in Parliament, have been alledged, yet was it without paralleling your Majesties Government or Councils, to any Times at all, much less to Times of Exception.

Touching the Letter of your Majesties Secretary, it was first alledged by your Ad-
vocate

Anno
1626.

vocate for his own Justification, and after by direction of the Committee produced to make good his Allegation.

And for the search at the Signet Office, the Copy of a Letter being divulged as in your Majesties Name, with pregnant cause of suspicion, both in the Body and Direction thereof, to be supposititious, the Committee out of desire to be cleared therein, did by their Order send some of themselves to the Signet Office, to search whether there were any Records of Letters of that nature, without our Warrant to the Officer for any, much less for a general search.

But touching pulick Records, we have not forborn as often as our businesses have required, to make search into them, wherein we have done nothing unwarranted by the Laws of your Realm, and the constant usage of Parliaments. And if for the ease of their Labours, any of our Committees have desired the help of the Officers, Repertories, or Deputies of Direction, we conceive it is no more than any Subject in his own affairs might have obtained for ordinary fees.

Now concerning your Majesties Servants, and namelp, the Duke of Buckingham, we humbly beseech your Majesty to be informed by us your faithful Commons, who can have no private end but your Majesties Service, and the good of your Country, That it hath ben the ancient, constant, and undoubted Right and Usage of Parliaments, to question and complain of all persons of what degree soever, found grievous to the Commonwealth, in abusing the power and trust committed to them by their Sovereign. A course approved not only by the examples in your Fathers days of famous memory, but by frequent precedents in the best and most glorious Reigns of your Noble Progenitors, appearing both in Records and Histories: without which liberty in Parliament, no private man, no servant to a King, perhaps no Counsellor, without exposing himself to the hazard of great enmity and prejudice, can be a means to call great Officers into question for their misdemeanours, but the Commonwealth might languish under their pressures without redress: and whatsoever we shall do accordingly in this Parliament, we doubt not but it shall rebound to the honour of the Crown, and welfare of your Subjects.

Lastly, We most humbly beseech your Majesty graciously to conceive, that though it hath ben the long Custom of Parliaments to handle the matter of Supply with the last of their businesses, yet at this time, out of extraordinary respect to your person, and care of your Affairs, we have taken the same into more speedy consideration, and most happily on the very day of your Majesties Inauguration, with great alacrity and unanimous consent, after a short Debate, we grew to the Resolution for a present Supply well-known to your Majesty.

To which, if Addition may be made of other great things for your Service, yet in consultation amongst us, we doubt not but it will appear, That we have not receded from the truth of our first Intention, so to supply you, as may make you safe at home, and feared abroad: especially if your Majesty shall be pleased to look upon the way intended in our

promise, as well as to the measure of the gift agreed.

With like humility we beseech your Majesty not to give ear to the officious reports of private persons for their own ends, which hath occasioned so much loss of time, nor to judge our proceedings whilst they are in agitation, but to be pleased to expect the issue and conclusion of our labours, which we are confident will manifest and justify to your Majesty the sincerity and loyalty of our hearts, who shall ever place in a high degree of happiness the performing of that duty and service in Parliament, which may most tend to your Majesties honour, and the good of your Kingdom.

Unto this Remonstrance the King said, he could give no present Answer, but desired the House to adjourn for a week, as the Lords had done; and they adjourned accordingly.

The House
adjourned
for a
Week.

Here the Historical Collector speaks of private advice given to the Duke, that he should endeavour to interest the King in the Charge against him, and to excuse several matters transacted relating to the Palatinate and the Rochel Expedition, as to the Duke's misbehaviour therein; but finding no publick writing or other monument of this advice, or rather surmise of that matter, I shall omit to trouble our Reader with it.

At this time the King commanded all the Bishops to attend him; and when they were come before him, being fourteen in number, he reprehended them, That in this time of Parliament they had not made known unto him what might be profitable for the Church, whose cause he was ready to promote. And he laid this Charge upon them, that in the Cause of Bristol and Buckingham, their Consciences being their Guides, they should follow only proofs and not rumors.

The Bishops
commanded to
attend the
King.

The Commons sent again to the Duke by Sir John Epsley, to let him know that they were passing Articles against him, and that they had given the Messengers to take notice thereof out of the Clerks Book, whereof he might take Copy of it, if he pleased; and that they expected his Answer that day before ten of the Clock, if he pleased to send any.

This the Duke signified to the Lords, who did not think fit that he should answer, as appears by the ensuing Report made by Sir John Epsley.

This day his Grace gave us this Answer, (after he had moved the Lords) that he should with great care make all due acknowledgment of your respect and favours in giving him this notice, which though it do invite him to render unto you such a satisfaction that he hopes may acquit and restore to him your good opinion, and might prevent your proceedings, which otherwise by a Parliameptary course are like to follow; Yet according to his Duty, he moved the Lords of the upper House, upon your notice given him: they would by no means, as things now stand, give him leave to answer, in regard he is not ignorant you are presently to enter into consideration of his Majesties Message; and that by a delay therein your own purposes will be in some sort disappointed, and the affairs of Christendom much prejudiced; but for that upon a resolution you have deferred and respited that service until those things depending against him be first determined, he out of fear that his necessary

The Dukes
Answer to
a Message
from the
Commons
reported.

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Anno 1626. fary defence would spin out a great deal of time, which is more precious, is the willinger to obey their Lordships, that so he might hasten without obstacle or interruption given unto him to keep day with his Majesty; and this he doth as he conceives to his own infinite prejudice, knowing how grievous it is to be transmitted as a Grievance by the voice of this House: but he doth profess he will rather hazard the safety of his Fortunes, Reputation, and himself, than to be the least occasion of any that may work disaffection or misunderstanding between the King and his People. And it is his Protestation, that whatsoever interruption is made by his actions, his endeavours shall be as long as he hath any favour with his gracious Master, to take opportunity of doing good Offices to this House, and of rendering all that he can be able for the safety of the State, and the general good of the Commonwealth. And this he saith you may the easier believe, because his Majesty can witness that he hazarded in his Fathers time the loss of the best affection of the best of Masters to obtain for them their desire. In this zeal he was desirous to have appeared unto you ever since the beginning of this Parliament, and in this zeal he doth now present himself unto you. But to return to the main point, he, lest we should be mistaken, gave us occasion, in plain words, to remember you, that it is not he that doth refuse to answer, but the Lords commanded him not to answer, which he the chearfullier obeyed, in respect of his fidelity to prefer the Universal Weal before his own particular. And in the meantime he desireth the charitable opinion of this Noble House, until he be convinced that he shall appear not worthy of it, which his own innocency maketh him confident that he shall not.

Whilst the Duke stood ready to be impeacht, his Grace propounded to the Lords of the Council to have it moved to the King, that in regard of the important services by Sea, the usual pay to the Sailers might be raised from Fourteen to Twenty shillings a month, which was as much as they ordinarily received for Merchants wages: The King being therein moved, was consenting. Nevertheless multitudes of the pressed Marriners ran away, leaving his Majesties Ships unfurnished, and his service disappointed.

There was a great Debate in the House of Commons, whether the Committee of Twelve (where Mr. Glanvil had the Chair) shall consider of any new matter not heretofore propounded in the House against the Duke? And it was resolved in the Affirmative.

Mr. Glanvil reports from the Committee the Examination concerning a Plaister and a Posset applied and given to King James in his sickness, when the Kings sworn Physicians had agreed upon other Directions. Hereupon it was resolved, That this should be annexed to the Charge against the Duke, as a transcendent presumption of dangerous consequence.

Hereupon his Majesty sent this Message to the Commons.

The Kings Message touching new matter against the Duke. That he having given way to Enquire about the Duke of Buckingham, and hearing that there is new matter intended to be brought against him, nevertheless leaveth the House to their own way to present the business to him, or to the Lords; withal advising them to consider

of the season of the year, and to avoid all loss of time.

Car. 2.

It was Ordered, That thanks should be returned to his Majesty for this message.

On Munday the first of May, the Gentleman-Usher brought the Earl of Bristol to the Bar, according to their Lordships Order; and the Lord-Keeper acquainted him, That the King had commanded his Attorney-General to charge the Earl of Bristol before their Lordships with High-Treason, and other Offences and Misdemeanors of a very high nature, that they might proceed in a legal course against him, according to the Justice and usual proceedings of Parliament.

The Earl of Bristol brought to the Bar of the Lords House.

I. Offences done and committed by the Earl of Bristol before his Majesties going into Spain, when he was Prince.

I. That the said Earl being trusted and employed by the said late King as his Ambassador to Ferdinando, then and now Emperor of Germany; now to Philip the Fourth then and now King of Spain, in Annis 1621. 22. and 23. And having Commission, and particular and special Direction to Treat with the said Emperor and the King of Spain, for the plenary restoring of such parts of the Dominions, Territories, and Possessions of the Count Palatine of Rhine, who married with the most excellent Lady Elizabeth his now Royal Consort, the only Daughter of the said late King James; which were then wrongfully and in hostile manner taken, and possessed with and by the Armies of the said Emperor, and King of Spain, or any other; and for preserving and keeping such other parts thereof as were not then lost, but were then in the protection of the said late King James; and to the use of the said Count Palatine and his Children: And also to treat with the said King of Spain for a Marriage to be had between the most high and excellent Prince Charles, then Prince of Wales, the only Son and Heir apparent of the said King James, and now our most Sovereign Lord, and the most illustrious Lady Donna Maria the Infanta of Spain, Sister to the now King of Spain: He the said Earl, contrary to his Duty and Allegiance, and contrary to the trust and duty of an Ambassador, at Madrid in the Kingdom of Spain, to advance and further the designs of the said King of Spain against our said Sovereign Lord and his Children, Friends and Allies, falsly, willingly, and traiterously, and as a Traitor to our said late Sovereign Lord the King, by sundry Letters and other Messages sent by the said Earl from Madrid, in the years aforesaid, unto King James, and his Ministers of State of England, did confidently and resolutely, inform, advise, and assure the said late King, that the said Emperor and King of Spain would really, fully, and effectually make restitution and plenary restoration to the said Count Palatine and his Children of the said Dominions, Territories, and Possessions of the said Count Palatine, and of the said Electoral Dignity: and that the said King of Spain did really, fully, and effectually intend the said Marriage between the said Lady his Sister, and the said Prince our now Sovereign Lord, according to Articles formerly propounded be-

Articles against the Earl of Bristol.

between the said Kings: Whereas in truth, the said Emperor and King of Spain, or either of them, never really intended such restitution as aforesaid, and whereas the said King of Spain never really intended the Marriage according to those Articles propounded, but the said Emperor and the King of Spain intended only by those Treaties to gain time to compass their own ends and purposes, to the detriment of this Kingdom (of all which, the said Earl of Bristol neither was nor could be ignorant,) the said late King James by entertaining those Treaties, and continuing them upon those false Assurances given unto him by the said Earl, as aforesaid, was made secure, and lost the opportunity of time, and thereby the said Dominions, Territories, and Possessions of the said Count Palatine, and the Electoral Dignity become utterly lost; and some parts thereof were taken out of the actual possession of the said King James, unto whose protection and safe keeping they were put, and committed to the said Count Palatine; and the most excellent Lady Elizabeth his Wife, and their Children, are utterly now dispossessed and bereaved thereof, to the high dishonour of our said late Sovereign Lord King James, to the dishonour of the said late Kings Children, and their Posterity, of their ancient Patrimony, and to the disadvantage and discouraging of the rest of the Princes of Germany, and other Kings and Princes in Amity and League with his Majesty.

II. That the said Earl of Bristol being Ambassador for his late Majesty King James, as aforesaid, in *Annis supradictis*, and having received perfect, plain, and particular Instructions and Directions from his said late Majesty, that he should put the King of Spain to a speedy and punctual Answer, touching the Treaties aforesaid: And the said Earl well understanding the effect of those Instructions and Directions so given unto him, and taking precise knowledge thereof; and also knowing how much it concerned his late Majesty in honour and safety (as his great Affairs then stood) to put these Treaties to a speedy conclusion: Yet nevertheless he the said Earl, falsely, willingly, and traiterously, contrary to his Allegiance, and contrary to the trust and duty of an Ambassador, continued those Treaties upon Generalities, without effectual pressing the said King of Spain unto particular Conclusions, according to his Majesties Directions, as aforesaid; and so the said Earl intended to have continued the said Treaties upon Generalities, and without reducing them to Certainties and to direct Conclusions, to the high dishonour of his said late Majesty, and to the extreme danger and detriment of his Majesties Person, his Crown, and Dominions, Confederates and Allies.

III. That the said Earl of Bristol being Ambassador for his said late Majesty, as aforesaid, in the years aforesaid, to the intent to discourage the said late King James for the taking up of Arms, entering into Hostility with the said King of Spain, and for resisting him and his Forces, from attempting the Invasion of his said late Majesties Dominions, and the Dominions of his said late Majesties Confederates, Friends and Allies; the said King of Spain having long thirsted after an Universal Monarchy in these Western parts of the World, hath many times both by Words and Letters to the said late King and his Ministers, extolled and magnified the greatness and power of the said King of Spain, and represented unto his said late Majesty, the supposed dangers which

would ensue unto him, if a War should happen between them; and affirmed and insinuated unto his said late Majesty, That if such a War should ensue, his said late Majesty during the rest of his life, must expect neither to Hunt nor Hawk, nor eat his Meat in quiet: Whereby the said Earl of Bristol did cunningly and traiterously strive to retard the Resolutions of the said late King, to declare himself an enemy to the said King of Spain (who under colour of Treaties and Alliances, had so much abused him) and to resist his Arms and Forces, to the loss of opportunity of time, which can not be recalled or regained, and to the extreme danger, dishonour, and detriment of this Kingdom.

IV. The said Earl of Bristol upon his dispatch out of this Realm of England, in his Ambassage aforesaid, having communication with divers persons of London, within this Realm of England, before his going into Spain, in and about his Ambassage concerning the said Treaty: For the Negotiation whereof, the said Earl purposely was sent; and he the said Earl being then told, that there was little probability that these Treaties would or could have any good success, he the said Earl acknowledged as much; and yet nevertheless, contrary to his Duty and Allegiance, and to the Faith and Truth of an Ambassador, he the said Earl said and affirmed, That he cared not what the success thereof would be; for he would take care to have his Instructions, and pursue them punctually; and howsoever the business went, he would make his Fortune thereby, or used words at that time to such effect; whereby it plainly appeareth, That the said Earl, from the beginning herein, intended not the Service or Honour of his late Majesty, but his own corrupt and sinister ends, and for his own advancement.

V. That from the beginning of his Negotiation, and throughout the whole managing thereof, by the said Earl of Bristol, and during his said Ambassage, He the said Earl, contrary to his faith, and duty to God, the true Religion professed by the Church of England, and the Peace of this Church and State, did intend and resolve, that if the said Marriage so Treated of as aforesaid, should by his Ministry be effected, that thereby the Romish Religion and Professors thereof should be advanced within this Realm, and other his Majesties Realms and Dominions, and the true Religion and Professors thereof discouraged and discountenanced. And to that end and purpose, the said Earl during the time aforesaid, by Letters unto his late Majesty, and otherwise, often counselled and perswaded his said late Majesty to set at liberty the Jesuits and Priests of the Romish Religion; which, according to the Good, Religious and Publick Laws of this Kingdom, were imprisoned or restrained, and to grant and to allow unto the Papists and Professors of the Romish Religion, free Toleration and silencing of all the Laws made, and standing in force against them.

VI. That by the false Informations and Intelligences of the said Earl of Bristol, during the time aforesaid, unto his said late Majesty, and to his Majesty that now is, being then Prince) concerning the said Treaties; and by the Assurances aforesaid given by the said Earl, his said late Majesty, and the Prince his now Majesty being put in hopes, and by the said long delay used, without producing any effect, their Majesties being put into jealousies and just suspicion, that there was no

Anno 1626. no such sincerity used towards them as they expected, and with so many Answers from the Earl had on their part been undertaken, the said Prince our now gracious Sovereign, was enforced, out of his love to his Countrey, to his Allies, Friends, and Confederates, and to the Peace of Christendom, who all suffered by those intolerable delays, in his own person to undertake his long and dangerous journey into Spain, that thereby he might either speedily conclude those Treaties, or perfectly discover, that on the Emperors and the King of Spains part there was no true and real intention to bring the same to conclusion, upon any fit and honourable terms and conditions, and did absolutely and speedily break them off. By which journey, the person of the said Prince being then Heir-Apparent to the Crown of this Realm, and in his Person, the Peace and Safety of this Kingdom, did undergo such apparent, and such inevitable danger, as at the very remembrance thereof, the hearts of all good Subjects do even tremble.

II. Offences done and committed by the said Earl, during the time of the Princes being in Spain.

VII. **T**hat at the Princes coming into Spain, during the time aforesaid, the Earl of Bristol cunningly, falsely, and traiterously moved and perswaded the Prince, being then in the power of a foreign King of the Romish Religion, to change his Religion, which was done in this manner. At the Princes first coming to the said Earl, he asked the Prince for what he came thither? The Prince at first not conceiving the Earls meaning, answered, *You know as well as I.* The Earl replied, *Sir, Servants can never serve their Masters industriously, although they may do it faithfully, unless they know their meanings fully. Give me leave therefore to tell you what they say in the Town is the cause of your coming, That you mean to change your Religion, and to declare it here. And yet cunningly to disguise it,* the Earl added further, *Sir, I do not speak this, that I will persuade you to do it; or that I will promise you to follow your Example, though you will do it; but as your faithful Servant, if you will trust me with so great a secret, I will endeavour to carry it the discreetest way I can.* The Prince being moved at this unexpected motion, again, said unto him, *I wonder what you have ever found in me, that you should conceive I would be so unworthy and base, as for a wife to change my Religion.* The said Earl replying, *He desired the Prince to pardon him, if he had offended him, it was but out of his desire to serve him.* Which perswasions of the said Earl were the more dangerous, because the more subtle; whereas it had been the duty of a faithful Servant, to God and his Master, if he had found the Prince staggering in his Religion, to have prevented so great an error, and to have perswaded against it, so to have avoided the dangerous consequence thereof to the true Religion, and to the State, if such a thing should have hapned.

VIII. That afterwards, during the Princes being in Spain, the said Earl having conference with the said Prince about the Romish Religion; he endeavoured falsely and traiterously to perswade the Prince to change his Religion, and to become a Romish Catholick, and to become obedient to the usurped Authority of the Pope of Rome; and to that end and purpose, the said Earl traiterously

used these words unto the said Prince, *That the State of England never did any great thing, but when they were under the obedience of the Pope of Rome, and that it was impossible they could do any thing of note otherwise.* *Car. 2.*

IX. That during the time of the Prince's being in Spain, the Prince consulting and advising with the said Earl and others, about a new offer made by the King of Spain touching the Palatine's eldest Son to marry with the Emperors Daughter, but then he must be bred up in the Emperors Courts; the said Earl delivered his opinion, That the Proposition was reasonable; whereat when Sir Walter Aston then present, falling into some passion, said, That he durst not for his head consent to it; the Earl of Bristol replied, that he saw no such great inconvenience in it; for that he might be bred up in the Emperors Court in our Religion. But when the extream danger, and, in a manner, the impossibility thereof, was pressed unto the said Earl, he said again, That without some great Action, the Peace of Christendom would never be had; which was so dangerous, and so desperate a Counsel, that one near the Crown of England should be poisoned in his Religion, and become an unfriend to our State, that the consequences thereof, both for the present and future time, were infinitely dangerous; and yet hereunto did his disaffection to our Religion, the blindness in his judgment, misled by his sinister respects, and the too much regard he had to the House of Austria, lead him.

Offences done and committed by the said Earl after the Prince's coming from Spain.

X. **T**hat when the Prince had clearly found himself and his Father deluded in these Treaties, and hereupon resolved to return from the Court of Spain; yet because it behoved him to part fairly, he left the powers of the Desponsories with the Earl of Bristol, to be delivered upon the return of the Dispensation from Rome, which the King of Spain insisted upon; and without which, as he pretended, he would not conclude the Marriage. The Prince foreseeing and fearing lest after the Desponsories, the Infanta that should then be his Wife, might be put into a Monastery, wrote a Letter back to the said Earl from Segovia, thereby commanding him not to make use of the said Powers, until he could give him assurance, that a Monastery should not rob him of his Wife; which Letter the said Earl received; and with speed returned an Answer thereto in England, perswading against this Direction, yet promising obedience thereunto. Shortly after which the Prince sent another Letter to the said Earl into Spain, discharging him of his Father's Command. But his late Majesty, by the same Messenger, sent him a more express direction, not to dispatch the Desponsories, until a full Conclusion were had of the other Treaty of the Palatinate, with this of the Marriage; for his Majesty said, That he would not have one Daughter to laugh; and leave the other Daughter weeping. In which Dispatch, although there were some mistaking, yet in the next following, the same was corrected, and the Earl of Bristol tied to the same Restriction, which himself confessed in one of his Dispatches afterwards, and promised to obey punctually the King's command therein; yet nevertheless, contrary to his Duty and Allegiance, in another Letter sent immediately after; he declared; That he had set a day

Anno 1626. day for the *Desponsories*, without any assurance, or so much as treating of those things which were commanded to him as Restrictions; and that so short a day, that if extraordinary diligence, with good success in the Journey, had not concurred, the Prince's hands might have been bound up; and yet he neither sure of a Wife, nor any assurance given of the Temporal Articles. All which, in his high presumption, he adventured to do, being an express breach of his Instructions; and if the same had not been prevented by his late Majesty's vigilancy, it might have turned to the infinite dishonour and prejudice of his Majesty.

XI. Lastly, That he hath offended in an high and contemptuous manner, in preferring a scandalous Petition to this Honourable House, to the dishonour of his Majesty of blessed memory, deceased, and of his Sacred Majesty that now is, which are no way sufferable in a Subject towards his Sovereign; and in one Article of that Petition specially, wherein he gives his now Majesty the Lie, in denying and offering to falsifie that Relation which his Majesty affirmed, and thereunto added many things of his own remembrance to both Houses of Parliament.

ROBERT HEATH.

The Earl of *Bristol*, upon the Attorney-General's accusing him of High-Treason, thus expresseth himself.

The Earl of *Bristol*'s expressions at the time of his Accusation. **T**hat he had exhibited his Petition to the House April 19. that he might come up and be heard in his Accusation of the Duke of *Buckingham*, and that thereupon, he being a Peer of this Realm, is now charged with Treason. That he had heretofore informed the late King of the Duke's unfaithful Service, and thereupon the Duke laboured, that he might be clapt up in the Tower presently upon his return out of *Spain*: That he importuned the late King, that he might be heard before himself, and his Majesty promised it; I pray God (said he) that that promise did him no hurt, for he died shortly after: And for the King's promise, he vouched the Lord Chamberlain for a Witness; and he desired the Lords to take notice, that their House was possessed already of his said Petition, and of his Accusation of the said Duke: And therefore desired first, that they would receive his Charge against the Duke and the Lord *Conway*, and not to invalid his Testimony against them by the King's Charge against him; and that he might not be impeached, till his Charge of so high a nature be first heard.

So he tendred to the House the Articles against the Duke, which the Clerk received, and he withdrew, and his Petition exhibited the 19 of April, was read; and the Lords resolved upon the Question, That the said Earl's Charge against the Duke of *Buckingham* and the Lord *Conway*, should be presently read.

The Earl being shortly after called in again to the Bar of the Lord's House, concerning his Articles against the Duke, made this Speech.

The Earl of *Bristol*'s speech at the Bar of the Lord's House, at the delivery of his Articles against the Duke.

First, he craved pardon of their Lordships for his earnest Speeches the other day, confessing them to have been in passion, saying, That unexpected Accusation of Treason would warm any honest heart, but would hereafter amend it. Then he rendred their Lordships humble thanks,

for their manner of proceeding against him; and desired to know from Mr. Attorney, whether that were his whole Charge or not. Mr. Attorney answered, That he had commandment to open no more against him; peradventure upon the opening of the Charge, some particulars might arise, and be urged, but no new matter should.

Then the Earl desired to know of Mr. Attorney, who was the Relator to his Charge, and that he might understand who was his Accuser. Mr. Attorney answered, That the King himself, out of his own mouth, had given him directions for his own Relation against him, and corrected many things that were added. Unto which the Earl answered, That he would not contest with the King, neither did it beseem him so to do; neither esteemed he his life or his fortunes so much, as to save them by contesting with his Sovereign; and therefore would make no Reply or Answer, were it not that his Religion and Honour were jointly questioned with his life; but this being to descend to his Posterity, for their sakes he was an humble suitor unto his Majesty, that he would not take indignation at his own just defence, yet would he be ready to make any humble submission to his Majesty; and heartily desired some means might be made, that he might make it personally to himself, wherein he would submit himself most willingly to some such act of humiliation and submission, (not wronging his innocency) that never Subject did towards his Sovereign: And also that his Majesty would be pleased to set himself in his Throne of Justice, and declare out of his Royal Justice, that he would have the Duke and him upon equal terms, and that neither of their causes should be advanced before others.

These were his humble Petitions, which he besought their Lordships to present unto his Majesty, and to take into their considerations, of how dangerous a consequence it would be, if the King should be Accuser, Judge, Witness, and should have the Confiscation. As touching the Charge against him, he said, He had once answered it all, except that of his Petition; and he doubted not but to clear himself before their Lordships of every particular of it. He said, He expected not to have heard of this again, having once answered it: He rather expected to have been charged with some practise with *Spain* against the State; or the receipt of Ten or Twenty thousand pounds, for the perswading and procuring of the delivery up of some Town of which the Crown was in possession, as might be the Town of *Flushing*, the *Brill*, or the like; or for being the means of lending the King's Ships to a Forreign Nation, and that against those of our own Religion; or for revealing his Majesties highest Secrets, which none above two or three dares know; or for threatening the greatest affairs, as it were by his own Authority, without formal Instructions in the points; for having taken Rewards, or been corrupted by a Forreign Prince; or to have broken his Instructions in any Ecclesiastical point; or as the Law calleth it, to have committed an overt Act of disloyalty, and not to be charged after seven Ambassages with Discourses and Inferences.

Then he desired their Lordships that he might have a Copy of his Charge in writing, and time allowed him for his Answer, and Counsel assigned him to plead his Cause; and said, There was a great difference between the Duke of *Buckingham*

Anno 1626. *ingham* and him; for the Duke was accused of Treason, and yet at large, and in the King's favour; and he being accused but of that which he had long since answered, was a Prisoner: And therefore he moved, that they might be put in equal condition.

And as touching the Lord *Conway*, in as much as he had given in Articles against him, he desired his Lordship he might not meddle in that particular business, or use the King's name against him *ex officio*; he also besought their Lordships to be suitors to his Majesty on his behalf, that all the particular Dispatches of his own Ambassages, and Sir *Walter Aston's* might be brought thither, and that he might make use of them for his defence, as his Evidence: Then he desired their Lordships, not to think it tedious for him to proceed, and lay open his Case unto them: Which being granted, he began as followeth.

He laies open his Case to the Parliament.

HE said, That he had the honour to serve the late King his Master, of happy memory, for the space of twenty years, and a long time as a Counsellor, and in seven Foreign Embassages: In all which time, in point of his Negotiation, he had never received one check or rebuke, until the return of the Duke of *Buckingham* out of *Spain*; and therefore from thence he would begin his present Narration.

The very day that his Majesty departed from *Spain*, he was pleased to tell him, That he had no waies offended him, but did him the honour to trust him with the Custody of the Powers for his Marriage; and after his return into *England*, wrote unto him some Letters, which did in no kind express any distrust or displeasure against him. About the same time he wrote unto his Majesty several Letters, as in duty he was bound, not for any earthly respect whatsoever, to conceal from him the true estate of his affairs; in which Letter he set down truly and honestly, That he conceived, that the distastes grown there betwixt the King of *Spain* and his Ministers, and the Duke of *Buckingham*, would disorder and utterly overthrow all his affairs, if his wisdom prevented it not. *Hinc illa lachryma*: The Duke of *Buckingham* got a sight and knowledge of the Letters; and fearing lest the Earl, at his return, should discover unto his said late Majesty his practices and misdemeanors in *Spain*, he resolved, That his access to the King was no waies to be admitted, and therefore laboured and endeavoured, that he might be committed to the Tower, presently upon his arrival; and conceiving that the Lord Marquess *Hamilton*, in regard of his Friendship with the Earl, and the Alliance which was then intended between them, might oppose his course, he earnestly pressed him therein, and moved him to deal with my Lord Chamberlain to the same purpose, vowing, That there was no hurt intended to the Earl, but only that he feared, that if he should be admitted to the King, he would cross and disturb the course of affairs: But they were so honourable, that neither of them would consent thereunto; and so that intention of his took no effect: And therein the Earl desired my Lord Chamberlain, that he would be pleased, upon his Honour, to deliver his knowledge.

This design of the Duke not taking, he fell upon other things, indeed to have frightened the Earl

out of his Country and Honour; and thereupon laid some great and sinister aspersions upon him in both Houses of Parliament, thinking thereby to have terrified him, that he should not return, saying, That if he kept not himself where he was, and laid hold of those great offers which he heard were made unto him in *Spain*, it would be worse with him.

Car. 2.
The Lord Chamberlain attests the truth of what the Earl had said.

Then the Earl of Bristol proceeded, and said,

That the knowledge of these aspersions cast upon him in the Parliament, came first unto him at *Burdeaux* in *France*, where he was coming home at leisure in the company of his Wife and Family, having formerly sent a Post of purpose to the Lord *Conway*, to know if his speedy return would be any way useful to his Majesty's service: Who answered him, That he might very well return at leisure with his Family. And in the mean time he was fallen upon by the Duke of *Buckingham* in Parliament, in such sort as your Lordships well remember; of whose Declaration, he said, he would boldly affirm unto their Lordships, that there was scarce any one thing concerning him in it, which was not contrary to, or different from the truth.

From *Burdeaux* the Earl took Post, making haste, for that he hoped to clear his Honour in Parliament before it should break up; and being arrived at *Calice*, he sent over to have one of the King's Ships, for which there was publick order given: but although both Wind and Weather were as fair as could be, and the King's Ships lay at *Boloigne*, having carried over Count *Mansfield*, and might every day within three hours have been with him, yet the Ship came not in eight daies expectation; so that the Earl, fearing the Parliament would be dissolved, was enforced to pass the Sea in a Boat with six Oars, as he did, having with him thirty or forty thousand pounds of the King's Jewels.

Upon his Landing at *Dover*, hoping that if his Arrest should have been deferred till his coming to *London*, he might have gotten directly to the King's presence, which the Duke resolved was by no means to be admitted: The Earl was there, by a Letter of the Lord *Conway's*, delivered unto him by a Servant of his, in his Majesty's name, commanded to retire himself to his House, and not to come to the Court, or the King's presence, until he should have answered to certain Questions, which his Majesty would appoint some of the Lords of the Council to ask him. Hereupon he sent presently to his Majesty, who sent him word, That his restraint was neither for any ill meaning unto him, nor that it should last long, but was intended for his good, to keep the Parliament from falling violently upon him. And the same reason the Duke alledged to some of his Friends: and all those his troubles, which have followed upon his first restraint, have been procured by the Duke's Art under colour of Favour. But the Earl having received his Message from the King, became a most humble Suitor unto his Majesty, that he would expose him to the Parliament; for that if he had not served him honestly in all things, he deserved no favour, but to be proceeded against with all severity. And in this particular he pressed the King, as far as could stand with duty and good manners; but received answer from his Majesty, That there should but few more daies pass, before he would put an end to his affairs. And about

about this time the Parliament was dissolved.
Anno 1626. He still continued his solicitation to be admitted to the King's presence; who sent him word, and confirmed it by Oath, That as soon as he should have answer'd the Questions which the Commissioners were to propound to him, he would both see him and hear him, and wondred that he should so much doubt thereof. He then solicited with all earnestness to have the Questions sent unto him, which was promised should be within few daies. In the interim, his Majesty being desirous, that the business should have been accommodated, sent secretly to him by a Gentleman (who is ready to depose it) this Message; *That he should write a fair Letter to the Duke, and leave the rest to him.* Hereupon the Duke sent a Gentleman (one Mr. Clark) with fair Propositions, offering him to procure him whatsoever he could reasonably pretend; only he must not be admitted to the King's presence for some time; and that the Duke would have the disposing of his *Vice-Chamberlain's* place, having been therein formerly engaged. The Earl told the Gentleman, That to condescend to any such course, were joyntly to confess himself faulty in some kind, which he would not do for any respect in the World; and let him know the great wrong that the Duke had already done him; and therefore it would be more honourable for him to procure some reparation, than to press him further. Moreover, not by way of message, but by way of Information of the said Mr. Clark, he let him know, how fit it were for the Duke not to press these things, who could not but be conscious of his own faults, and knew his innocency; and withal shewed him a Paper that he had made ready for the King, containing the Particulars wherein the Duke had disparaged him.

Mr. Clark making the Duke acquainted herewith, the Duke wrote a Letter the next day to the Earl, bearing date 7 *Julii*, telling him, That he had willingly intended the accommodation of his affairs; but by what he had now said to Mr. Clark, he was disoblighd, unless he should be pleased to relent it. Whereupon the Earl answered with that directness he thought befitting him in point of Honour. The course of Mediation was interrupted, and the Duke so far incensed, that he swore he would have him questioned for his Life. In the interim, (which the Earl desired might be known to the Lords) his late Majesty was so far from thinking him a Delinquent, or any way dishonest, that he was often heard to say and swear, That he held him an honest man, and that he would answer for him, that he had neither committed Felony nor Treason. And this divers are ready to depose. The which he well confirmed, for that he gave general leave to all Gentlemen of the Court, Privy-Councillors, and to his Secretary of State, to have free access unto him; yea, even so far, as to admit of Visits and Entercourses with Spanish Embassadors, and the *Padre Maestre*, as is best known to my Lord Conway, by whose Letter he received his Majesty's leave in that particular.

Then he resumed the state of his business where he left it, which was in the hands of the Commissioners, and they were to frame Interrogatories for him; the which, although they had promised should be sent him within a few daies, yet such Art was used, that six or seven weeks were spent in the framing of them, to the end

that his Majesty's Progress beginning, there might be no means for the further clearing of the business: And so supposing, that for the answering of the Twenty Interrogatories of so high a nature, the Earl would take some time, they caused the said Interrogatories to be delivered unto him within a few daies before the beginning of the Progress; but he used so much diligence, that he made ready to answer *in persona*, though it were in the nature of a Delinquent. Unto which his Majesty answered most graciously, That out of his favour; and for that he would not do him wrong, he would not admit of it, but that he should send his Answer, and he would instantly put an end to his businesses; as will appear by Letters. Hereupon the Duke was put into a great strait how to keep him any longer from his Majesty, but desired that only a few Questions more might be asked of him; which the King, upon great urging and instance, condescended unto, so that the Questions might be presently sent him: But herein were such Artifices used, that the bringing of any was delayed until the King had begun his Progress; and then, within a day or two, the Lord Conway sent him word, That he had order indeed for the sending of him some more Questions, but out of his affection to him he forbore the sending of them, unless he should press for them. Whereupon the Earl instantly wrote unto him, that they might be sent unto him. My Lord Conway made him answer by his Letter, That he wished rather the course of Mediation might be pursued, for that would but further exasperate; but if he would needs have the Questions, they should be sent to him. Whereupon he sent to sollicite his Lordship for them with all earnestness, inso-much as to petition his late Majesty twice, that the said Questions might be sent: But when the turn was served of keeping him from the King's presence, the said Questions were never more heard of till this day.

So likewise the Earl having sent his Answer to all the Commissioners, who most of them made not nice to declare, that they were fully satisfied; and when it was perceived that the Commissioners would certainly clear him, and that he thereby should be restored unto his Majesty's favour, they were never more permitted to meet: A proceeding which, as he conceived, their Lordships would think hardly to be paralleld, that a Commission should be appointed to condemn, if there had been cause, but not to clear.

After the Progress was ended, he began again to sollicite his Majesty, and wrote particularly unto the Duke of Buckingham. Whereupon the Duke was pleased to send four or five Propositions, which he desired he should acknowledge; the which Propositions contained nothing but what had been already propounded and satisfied in the former Interrogatories: And if he would make his acknowledgment, he then promised to employ his force and power with the King and Prince, that he should be admitted to kiss their hands, and be received into their gracious favour; but otherwise, in a menacing sort, That he should lay his hands upon his breast, and so that would be best for him. And in the Preface of the said Propositions, he writeth these words which follow, *It is an assertion not granted, that the Earl of Bristol, by his Answer had satisfied either the King, the Prince, or Me of his Innocency.* A presumptuous commination for any Subject.

But

Anno 1626: But these Propositions were so unjust, that he wrote unto the Duke, that instead of an acknowledgment, he had sent him an Answer unto them; unto which, if either himself, or any man living, was able to reply, he would submit himself to any thing that should be demanded. But this no way satisfied the Duke, although it did his late Majesty, who, in the Duke's presence, said, *I were to be accounted a Tyrant, to enjoin an innocent man to confess faults, of which he was not guilty.* And thereupon sent him word, That he should make his Answer, but acknowledge nothing he was not faulty in. And although he received this Message from the King's own mouth, as will be depose, yet the Duke at the same time wrote unto him, That the conclusion of all that had been treated with his Majesty, was, That he should make the Acknowledgment in such manner, as was set down in this Paper. And at this time likewise it was, that his Majesty sent him word, That he would hear him concerning the Duke of Buckingham, as well as he had heard the Duke concerning him. And this was not long before his Majesty's sickness: And in the interim, as he had heard by several waies the King suffered much, and was infinitely pressed by the Duke concerning the said Earl and his affairs; and this, he said, was the suffering he had spoken of to their Lordships the other day.

The Earl craved leave of their Lordships to specify some other particulars, whereby it should appear, that his Majesty was in no kind ill-opinion'd of him till his dying day; viz. That several persons will depose, that they have heard his Majesty say, That he esteemed him an honest man; and that he was pleased to accept of Toys by way of Present from him, graciously, and in good part; and at last was likewise pleased to give him leave to come to London, and to follow his own affairs; and that his pleasure was signified unto him by the Duke his own Letter. Whereupon he determined to come to London, intimated to the Duke his intention of going to his Lodging in White-Hall; but the Duke was therewith incensed again, and said, He mistook the King's meaning, which was, that he might privately follow his own business. And this, he said, was the true state and condition, when it pleased God to take unto his mercy his late most gracious Majesty.

Upon his Majesty's coming to the Crown, he said, He wrote a most humble Letter unto his Majesty, imploring his grace and goodness, and desiring the Duke's Mediation. But he was pleased to answer by his Letter of 7 May, 1625. That the Resolution was to proceed against him, without a plain and direct confession of the Point which he had formerly required him to acknowledge; and in a Courtly manner of menace telleth him, That he would take the freedom to advise him, to bethink himself in time what would be most for his good. But in the interim, his Majesty was graciously pleased, that his Writ of Parliament should be sent him; and thereupon he wrote unto the Duke of the receipt of the said Writ, but that he should do nothing but what he should understand to be most agreeable to his Majesty's pleasure. Whereunto the Duke answered, in his Letter of May, in this manner: *I have acquainted his Majesty with your requests towards him, touching our Summons to the Parliament, which he taketh very well, and would have you rather make excuse for your ab-*

sence, notwithstanding your Writ, than to come your self in person. Whereupon he sent humbly to desire a Letter of leave under his Majesty's hand for his Warrant; but instead thereof, he received from the Lord Conway an absolute Prohibition, and to restrain and confine him in such sort, as he hath been in the late King's time: and although he was indeed absolutely set free, he could never get clear'd by the Lord Conway, though he sent him all the Papers to examine; and when he could make no further reply, he said, He conceived he was under restraint, and that his liberty expired with the late King's death; when indeed Restraint may expire, but Liberty is natural. After this, he continued for the space of three quarters of a year in the Country without moving, in which time he was removed from those Places and Offices he held, during his late Majesty's life; and the greatest part of his Estate being laid out in their Majesties service, by their particular appointment, he could never be admitted so much as to the clearing of Accompts. Yet hereof he never made the least complaint: But against the time of his Majesty's Coronation, he thought it fit to lay hold of that occasion, when Princes do Acts of grace and favour, to be a most humble Suitor to his Majesty for his grace and goodness; and addressed his Letters unto the Duke of Buckingham, from whom he received a Letter all written in his own hand, and therein a Letter inclosed from his Majesty, so different from some gracious Message which he had received from his Majesty since the said Earl returned into England, upon the occasion of a great sickness; and likewise from his speeches several times delivered to his Wife, to wit, That he had never offended him, and that for his faults he no waies held them criminal, but to be expiated by any easie acknowledgment; That he confessed he knew not what judgment to make of the said Letter, neither hath presumed hitherto to make any Answer thereto; although by reducing the occasion of speeches and circumstances to his Majesty's memory, he no waies doubteth but he shall be able to give unto his Majesty such satisfaction to every particular, as his Majesty would not remain with the least scruple in any one point.

After this he said, that his Writ of Parliament was detained; whereupon he addressed himself to the Lord Keeper, that he would be a Suitor to his Majesty for him in that behalf: which diligences not taking effect, by Petition he became a Suitor to their Lordships for their Honourable mediation to his Majesty, and thereupon his Writ of Parliament was awarded: But the Duke of Buckingham upon that took occasion, as he had published Copies of the said Letter over all the Kingdom, to read it likewise in that Honourable House, as was best known unto their Lordships, and the Writ was accompanied with a Prohibition from the Lord Keeper; whereupon he addressed himself for Justice to that Honourable House, (being possessed of his Cause by his Petition) for both redress of his own wrongs, and likewise of Complaints against the Duke for many Crimes: And that Honourable House being possessed of his Cause by his Petition, there is preferred against him a succeeding Complaint amounting as high as Treason (as it is pretended) although he for divers years hath not been questioned; yet since his complaint against the Duke he hath been fetcht up like a Prisoner, and brought into the

Anno 1626. House as a Delinquent; And the Duke, of whom he hath complained for his great Crimes, is admitted still to sit in the House as one of his Judges. The which with all that he hath formerly said, together with his Life, Fortunes and Honour, he did with all willingness, humility, and duty, submit to the Justice and Honour of that House.

Then the Lords asked him, when he would bring in his Answer? He promised to answer as soon as might be, but knew not how far he should have occasion to use his antient Dispatches. The Lord Keeper told him, that Mr. Attorney might help him by letting him know it: The Attorney said, that his Charge should in nothing look further back than to the year 1621. Which he desired might be recorded.

Whereupon the Earl thanking their Lordships for their patience, he was carried away by Mr. Maxwell the Gentleman-Usher, in whose House and Custody he remained.

Then were read the Earls Articles against the Duke and the Lord Conway, viz.

Articles of the Earl of Bristol, whereby he chargeth the Duke of Buckingham, bearing Date the First day of May, 1626.

The Earl of Bristol's Articles against the Duke.

I. That the Duke of Buckingham did secretly combine with the Conde of Gondomar Embassadour for the King of Spain, before his the said Embassadours last return into Spain, in the Summer, Anno 1622. to carry his Majesty (then Prince) into Spain, to the end he might be informed and instructed in the Roman Religion, and thereby have perverted the Prince, and subverted the true Religion, established in England: From which misery this Kingdom (next under God's mercy) hath by the wise, religious, and constant carriage of his Majesty been almost miraculously delivered, considering the many bold and subtle attempts of the said Duke in that kind.

II. That Mr. Porter was made acquainted therewith, and sent into Spain; and such messages at his return framed, as might serve for a ground to set on foot this Conspiracy; The which was done accordingly, and thereby the King and Prince highly abused, and their Consents thereby first gotten to the said Journey, that is to say, after the return of the said Mr. Porter, which was about the end of December, or the beginning of January, 1622. whereas the said Duke had plotted it many months before.

III. That the said Duke, at his arrival in Spain, nourished the Spanish Ministers, not only in the belief of his own being Popishly affected, but did (both by absenting himself from all Exercises of Religion constantly used in the Earl of Bristol's House, and frequented by all other Protestant English, and by conforming himself to please the Spaniards in divers Rights of their Religion, even so far as to kneel and adore their Sacrament) from time to time give the Spaniards hope of the Prince his Conversion: The which Conversion he endeavoured to procure by all means possible: and thereby caused the Spanish Ministers to propound far worse Conditions for Religion, than had been formerly by the Earl of Bristol and Sir Walter Aston, settled and signed under their Majesties hands, with a Clause of the King of Spain's Answer of December 12. 1622. that they held

the Articles agreed upon sufficient, and such as ought to induce the Pope to the granting of the Dispensation.

IV. That the Duke of Buckingham having several times in the presence of the Earl of Bristol moved and pressed his late Majesty; at the instance of the Conde of Gondomar, to write a Letter unto the Pope, and to that purpose having once brought a Letter ready drawn, wherewith the Earl of Bristol by his Majesty being made acquainted, did so strongly oppose the writing of any such Letter, that during the abode of the said Earl of Bristol in England, the said Duke could not obtain it; yet not long after the Earl was gone, he procured such a Letter to be written from his said late Majesty unto the Pope, and to have him stiled [*Sanctissime Pater.*]

V. That the Pope being informed of the Duke of Buckingham's inclination and intention in point of Religion, sent unto the said Duke a particular Bull in Parchment, for to perswade and encourage him in the perversion of his Majesty then Prince.

VI. That the said Dukes behaviour in Spain was such, that he thereby so incensed the King of Spain and his Ministers, as they would admit of no reconciliation, nor further dealing with him. Whereupon the said Duke seeing that the match would be now to his disadvantage, he endeavoured to break it, not for any service to the Kingdom, nor dislike of the match in itself, nor for that he found (as since he hath pretended) that the Spaniards did not really intend the said match, but out of his particular ends and his indignation.

VII. That after he intended to cross the marriage, he put in practice divers undue courses; as namely, making use of the Letters of his Majesty (then Prince) to his own ends, and not to what they were intended; as likewise concealing divers things of high importance from his late Majesty, and thereby overthrew his Majesty's purposes, and advanced his own ends.

VIII. That the said Duke, as he had with his skill and artifices formerly abused their Majesties, so to the same end he afterwards abused both Houses of Parliament by his sinister Relation of the carriage of Affairs, as shall be made appear almost in every particular that he spake unto the said Houses.

IX. As for scandal given by his personal behaviour, as also the employing of his power with the King of Spain for the procuring of Favors & Offices which he bestowed upon base and unworthy persons for the recompence and hire of his Lust; These things as neither fit for the Earl of Bristol to speak, nor indeed for the House to hear, he leaveth to your Lordships wisdom how far you will be pleased to have them examined; It having been indeed a great infamy and dishonour to this Nation, that a Person of the Duke's great quality and employments, a Privy-Counsellor, an Embassadour, eminent in his Masters favour, and solely trusted with the Person of the Prince, should leave behind him in a Foreign Court so much scandal, as he did by his ill behaviour.

X. That the Duke hath been in great part the Cause of the ruin and misfortune of the Prince Palatine and his Estates, in as much as those Affairs had relation unto this Kingdom.

XI. That the Duke of Buckingham hath in his Relations to both Houses of Parliament wronged the Earl of Bristol in point of his Honour by many sinister aspersions which he hath laid upon him, and in point of his Liberty by many

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many undue Courses through his power and practices.

Anno 1626. XII. That the Earl of *Bristol* did reveal unto his late Majesty both by word and Letter, in what sort the said Duke had diserved him and abused his trust: And that the King by several waies sent him word, That he should rest assured he would hear the said Earl, but that he should leave it to him to take his own time. And thereupon, few daies before his sickness, he sent the Earl word, that he would hear him against the said Duke, as well as he had heard the said Duke against him. Which the Duke himself heard; And not long after his Blessed Majesty sickned and died, having been in the interim much vexed and pressed by the said Duke.

Articles of the Earl of Bristol against the Lord Conway, bearing Date 1 Maii 1626.

The Earl of Bristol's Articles against the Lord Conway.

I. That the Lord *Conway* is so great a Servant of the Duke of *Buckingham's*, that he hath not stuck to send the Earl of *Bristol* plain word, That if businesse could not be accommodated betwixt him and the Duke, he must then adhere and declare himself for the said Duke; and therefore unfit to be a Judge in any thing that concerneth the Duke or the Earl.

II. That the said Lord *Conway* professeth himself to be a Secretary of the Duke of *Buckingham's* creation, and so acknowledgeth it under his own hand: And although that he be the King's Secretary of State, and a Privy-Counsellor, he usually beginneth his Letters to the Duke, [*Most gracious Patron.*]

III. That as a Creature of the said Duke's, the said Lord *Conway* hath been made the Instrument of keeping the Earl of *Bristol* from the King's presence, and of Imprisoning of him by Warrants only under his own hand; for which he cannot (as the Earl conceiveth) produce any sufficient Warrant.

IV. That by the space of twelve months last past, the said Lord *Conway* hath been the Cause of the Earls restraint, only by misinforming his Majesty, and procuring a Letter of restraint upon undue grounds: and when it was made apparent unto him, that the said Earl was restored to his liberty freely to follow his own affairs by his late Majesty of blessed memory, he replied, That that liberty given him by his Majesty expired with the King's death.

V. That the Earl of *Bristol's* Mother lying sick upon her death-bed, desired for her comfort to see her Son, and to give him her last blessing: Whereupon the Earl writ to the Lord *Conway*, to desire him to move the King for his leave; which he putting off from day to day, told the person employed, That by reason of the Duke's sickness he could not find opportunity to get the Duke's leave to move the King; And having spoken with the Duke, he made a Negative answer in the King's name. Wherewith the Earl acquainting the King by some of his Bed-Chamber, his Majesty was in a very great anger, swearing the Secretary had never moved him, and that to deny the said Earl leave, was a barbarous part; and thereupon sent him presently free leave, which the Secretary hearing of, sent afterwards a Letter of leave, but with divers clauses and limitations differing from the leave sent him from the King's own mouth.

VI. That the having the businesses of the Earl of *Bristol* in his own hands, and the Earl being commanded by the King to address himself in his occasions unto his Lordship, He would never deliver any Message from the said Earl, without acquainting the said Duke, and receiving his directions, and in a noble manner of freeness stuck not to send him word.

VII. That the Earl of *Bristol* having received from the Lord *Conway* Twenty Interrogatories in his late Majesty's name, drawn up by a Commission of the Lords appointed to search into the Proceedings and Employments of the said Earl, in which search there was more than two months spent, divers of the said Interrogatories involving Felony and Treason; And his Majesty having been pleased to assure the said Earl both by Message and Letters, that upon satisfaction given to himself, and the Commissioners by his answers, he would presently put an end to the Earl of *Bristol's* Business. The Earl of *Bristol* having so fully answered as would admit of no reply; and that many of the Commissioners declared themselves to be fully satisfied: the said Lord *Conway* (being the Secretary in the Commission, to whom it properly belonged to call the Lords to assemble) perceiving the Earl of *Bristol* was like to be cleared, never moved for any further meeting, neither have they ever been permitted to meet until this day, whereby the troubles of the Earl of *Bristol* have been kept on foot till this present, and the said Earls Imprisonment hath been enlarged twenty months. And by the Artifices of the said Duke of *Buckingham* and the said Lord *Conway* (as shall be made appear) the said Earl hath been insensibly involved and stauked into the troubles he is now in, which he doubteth not but your Lordships will judge to be a very considerable Case.

VIII. That for a colour of keeping the Earl from his late Majesty's presence, it being pretended after the Answer to the twenty Interrogatories, that there were some few Questions more to be added, whereunto when he should have answered, his Majesty swore solemnly, that without any delay he should be admitted to his presence, and that within two or three daies he should have the said Questions sent unto him; the Lord *Conway* notwithstanding he acknowledged under his hand, that he had received his Majesty's directions for the sending of the said Articles, and was often thereunto solicited on the behalf of the said Earl, would never send the said Questions; and at last answered, That he had no more to do with the Earl's businesses.

IX. That the Earl of *Bristol* being set free by his late Majesty to come to *London* to follow his own Affairs as he pleased, and thereupon having his Writ of Parliament sent unto him, without any Letter of Prohibition; but the Earl of *Bristol*, out of his great desire to conform all his actions to that which he should understand would best please his Majesty, sent to know whether his going or stay would be most agreeable unto his Majesty? who was pleased to answer by a Letter from my Lord Duke of *Buckingham*, That he took in very good part the said Earl's respect unto him; but wished him to make some excuse for the present: The which accordingly he did, and moved, That he might have a Letter under the King's hand to warrant his absence; but under colour of this Letter of leave, upon the Earl of *Bristol's* own motion and desire, the Lord *Conway* sent a Letter from his Majesty absolutely forbidding his coming to Parliament; and therein likewise was inserted a

Anno
1626. Clause, That the Earl should remain restrained as he was in the time of his late Majesty; and so thereby a colour of restraint under his Majesty's hand was gotten, which could never be procured in his late Majesty's time; whereby the Earl of Bristol hath been unduly restrained ever since without being able to procure any redress, or to make the Lord Conway willing to understand his Case, although he sent him all the Papers, whereby he might clearly see, that the Earl was not under restraint in his late Majesty's time; but never other answer could be procured from him, but That he judged the said Earl to be under restraint, and that his Liberty was expired by the late King's death, as is aforesaid.

X. That the Lord Conway, knowing that the Match for the marrying of the King of Bohemia's eldest Son with the Emperours Daughter, and being bred in the Emperours Court, was allowed and propounded by his late Majesty: And that his Majesty by his Letters unto his Son-in-law, declareth, That he thinketh it the fairest and clearest way for the accommodation of his Affairs, and that he will take sufficient care for his breeding in true Religion. And notwithstanding that the said Earl received a Copy of the said Letter by the said late King's order, with other Papers setting down all that had been done in the said business, and his Majesty's assent thereunto from the Lord Conway himself; yet hath he suffered all to be charged, as a crime against the Earl of Bristol, both in the twentieth Interrogatory, and in his Majesty's last Letter, that he should consent to the breeding of the young Prince in the Emperours Court. And further in the Interrogatory he alledgeth it as an aggravation against the said Earl, That the breeding of the said Prince in the Emperours Court inferred to the perversion of his Religion, when he knew that his said breeding was never thought nor spoken of by the King, nor any other, but with that express Clause and Condition, That he should be bred in his own Religion, and have such Tutors and Servants, as his Father should appoint.

XI. That the Lord Conway hath been the cause of all the Earl of Bristol's Troubles by his dubious and intrapping Dispatches, and inferring, That the said Earl hath failed in his Directions, when it shall be made appear, that his Dispatches contained no such Directions as he hath alledged were given.

The House not being satisfied to commit the Earl to the Tower, let him remain where he was before, with the Gentleman-Usher; and further ordered, That the King's Charge against the Earl of Bristol be first heard, and then the Charge of the said Earl against the Duke; yet so that the Earls Testimony against the Duke be not prevented, prejudiced, or impeached.

The day following the Lord Keeper delivered a Message from the King to the House of Lords.

A Message from the King to the Lords concerning Bristol's Articles against the Duke.

That his Majesty taketh notice of the Articles exhibited against the Duke of Buckingham by the Earl of Bristol; and he observeth that many of them are such, as himself is able to say more of his own knowledge than any man for the Dukes sincere carriage in them: That one of them, touching the Narrative made in Parliament in the One and twentieth of King James, trencheth as far upon himself as the Duke; for that his Majesty went as far as the Duke in that Declaration; and that all of them

have been closed in the Earls own breast now for these two years, contrary to his Duty, if he had known any crime of that nature by the Duke; and now he vents it by way of recrimination against the Duke, whom he knows to be a principal Witness to prove his Majesty's Charge.

And therefore, That his Majesty gave them thanks, that they gave no way to the Earl of Bristol's unreasonable motions, of putting the Duke under the same restraints that they had put the Earl, thereby eschewing what the Earl aimeth at, to alter their dutiful Proceedings toward his Majesty: That thereby they had made his Majesty confident, that as they have, so they will put a difference between his Majesty's Charge against one that appeareth as a Delinquent, and the recrimination of the Earl of Bristol against his Majesty's Witnesses; and they will not equal them by a proceeding *Patri Passu*.

At this time there was an endeavour to take the Earl's Cause out of the House, and to proceed by way of Indictment in the King's Bench: To which manner of proceeding why the Lords should not give way, these ensuing Reasons were offered to consideration.

I. It was Ordered, That in all Causes of moment, the Defendants shall have Copies of all Depositions both *pro* and *contra* after publication, in convenient time, before hearing, to prepare themselves; and if the Defendants will demand that of the House in due time, they shall have their learned Council to assist them in their defence: And their Lordships declared, That they did give their Assents thereto; because in all Cases, as well Civil as Criminal and Capital, they hold, That all lawful help could not before just Judges make one that is guilty avoid Justice; and on the other side, God defend that one Innocent should be condemned.

II. The Earl of Bristol by his Petition to the House complained of his restraint, desiring to be heard here, as well in points of his wrongs, as in his accusations against the Duke; whereof his Majesty taking consideration, signified his pleasure by the Lord Keeper; April the 20. That his Majesty was resolved to put his Cause upon the honour and justice of this House; and that his pleasure was that the said Earl should be sent for as a Delinquent to answer the offences he committed in his Negotiation before his Majesty's going into Spain, whilst his Majesty was there, and since his coming thence; and that his Majesty would cause these things to be charged against him in this House; so as the House is fully possessed of the Cause, as well by the Earls Petition, as by the King's assent, and the Earl brought up to the House as a Delinquent to answer his offences there; and Mr. Attorney hath accordingly delivered the Charge against him in the House, and the Earl also his Charge against the Duke: And now if he be proceeded withal by way of Indictment in the King's Bench, these dangerous inconveniences will follow, viz.

1. He can have no Counsel.
2. He can have no Witness against the King.
3. He cannot know what the Evidences against him will be, in a convenient time to prepare for his Defence; and so the Innocent may be condemned, which may be the Case of any Peer.
4. The Liberties of the House will be thereby infringed, the Honour and Justice thereof declined, contrary to the King's pleasure expressly signified by the Lord Keeper.

All

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The Reasons.

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All these things are expressly against the Order.

5. The Earl being Indicted, it will not be in the power of the House to keep him from Arraignment, and so he may be disabled to make good his Charge against the Duke.

Therefore the way to proceed according to the Directions and true meaning of the Order, and the King's pleasure already signified, and preserve the Liberties of the House, and protect one from injury, will be,

First, To have the Charge delivered into the House in writing, and the Earl to set down his Answer to it in writing; and that the Witnesses may be examined, and Evidences on both sides heard, by such course and manner of proceedings as shall be thought fit by the House; and if upon full hearing the House shall find it to be Treason, then to proceed by way of Indictment; if doubtful in point of Law, to have the opinion of the Judges to clear it; if doubtful in matter of Fact, then to refer it to a regal Fact; And the rather for that,

1. It appears that the Earl, in the space of two years (till now he complained) hath not been so much as questioned for matter of Treason.

2. He hath been examined upon twenty Interrogatories, and the Commissioners satisfied, That his Answer would admit of no Reply.

3. The Lord Cornway by several Letters hath intimated, That there was nothing against him but what was pardoned by the Parliament. Pardon of the 21 Jac. And signified his Majesties pleasure, That he might rest in that security he was, and sit still.

His Majesty hath often declared both to the Countess of Bristol and others, That there was neither Felony nor Treason against him, nor ought else, but what a small acknowledgment would expiate.

Some Cases happened in Parliament 1 & 2 Car. 1, wherein the Judges Opinions were had; viz.

This Question was put to all the Justices, *Whether a Peer impeached for Treason shall be Tried in Parliament?* And the Chief Justice, in the name of all the Justices, delivered his Opinion, That the course by Law was Indictment, and this to be signified in Parliament, before the Lord Steward; vide 10 Edward 4. 6. or by Bill, and an Act of Parliament to attain the Party. An Order was made in the upper House of Parliament 21 Jac. That any Peer shall have Counsel in case Criminal or Capital; and upon the Accusation of the Earl of Bristol in Parliament, he made a motion for Counsel; which matter was commended to the King by the Lords with voucher of the said former Orders: The King returned Answer, That this was contrary to the Fundamental Laws of the Realm; but inasmuch as it was for his Benefit and Prerogative, with which he may dispence, therefore out of his Grace he would allow the Earl of Bristol to have his Counsel, with protestation that he would advise in the general; and the same Order was made without his privy, and without hearing the Justices or his Council. And upon the Trial of the Lord Middlesex, in a Case Criminal; afterward, that is to say Friday after, upon the Assembly of all the Justices, the Attorney of the King, by commandment of the King, demanded their Opinion; and they with one voice

agreed, That where the Trial is upon Indictment, no Counsel in Felony or Treason is to be allowed, unless a matter of Law happen or upon the Indictment, or upon Plea of the Defendant, or upon Evidence, and in such Cases the Prisoner may have Counsel, but not otherwise.

The Lords hereupon prepared two Questions to the Judges; (1.) *Whether his Majesty may be a Witness in case of Treason?* (2.) *Whether, admitting he may be a Witness, he may in this Case be a Witness or not?* But before the Resolution of these, a Message & Command came from his Majesty to the Judges to this purpose, *That they should not upon general Questions give in any Answers; but if any point came in particular, they may give their advice:* which being declared to the Peers by the Chief Justice, the said matter hereupon ceased.

The Duke of Buckingham being deputed Procurator in this Parliament for fourteen Peers, the House of Peers made an Order that for the future, *No Peer should be capable of receiving any more than two Proxies.*

About a fortnight after the Charge delivered in against the Earl of Bristol, the Earl gave in his Answer here inserted, and having his Answer in his hands ready to be delivered to the House of Peers by way of Introduction, said as follows:

I Am not insensible upon what disadvantages I come to Trial in this Cause: For first, I am fallen into his Majesties heavy displeasure, and am to encounter with a potent Adversary, highly in favour, and am accused for Treason; for which all Counsel and Friends abandon me, as a man infected with the Plague; I am become bound, and under restraint; whereas a man who is to encounter for his Life and Honour, and with a strong Adversary, had need to come upon equal terms.

But as to the Matter, I find my self charged with divers Articles of High Treason; but looking into them with the eyes of my best Understanding, with the opinion also of my Counsel lately assigned me, and taking them apart one Article from another, I find not any thing in them like Treason, or that hath so much as the shew or countenance of a fault, either in act or words: only by laying all things together, and by wresting the wrests with a strained construction, directly contrary to the true sense and meaning of them, and the occasion whereupon they were spoken, it is informed, and that by way of inference only, That the intent was evil, and the matter to prove the intent to be evil, depends upon two props, viz. ill affection to Religion, and too much affection to Spain; which, if I shall clear, the Inference grounded upon these props, will fall of it self.

Therefore I crave leave of your Lordships, before I give my Answer to the Charge, that I may give you an account of these two particulars; and I humbly beseech you, that what I shall speak in my just defence, may not be conceived to proceed of vain ostentation.

And first for my Religion, I was in my Childhood bred in the Protestant Religion, and rather after the stricter manner than otherwise. When I grew in years fit, I travelled into France, Italy, and Rome it self: In all which Travels, I can produce some that I consorted withal, who will witness with me, that I ever constantly used the Religion I professed, without the least prevarication; no man being able to charge me, that so

Car. 2.

much

Anno
1626. much as out of curiosity I ever was present at any
of the Exercises belonging to the Roman Religion,
on, or did the least act of conformity to any their
Rites or Ceremonies.

Secondly, After my return home, I was received into the service of his late Majesty of blessed memory, whom I served some years as a Gentleman of his Privy Chamber, and Carver; in which time, none of his Majesties Servants received the Holy Sacrament, frequented Sermons, and other Exercises of our Religion more than I.

Thirdly, In that time of my Youth, not to avoid idleness, but out of affection to Religion, I translated that excellent Book of our Faith, and great Points of our Religion, written by Monsieur Moulins; which his late Majesty having sometimes after seen, approved so well, that he would needs have it printed; which accordingly was printed in the name of Mr. Sampford my Chaplain, to whom I gave the honour: But it was my own act, as Mr. Sampford will not deny, though, to this hour, I had never before spoken it.

Fourthly, About seven or eight and twenty years of my Age, I was employed Ambassador into Spain, in that great business of the Treaty of the Marriage; and whereas others before me carried with them but one Chaplain, I had two, viz. Mr. Sampford and Mr. Boswel; and at my arrival at the Court of Spain, I caused it to be published, that such a day (God willing) I purposed to have a Communion, to the end that such English as were in the Town, might resort thither. Whereat the Duke de Lerma, and other the great Ministers of Spain, took offence, and told me, They might well perceive I brought no good affection to the business I came about, that would so publickly and avowedly in that Court, where never the like was done, proclaim there a Communion; and with high expressions perswaded me to decline it. Whereunto I answered, I came to do my Master's service, which I would heartily and effectually endeavour, but would not omit my service to God, no, though my Master commanded. And at the Communion there were present one hundred persons, some of them Brothers, Kinsmen, and near Dependents upon some of their Lordships, whom I see there in my eye. This I did in Spain; the like I did in Germany, in the Emperor's Court, in my Ambassage thither.

Fifthly, I had in my several Employments into Spain and Germany, above five hundred persons of all qualities attending upon me, and never one perverted in Religion: my children carefully instructed and bred in the same Religion. I had constantly every Sabbath a Sermon in my House; and Sacraments and other Exercises of our Religion frequented.

Sixthly, A foul-mouth'd Skimei railed against our late King and Religion in Spain; how I caused that to be revenged by a near Kinsman of my own, is well known.

Seventhly, One of the English dying in the Town of Madrid, of whose Religion there was some question made; and the King's Chaplains telling me, that they at the day of his death had been with him, and taken an account of his Faith, and that he died a Protestant: I caused him to be brought home to my house, and there buried according to our Rites; whereat much ado was made, and it was threatned, That the Inquisitors and other Officers, would come and

fetch him out, and bury him after their manner: I stood upon it, and that it was the King of England's House, and openly protested, that whosoever should come thither with such intent, I would shoot at him with a Piece; and exhorted all my People, that if such an attempt should be, they should, rather then suffer such a dishonour to our Religion, die with me in that quarrel, and hoped such English as were in the Town would do the like.

Eighthly, There having been a Monastery for English Jesuits, founded and settled at Madrid, before my coming thither, and the English Arms set up, I laboured to suppress it, and having written thereof to the late King, his Majesty advised me not to run my head against the Rock, for it was an impossible thing for me to do: yet I undertook it, and it pleased God so to bless my endeavours, that I absolutely dissolved and overthrew it. For which, the Bishop of Winchester, Montague (now with God) wrote unto me by his Majesties direction, a Letter of his Majesties gracious acceptance of so great a Service: telling me, Besides the Service I had done to the Church and Common-wealth, it should remain a Trophy of Honour to me and my Posterity for ever: And the King himself, with his own hand, wrote unto me, beginning his Letter, Good Fortune Digby, your good luck in your Service well deserves that style.

Ninthly, In all Negotiations in Spain, in point of Religion, I ever straitned my Instructions.

Tenthly, The match with Spain was not moved by me, I ever advised a Protestant match, and shewed many Reasons both of Conscience and State; but if with a Catholick, then rather with Spain than France, so as good Conditions might be made for Religion, as appears by a Letter I wrote, and delivered to the Prince, at his first going upon the employment; for which I had like then to have been ruined for being a Puritan, as I am now for being a Papist, and all by one and the same hand.

Eleventhly, And I appeal to the testimony of Dr. Mason and Dr. Wren, the King's Chaplains with me in Spain; and to Mr. Sampford, Mr. Boswel, and Mr. Frewen my own Chaplains there: And that such Papists as have been my ancient Acquaintance and Friends, being men of worth, well known to many of their Lordships, may be examined upon Oath, whether I have not in all places as well in Spain as in England, and at all times upon fit occasions, avowed my self a Protestant, without the least prevarication? Or whether I did ever any the least act that was not suitable to the same Profession? And that Mr. Frewen, Mr. Wake, my own Chaplains, may give their testimonies, whether in the time of several dangerous sicknesses, which I had of late years fallen into, I have not in the time of such my sicknesses (when no man can be supposed to dissemble with the World, being ready to leave it) made before them a Confession of my Faith, and made my Peace with God, resolving to die as befitting a Protestant and good Christian. This I tell your Lordships, was my Religion I was bred in, have ever professed and lived in, and was resolved, by God's grace, to die in; and yet was so unhappy, by reason of employment, to be distasteful to many good men, that I have been suspected even by them, not well knowing me: And this hath been the rise the Duke hath now taken against me. Then for my love to Spain, I wonder from

Anno 1626. from whence that opinion should grow, since I was there hated and shamed, as the man whom of all others, they desired to have the least to do withal, having stood ever stricter in point of Religion, than by my Instructions I might have done; as after the Capitulation concluded on, they understood by some intelligence, which caused their hatred towards me.

Sure I am, I shewed it not by the Service I did them; for divers years together there was not a Letter sent by that King to any other State, that the King my Master had not a Copy of before, or by that time it came to the place whither it was directed. There was not any great action on foot, whereof I had not the private Instructions, and sent them thither; nor any Expedition by Sea or Land, wherein I had not some Ministers or Intelligencers, that gave me from time to time advertisements of their actions, and most private intentions, whereof I advertised his Majesty from time to time. I used such industry, as to get all the Papers of that King's private Cabinet into my hands; took Copies and Notes of such of them as I thought useful; and upon every of them set my private mark before they were conveyed back again, to the end, that if I should have had an occasion to have charged him with any thing mentioned in the same Papers, I might have let him see I knew it, by telling him in what Paper it was, and marked with such a mark.

There was not a Port in Spain, that I had not caused the depth of it to be sounded, nor a Fort whereof I knew not the strength, both for the Garrison, Munition, and other matters of advantage and disadvantage; insomuch, as if it should please the King to appoint a Committee of the Lords to take an account of me, I should, by the stores I gathered there, and brought with me, make it appear, I was as useful a Servant to his Majesty in a War, as in Peace. Whereas at his Majesties coming out of Spain, the powers of the *Desponsories* were to be deposited in some mans hands; and the Duke, upon pretence of doing me honour, but intending to break my neck by it, moved, they might be left with me, and the King of Spain was contented; and so they were put into my hands, not as an Attorney only for the Prince; but the King of Spain having taken the substitution of them by his Secretary of State, entered in Legal form; whereby that King was then become interested in them by their occupation, as well as the Prince by granting of them. And becoming the *Instrumentum stipulatum*, wherein they were both interested, they were deposited into my hands, as an indifferent person, trusted between the King of Spain and the Prince, with a Declaration of the Trust. And now the Duke was returned out of Spain, he plotted my ruin, and put it in execution in this manner. He concealed, that the powers were to expire at *Christmas*, and procured his Majesty to write a Letter, (not a direct Commandment) but expressing a desire that the *Desponsories* should not be till one of the days in *Christmas*, intending thereby to draw me into a *Dilemma*, That if I proceeded in the match, this Letter should, as now it is, have been enforced against me, as a breach of Instructions: If I had not proceeded, then I had broken my Trust between the Prince and King of Spain, overthrown the Marriage, so long sought and laboured, it being the main scope of my Ambassage, contrary to express Warrant, and that upon a Letter I must needs know to be a mistake.

Car. 2. And when I had written into England, to have a direct Warrant in the point, the Duke then seeing that Plot would not take, he dealt with divers great Lords, as well known to some of their Lordships there present, to have me, upon my arrival in England, committed to the Tower, before I should ever come to speak with the King; which the Spanish Ambassador, here in England, having gotten private notice of, gave advertisement hereof to that King: who thereupon foreseeing my danger, and consulting with his Council and Divines, what were fit for him in Honour and Conscience to do in that case, they resolved, That seeing my sufferings grew by being an honest man, and endeavouring to perform the trust reposed in me by that King, as well as the Prince; That King was bound both in Honour and Conscience, not only to preserve me from ruin, but to make me a reparation for my loss I should sustain by occasion of the Trust: Whereupon, at his departure, going to Court to take his leave, the *Comde Olivares* told me, what was plotted against me in England; and in respect of the danger, by reason of the greatness of my Adversary, perswaded me to stay there, and in his Master's name made an offer, not in secret, but in the presence of Sir Walter Aston.

Here he repeated those offers of Reward, Honour, and Preferment, which we have mentioned before in order of time, and at present pass it by; he then proceeded, and said:

Upon what grounds and hope came I to encounter with those dangers? Not upon hope of my greatness in Court, and strength of Friends there, to bolster out an ill cause; no sure, my strength was too weak, and my Adversaries too powerful. But I know my Conscience was clear, and my Cause good; and trusted in God Almighty. And to him now, and to their Lordships Judgments, recommend my self, and my Cause.

And then he delivered his Answer, desiring their Lordships it might be afterward recorded in Parchment, that it might remain to Posterity; which being read by one of his Council, the Lord Keeper asked him, Whether he desired to say any more than he had done? He answered, That he had something more to say, but knew not the Order, or whether Mr. Attorney would speak first; but he being desired to speak, He desired their Lordships he might put them in mind of what he conceived they had already promised; which was, That the Duke, whom he accused in that House of far higher Offences, than any with which he was charged, might be proceeded with as he was, and that they might be upon equal Conditions. And that such Heads as he had delivered against the Duke, being of such matters as he met withal in his Negotiation as an Ambassador, and which he had, according to his duty, acquainted the State withal, might, by their Lordships care and order, be put into Legal form, and prosecuted, for so was the use, when he had the honour to sit at the Council-Table. He said, He conceived he had already done his part to inform, and would be ready to make it good, it concerning their Lordships to see it prosecuted, it not being to be expected that he should sollicite it; or if he would, he could not, being under restraint. And he desired likewise, that the Judges might deliver their opinions, Whether the matter charged against him were Treason? that if it should not be so in their opinions, he might not lie under so heavy a burden.

He

Anno
1616. He put their Lordships in mind, That it was a strange manner of proceeding, that upon a displeasure, a Peer of the Kingdom complaining of those that had practised against him, and had been the causes of his sufferings, should then, and never but then, be charged with Treason. He told them, it was not his case alone, but it equally concerned them, and their Posterity, and, it might be, some others hereafter, more than him now. For, he said, he thanked God, he had some experience in the world, and thereby, and by those things he had kept, was able to make his innocency appear, which, perhaps, would not be every mans hereafter; and so many an honest heart in a good cause distracted with fears, and abandoned of Friends, might perish through the malice of a potent Adversary.

The Lords again asked him whether he had any thing more to say? He answered, No; but desired leave only to explain himself in two things; one in his Speech now spoken, and the other when he was first brought to the House. That in his Speech this day, was, where he affirmed, he had like to have been ruined in his Negotiation: First, for being a Puritan; and now for being a Papist, and both by one hand; he explained it to be by the hand of the Duke of Buckingham. And the other when he first came to the House, saying there, For redress of former sufferings, and meeting on the sudden with Treason charged upon him, he spake in passion, expressing the wrongs and injuries done him by the Duke; and told their Lordships, He had used means to convey part of his sufferings to the late King his Master, who, in the Duke's hearing, swore he would (after he had heard the Duke against him) hear him also against the Duke; for which his Majesty suffered much, or to some such purpose. Now he understandeth this Speech to reflect upon what was in agitation in the lower House; but he said, Although he could not well excuse the Dukes indiscretion in that point, yet he spake it not any ways to corroborate that opinion; for howsoever the Duke were his enemy, yet he could not think so dishonourably of him.

The Answer of the Earl of Bristol to the Articles of several High Treasons, and other great and enormous Crimes, Offences, and Contempts, supposed to be committed by him against our late Sovereign Lord King James of blessed memory, deceased, and our Sovereign Lord the King's Majesty that now is; wherewith the said Earl is charged by his Majesties Attorney-General, on his Majesties behalf, in the most high and honourable Court of Parliament, before the King and the Lords there. And not acknowledging any the supposed Treasons, Crimes, Offences, and Contempts, wherewith he is charged, in, and by the said Articles, to be true; and saving to himself all advantages, benefits, and exception to the uncertainty and insufficiency of the said Articles, and of the several Charges in them contained: And humbly praying, that his Cause may not suffer for want of a Legal form wherunto he hath not been used, but may be judged according to such real and effectual Grounds and Proofs, as may be accepted from an Ambassador (the ground of the Charge growing thence) and that he may have leave to explain himself, and his own meaning, in any thing that may seem of a doubtful Construction. For Answer, saith as followeth,

THe first Article he denieth; and because the matters contained in the said Article consist

of several parts; viz. The loss of the said Palatinate, and the match with the said Lady of Spain, and of the several Employments; as of one extraordinary Ambassage to the Emperor, and another to the King of Spain, in the years 1621, 22, and 23. He humbly craves leave of this most Honourable Court to separate the businesses, and distinguish the times.

And beginning with the Palatinate first, to give an account of his Ambassage to the Emperor, and so to make as brief a Deduction as he could of the whole carriage in that business, from the beginning of his employment, to the time he left it; in his Ambassage to the Emperor, he propounded all things faithfully according to his Instructions, and the Answers which he returned to his late Majesty of blessed memory, were the very same, and no other, than such as were given by the Emperor under his Hand and Imperial Seal; the which, according to his duty, he faithfully sent unto his said Majesty, and withal did honestly and truly advertise his said Majesty what he understood and thought then upon the place; but was so far from giving to his Majesty any ill-grounded hopes in that behalf, that he wrote unto the Lords of the Council here in England from Vienna, 26 July, 1624. in such sort as followeth:

I Am further to move your Lordships, that there may be a dispatch made presently into Spain to his Majesties Ambassador, Mr. Cottington, that they deal effectually for the repairing and ripening of the business against my coming; that they use some plain and direct Language, letting the Ministers there know, that the late Letter sent by the King of Spain to the Emperor, was colder and more reserved, than his Master had reason to expect. I shall conclude with telling your Lordships, that although I despair not of good success in that knotty business, yet I hope his Majesty and your Lordships lay not aside the care of all fitting preparations for a War, in case a Peace cannot be honourably had. And amongst other things, I most earnestly commend unto your Lordships, by your Lordships unto his Majesty, the continuing yet abroad, for some small time, of Sir Robert Mansel's Fleet, upon the Coasts of Spain; which, in case his Majesty should be ill used, will prove the best Argument we can use for the Restoration of the Palatinate.

And this his Advice, he saith, was wholly intended by his Actions, by being the cause, as he returned homeward out of Germany, to bring down Count Mansfield, whereby the Town of Frankendale was relieved, by supplying of his Majesties Army, then in great distress, with Moneys and Plate, to the value of 10000 l. meerly out of his zeal and affection to the good of the King and his Children, having no Warrant or Order, but that his heart was ever really bent in effects more than in shews, to serve the King's Son-in-law and his Cause, as by the discourse of this business will appear. And how acceptable these services were, will more appear by the Letters of the Queen of Bohemia, in these words following:

My Lord,

Having understood from Heidelburgh, how you have shewed your affection to the King and me in all things, and in the help of Money you have lent our Souldiers; I cannot let so great Obligations pass, without giving many thanks for it by these Lines, since I have no other means to show my gratefulness unto you: Howsoever assure your self, that I will never

His Service
to the Pa-
latinate
when he
was Am-
bassador
to the Em-
peror.

be forgetful of the testimonies you give me of your love, which I intreat you to continue, in doing the King and me all good Offices you can to his Majesty. You have been an eye-witness of the miserable estate our Countries are in; I intreat you therefore to sollicite his Majesty for our help: you having given me an assurance of your affection; I intreat you now to show it, in helping of us by your good endeavours to his Majesty; and you shall ever bind me to continue, as I am already,

Your very affectionate Friend,

ELIZABETH.

Which Letters were seconded with others about the same time, both from the King of Bohemia, and Council of Heidelburgh, to the same effect: and how much satisfaction his late Majesty received in that behalf, and touching that business, will plainly appear several ways, and particularly by his Speech in Parliament. And the said Earl likewise appealeth to both Houses of Parliament, to whom, by his late Majesties order, he gave a just and true account of that Employment; with what true zeal he proceeded; and how he pressed that single Treaty, and Promises no longer to be relied on, but that a fitting preparation for War might go along hand in hand with any Treaty of Accommodation. And, for a Conclusion, among many of his late Majesties approbations of his carriage in this Employment, he humbly desired, that a Letter of the Duke of Buckingham's under his own hand, bearing date the Eleventh of October, 1621. may be produced, being as followeth;

My Lord,

I Am exceeding glad that your Lordship hath carried your self so well in this Employment, that his Majesty is infinitely pleased with your service you have done, for which he commanded me to give your Lordship thanks in his names, until he see you himself. You, of all men, have cause to commend his Majesties choice of such a Man, that unless your heart had gone with the business, you could never have brought it to so good a pass. Amongst other things, his Majesty liketh very well the care of clearing his Honour, whereof he will advise further with your Lordship at your next coming over. I hope you will not find your Negotiation with the Infanta of such difficulty, as you seem to fear in your Letter, seeing my Brother Edward hath brought with him a Letter from his Majesties Son-in-law, whereby he putteth himself solely to his Majesties advice and pleasure for his submission, as you will perceive by the Copy of the Letter is self, which I here send your Lordship; wherein, though there be many things impertinent, yet of that point you may make good use for the accomplishment of the business, wherein I have written to the Spanish Ambassador to use his means and credit likewise; which I assure my self he will effectually do, especially seeing the impediments are taken away by Count Mansfield's Composition, and the Conformity of his Majesties Son-in-law to this Submission. For the Money your Lordship hath so seasonably laid forth, his Majesty will see you shall sustain no loss, holding it very unconscionable you should suffer by the care of his Service; which you have shewed so much to his contentment, to the great joy of your Lordships faithful Servant,

Geo. Buckingham

Having given this account of his Employment with the Emperor, he humbly craveth leave to make it known in what sort, before this his Employment, he endeavoured to serve the Prince Palatine and his Cause, which will best appear by his Majesties own testimony, upon the going of Sir Francis Netherfole to the Prince Palatine, at which time his Majesty being, out of his Royal and just heart, desirous to do a faithful Servant Right, commanded Sir Francis Netherfole to let the Prince Palatine understand how good a Servant the said Earl had been unto him, and how active in his affairs, as will best appear by a Dispatch of Sir Francis Netherfole, written all with his own hand to Sir George Calvert, dated in Prague, August 11, 1620. and sent by his late Majesty to the said Earl for his comfort, being as followeth;

Right Honourable,

That you may be the better assured, that I have neither forgotten nor neglected the Commandments received from his Majesty by your Honour; you will be pleased to have the patience to hear me report what I said to this King upon the delivery of my Lord Deputies Letter to his Majesty, which was, That the King my Master, whose Justice is so renowned over the World, did use to shew it in nothing more, than in vindicating his Servants from wrongful opinions, whereof he knew noble hearts more sensible, than of injuries done to their Persons or Fortunes; That out of his Royal disposition his Majesty having found my Lord Digby mistaken by some of his own People at home, by occasion of his being by him employed in the Affairs with Spain, having thereupon received a jealousy, that the same Noble Lord might be also misreported; hitherto his Majesties hands in that respect gave me a particular commandment, to assure his Majesty, he had not a more truly affectionate Servant in England: And for proof thereof, to let his Majesty understand, That whereas the Baron of Doncaster, now his Majesties Ambassador for England, had, since his coming hither, obtained but three great Boons for his Majesties service; viz. the Loan of Money from the King of Denmark, the Contribution in England of the City and Countries, and the sending Ambassadors to the contrary Parties, that my Lord Digby had been the first propounder of all those to the King my Master, before his Majesties Ambassador, or any other of his Majesties Servants in England; although his Lordship were contented, that others, who were but set on, should carry away the thanks and prayers, because his Lordship, being known to be the first mover therein, might possibly weaken the Credit he hath in Spain, and to render himself the more valuable to serve both his own Master and his Majesty; in which respect I humbly prayed his late Majesty to keep this to himself.

By which testimony it may appear, as the said Earl conceiveth, how he, the said Earl, bestowed himself before his Ambassage, and in his said Ambassage with his said late Majesties approbation thereof. Now he humbly craveth leave to give your Lordships account how he proceeded after his return from the Emperor's Court.

As soon as he came into England, he discovered unto his Majesty and the Lords of the Council, in what great wants he had left the Forces in the Palatinate, and solicited the present sending away of Money; thereupon Thirty thousand pounds

Cap. 2.
His service to the Palatinate before his Embassy to the Emperor.

Ann.
1626. pounds were borrowed of Sir Peter Vanlore, Sir Bayis Hiekt, and Sir William Corinn, and presently sent unto the Palatinate, besides the Ten thousand pounds which he lent, for which he paid the Interest out of his Purse for six months, having also given, not long before, Five hundred pounds, by way of Bepevolence, to the service of the said Palatinate.

Now in the interim, betwixt his return from the English Coasts, which was in November, 1621. and his going into Spain in May, 1622. he first gave his Account, as aforesaid, of his Ambassage to both Houses of Parliament, and moved them effectually, as was possible, for the supplying of his Majesty, and that the money might wholly be employed for the succour of the Palatinate.

The Parliament being dissolved, he solicited, with great care and industry, the settling of some course for the supplying of the Palatinate, and his Majesty was perswaded to maintain Eight thousand Foot, & Sixteen hundred Horse under his own Standard, and at his own Purse, in the Palatinate. To establish a certain course for due payment of the said Army, the Lord Chichester was, upon the said Earl's motion, sent for out of Ireland, and the said Earl, by his Majesties command, took order for his Dispatch. In this estate the said Earl left his affairs at his departure towards Spain, in May 1622. nothing doubting, but that all things would have effectually and constantly been pursued, according to the order which was settled and resolved on at his departure.

His arrival
in Spain,
and beha-
viour
there.

At his arrival at the Court of Spain, he presently proceeded according to his Instructions, pressing the business of the Palatinate, as effectually as he could, and faithfully laboured and effected from time to time (as far as to the point of Negotiation) all particulars that were given him in charge, as it will appear by his late Majesties Letter upon every particular occasion; and if by the accidents of War for that Summer, the Marquess of Baden, the Count Mansfeld, and the Duke of Brunswick received each of them an overthrow, (the ordering of whose Affairs his Majesty so far complained of to his Son-in-law, as to give order for the withdrawing of his Forces, as will appear by his Majesties Letters on the third of June, 1622. and also by his Letters unto Sir Horace Vere, and the Lord of Chichester of the same date, if there were not a speedy redress) if by any of those accidents those businesses have miscarried, the said Earl hopes he shall not be liable to the blame, it having no relation to him, or to his employment, having so far and so honestly, with his best affections, employed his care and utmost services in the businesses, as his Majesty was pleased, by many several Letters, upon several actions, to signify his gracious acceptance of his service, as in his Letters of Novemb. 24. 1622. written as followeth; viz.

Your Dispatches are in all points so full, and in them we receive so good satisfaction, as in this we shall not need to enlarge any further, but only tell you, as we are all pleased with this diligent and discreet employment of your endeavours, and all that concerneth our service; so are we likewise with the whole proceedings of our Ambassador, Sir Walter Aston. Thus we bid you heartily farewell.

New-Market, Nov. 24.
1622.

And afterwards his Majesty was likewise pleased, in his Letters of 8 January, 1622. a little before our gracious Sovereign Lord the King, then Prince, his coming into Spain; as followeth,

Concerning that heavy and unfortunate Affair of the Palatinate, to say the truth, as things stand, I know not what you could have done more than you have done already.

And whereas it is objected, the Palatinate should be lost by the hopes he the said Earl, gave, by his Letters out of Spain, it is an Objection of impossibility; but there was nothing left but *Manheim* and *Frankendale* when his first Letters out of Spain could possibly come to his late Majesties hands; for he did not begin to Negotiate that business until August, 1622. and about that time *Heidelberg*, and all, but *Manheim* and *Frankendale*, was lost; and *Manheim* he had saved by his industry, had it not been so suddenly delivered, as is by his Majesty acknowledged by Letters of 24 Novemb. 1622. written thus; viz.

And howsoever the Order given to the Infanta; for the relief of Manheim, arrived too late, and after the Town was yielded to Tilly; yet must we acknowledge it to be a good effect of your Negotiation, and an Argument of that King's sincere and sound intension.

And *Frankendale* being, by the said Earls means, once saved, was again the second time saved merely by the said Earls industry; and procuring a Letter from the King of Spain, dated the second of February, 1623. whereupon followed the Treaty of Sequestration, which hath since continued. And he, the said Earl, was so far from hindring Succours by any Letter or Counsel of his, that he was the Solicitor, and, in great part, the Procurer of most of the Succours that had been sent thither, as is formerly set down. And when his Royal Majesty that now is, and the Duke of Buckingham arrived at the Court of Spain, they found the business of the Palatinate in so fair a way, that the Spanish Ministers told them, the King should give his late Majesty a Blank, in which we might frame our own Conditions; and the same he confirmeth unto us now; and the like touching this Blank was likewise acknowledged by the Duke of Buckingham in his Speech in Parliament, after the return of his Majesty out of Spain. And it will appear by the testimony of Sir Walter Aston, and by his and the said Earls Dispatches, that the said Earl wanted not industry and zeal in the business: inso much as the last Answer the said Earl procured herein from the King of Spain, was fuller than he the said Earl was ordered by his late Majesties latest Letters to insist upon. So as by that which hath been alledged, the said Earl hopeth your Lordships will be satisfied, not only that he wanted neither will nor industry, but that he hath, with all true zeal and affection, and with his own means, faithfully served their Majesties, and the Prince Palatine in this Cause: And for assurance in that Affair, he had all that could be between Christian Princes; and if in the said Assurances there hath been any deceit, as by the said Articles is intimated, which he never knew nor believed, he referred it to God to punish their wickedness; for betwixt Princes there can be no greater Tie, than their Words, their Hands and Seals, all which he procured in that behalf; and both the said Earl

Anno 1626. Earl and Sir Walter Aston were so confident, that the business would be ended to his late Majesty's satisfaction, that in a joint Dispatch to his late Majesty of 24 November, 1623. after his own Majesties return into England, they wrote as followeth, viz.

We hope that your Majesty may, according to your desire signified to the Earl of Bristol by the Letters of October 8. give to your Majesty's Royal Daughter this Christmas the comfortable news of the near expiring of her great troubles and sufferings, as unto the Prince your Son the Congratulation of being arrived to a most excellent Princess.

And having thus given your Lordships an account of his proceedings touching the *Palatinate*, he will, by your Lordships good favours, proceed to the other part of that Charge concerning the marriage.

His carriage concerning the Match.

And first, touching his hopes and assurances; that he is charged to have given to his late Majesty, and his Ministers of State here in England, of the Spaniards real proceedings in the said match, when, he said, he knew he never meant it: He saith, he never gave any hopes of their real proceedings, but such, and the very same that were first given to him, without adding or diminishing; neither could he have done otherwise, either with honesty or safety. And he further saith, That the hopes he gave, were not upon any Intelligence; but as well in that of the match, as the other of the *Palatinate*, his Advertisements were grounded upon all the assurances, both of Words and Writing; that could possibly pass between Christians, as will be made evidently appear by his Dispatch of 9 September, 1623. which he humbly desires may be read, if the length of it may not displease: the Substance being to shew all the Engagements and Promises of the King of Spain, that he really intended the match. And the causes why the *Conde Olivares* pretended to the Duke of Buckingham, that the match was not formerly meant, was only thereby to free himself from treating any longer with the said Earl, to the end that he might treat for larger Conditions in point of Religion with the said Duke: The said *Conde Olivares* taking advantage of having the Person of his Majesty, then Prince, in his hands. And with this Dispatch the said Earl acquainted his Majesty that now is, in Spain, before he sent it.

And by this Dispatch the Earl doubted not, but that it will appear to this Honourable Court, that whilst the Treating of this business was in hand, he proceeded in that, not only with care and industry, but with some measure of vigilancy. And for clearing an Objection that hath been alledged, that the match was never meant before the Dukes coming into Spain; nor after; the Earl craveth leave to set down some few Reasons of many, which caused him to believe that the said match was, and hath been really meant, and that it was so conceived by both their Majesties, and the King of Spain, and their Ministers on both sides.

For first, The Duke of Buckingham certified his late Majesty, that the business of the Marriage was brought to a happy conclusion; whereupon his late Majesty was pleased to give order to the Duke and Earl, to proceed in the business; which his said Majesty would not have Treated till the said Marriage was concluded, as will appear by

a Letter of his said late Majesty jointly to the Duke of Buckingham and the said Earl, of the 23 July, 1623.

Secondly, It will appear by Letters of the said Lord Conway to the Duke of Buckingham, bearing date, September 4. 1623. That the said Duke had good assurance of the conclusion of the said match; and upon this confidence were all things put in due execution in England, as had been capitulated; and the Lord Conway and others faithfully agreed, and settled all the points of Immunity and Liberty for the Roman Catholics, for the use of their Religion, as was set down in their Declaration, August 6. 1623. hereafter mentioned in the Answer to the fifth Article of this Charge.

Thirdly, The very day his now Majesty and the Duke of Buckingham departed from the *Escorial* in Spain towards England, the said Duke solemnly swore the Treaty of the said Marriage, and the furtherance of it all that should be in his power, upon the holy Evangelists, in the presence of the said Earl and Sir Walter Aston.

Fourthly, The Treaty of the said Marriage had been formerly signed, sealed, and solemnly sworn by the King of Spain: And when his Majesty and that King took their leaves, he did solemnly, in the words of a King, faithfully and particularly protest to perform all that had been capitulated in the Treaty of Marriage; and thereupon embraced his Majesty at his departure, and sent the very next day a Letter, written all with his own hand, to his Majesty, vowing and protesting to make all good that he had capitulated or promised unto his Majesty, at his departure the day before. So that if there were no true meaning on the part of Spain to make the Marriage, as by Mr. Attorney is pretended, yet certainly the Earl hath not been slightly deceived; neither can it be, as he conceiveth, any fault in him, since not only his late Majesty, but also his Majesty that now is, and the Duke of Buckingham, being then both upon the place, did confidently believe, and that upon other grounds than misinformations, suggestions, and persuasions of the said Earl, that the Marriage was really intended: And to that effect, both his late Majesty of blessed memory, and his most Excellent Majesty that now is, after his return into England, wrote unto him, the said Earl, several Letters, assuring him that their intents and pleasures were to have the said match proceeded in, and thereupon the Proxies of his Majesty, then Prince, were again inrolled and sent unto the said Earl. So that the said Earl having so many and so great causes to be assured, that the match was really intended on both sides, he conceiveth it will be hard for Mr. Attorney to make good that part of his Charge, wherein he affirmeth, that the Earl should know the contrary, or the Assurance to be upon false grounds, as in the said Article is alledged.

II. To the second Article, he directly denieth all the supposed Offences wherewith he stands charged by the said Article. And for a clear declaration and manifestation of the truth and manner of his proceedings, he saith,

First, As to the continuing the Treaties upon Generalities, That the Temporal Articles were by Agreements on both sides not to be treated or settled, until such time as the Articles of Religion were fully agreed on; for that it was held most proper and honourable for both sides, first, to see if the difficulty of Religion might be removed, before they passed to any further Engagements.

Means to shew that the Match was intended by the Spaniards.

And the said Articles of Religion, by reason of the Pope's new Demands sent into England by Mr. Garr, were not signed nor condescended unto by his late Majesty, nor his Majesty that now is, then Prince, until Jan. 5. 1622. and were then sent away in the month of England to the said Earl by Mr. Simon Digby, who arrived with them at Madrid in Spain about the 25th of the same month. But the Earl's care was such to have no time spent in the settling of the Temporal Articles; that before he would condescend so much as to lend off unto the Articles of Religion, that they should be sent back to Rome, he procured the King of Spain to promise, That within the time limited for procuring the Dispensations, which was by March or April following at the furthest, all Temporal Articles should be settled and agreed, to the end that the Infanta might be delivered at the Spring, as by the King of Spain his Answer in writing was declared to be the King's intention; and accordingly Sir Walter Aston and the said Earl did not deal in general, but did most industriously labour to settle all in particular, viz. That the Portion should be Two Millions, it appearing, that it was so agreed by the late King of Spain, That the Dispensation coming, the Dispensations should be within forty days after; and that Don Duarte de Portugal should be the man that should attend the Infanta in the Journey. And all other particulars necessary for the conclusion of the said Treaties, were, by Sir Walter Aston and the said Earl, and the Spanish Commissioners, drawn up into Heads, in writing, and, after many debates, they were consulted with that King; and 2. Martij 1623. styled the Conde Gondomar, and the Secretary Don Andreas de Priola, were appointed to come home to the house of the said Earl, to signify unto Sir Walter Aston and himself, as they did, That the King of Spain had declared his resolution in all the Particulars, and given them order to come to a speedy conclusion with them in all things: And that King's Answer to that Conclusion the Earl saw, and read, all written with the King of Spain's own hand.

On the seventh day of the said month of March 1623. the King's Majesty, then Prince, and the Duke of Buckingham arrived at Madrid; and the Spaniards took new Laws, and the Negotiation was put into a new form. So that whereas it is objected against the Earl, That he entertained and continued the Treaties so long upon Generalities, he conceives it is not meant upon the Spiritual Articles; for they were such as were sent from Rome into England, from thence they came to the Earl: And for the Temporal Articles, they were not to be settled and treated, till the Articles of Religion were concluded. He conceiveth it cannot be alledged with any colour, that his Majesty was entertained with Generalities, since the time that the said Articles of Religion were brought unto the said Earl by Mr. Simon Digby, being about the 25th of January, There were but six weeks until March 7. following, when his Majesty, then Prince, arrived in Madrid; and, in the interim, all the above-mentioned Particulars were settled: And the time that hath been spent in this Treaty, hath not been through his, the said Earl's default, in continuing upon Generalities, without pressing to Particulars, but hath been caused, as well by Difficulties which the business brought with it, as also with exterior Accidents, viz. The Wars of Bohemia, the death of two Popes, and

the late King of Spain, without the least fault of the said Earl, as is acknowledged by the late King of blessed memory, in the said Earl his Instructions, on the 14 of March 1622.

Neither could any delay herein be attributed unto him the said Earl; for he was employed in those times into Germany and Flanders, and Sir Walter Aston and Sir Francis Cottington, for the space of three or four years, were resident in Spain; from whence, the hopes they gave were upon all the discreet grounds that Ministers can expect from a State: But the Earl re-assumed this business six months before his Majesties coming into Spain; and he was so desirous to see his Majesty, then Prince, bestowed, that he pressed nothing so much, both to the King and Prince, as that the Prince might lose no more time, and rather to break the match with Spain, than suffer any further delays; as will appear by his Dispatches from his first arrival at the Court of Spain, until his Majesty, then Prince, his coming. For in his Letters of June 20. 1622. being the first he wrote after his first Audience, he was so desirous that no time might be lost, that in them he craveth leave of his Majesty, that in case he should find any Delays in Spain, he might, without expecting any Order, take his leave and come home.

Upon the return of Sir Francis Cottington, in September following, he wrote both to the King, and his Majesty, then Prince. To the King, as followeth;

I Shall presume to add to that which Mr. Cottington shall deliver unto your Majesty by word of mouth, of the present estate of the Match, what I conceive to be the right way to bring it to a speedy issue: That your Majesty will be pleased positively to declare, what you will do in point of Religion, and that you will appoint me a certain limited time, by which this King should procure the Dispensation, or conclude the Match without it; and in case there shall be any further delay therein, that I may then declare your Majesty to be free and disengaged, to bestow the Prince in such sort, as you shall judge most convenient.

And to the Prince, at the same time wrote in these subsequent words, viz.

That which will be necessary for his Majesty presently to do on his Majesties part, is, to declare himself, how far he will be pleased to yield, in point of Religion, as Mr. Cottington will approve unto your Highness: And that he set a prefixed time to break or conclude the Match, either with the Dispensation, or without the same. And for the rest, it may be left to my Negotiation. But your Highness may be pleased to hasten his Majesties resolution with all possible speed.

And the said Earl saith, That having received from his said late Majesty his resolution in point of Religion, and a limited time according to his desire, he was so precise and punctual therein, that although the making or breaking of the Marriage depended upon it, he would not give one months respite longer time for the procuring of the Dispensation, until he had first acquainted his late Majesty therein, and received his Directions under his own hand; as will appear by his Majesties Letters of Octob. 25. 1622, as followeth;

Anno
1626.

Right trusty and well-beloved Cousin and Counsellor, We greet you heartily well. Whereas by your last Letter written to our Secretary, dated Sept. 29. you are desirous to have our pleasure signified unto you under our own hand, Whether we will be content or not to grant a Month's time longer, for the coming of the Dispensation from Rome, than we have already limited unto you, in case they shall there conclude all things else to our contentment, with a resolution to send the Infanta hither the next Spring: We do hereby declare unto you, that in that case you shall not break with them for a Month's longer delay. We also wish you not to trouble your self with the rash censure of other men, in case your business should not succeed; resting in that full assurance of our Justice and Wisdom, that we will never judge a good and faithful Servant by the effect of things so coming and variable. And with this assurance we bid you heartily farewell.

And he further saith, That when he had agreed to the Articles of Religion, and that a certain time was set for the coming of the Dispensation, and a Conclusion of the Match, although he would bind himself to nothing without his Majesty's approbation, yet for that no time might be lost, he agreed to the Propositions, *de bene esse*, sent by Mr. Porter, December 10. 1622. to the end the Articles might be immediately sent to Rome, without losing so much time as to hear first from England: And humbly moved, that in case his Majesty should like of the said Articles, he would send his Approbation directly to Rome for the gaining of time; which his Majesty was pleased to do. And at the same time he wrote both to his said late Majesty, and his Majesty, then Prince, as followeth, viz. to his Majesty,

This is the true state of the business as it now standeth. If your Majesty approve of what is done, I hope it will be a happy and a short conclusion: If your Majesty think it not fit to allow and condescend to the said Articles, I have done the uttermost of my endeavours, and shall humbly persuade your Majesty not to lose a day longer in the Treaty; so much it importeth your Majesty and your Kingdoms, that the Prince were bestowed.

And to the Prince, in Letters of the like date, in this sort,

I have presumed to write to his Majesty, that which I think my duty to say to your Highness; That in case you shall not approve of what is now conditionally agreed, you permit not a day more to be lost in this Treaty: For it is of so great consequence that your Highness were bestowed, that it importeth almost as much that you were speedily, as fully married. But I hope his Majesty, and your Highness, will in such sort approve of this last Agreement, as you will speedily bring this long Treaty to a happy conclusion. I am out of hope of bringing things to any better terms; therefore I deal clearly with your Highness, and do not only most humbly persuade, but, on my knees, beg it of you, that you either resolve to conclude this Match as you may, or speedily to break it, and bestow your self elsewhere; for no less than the happiness of your Kingdom, and the security of the King your Father, and your Self, depend upon it.

All which things being considered, the Earl most humbly submitteth himself to the Judgment of that most High and Honourable Court, whe-

ther the delays which Accidents have brought forth in this business, can be attributed to his fault; since on the one side it will evidently appear to your Lordships, that he never moved his Majesty and the Prince to admit of delays, but rather to think of some other course; and it will on the other side appear by all the Dispatches, that he pressed things with the Ministers of Spain to as speedy a conclusion, as the uttermost terms of fair Negotiation and good manners would bear. And whereas it is pretended, that the Spaniards should take occasion, by entertaining the said Treaties, to abuse his said late Majesty (which he knoweth not) yet, he saith, he used all the vigilancy and industry that a careful Minister could do, and had from the Spaniards all the assurances, by Oaths, Words, and Writings, which could be expected from Christians; the which, without adding or diminishing, he faithfully presented unto his said late Majesty; and his said late Majesty was pleased, in those times, to conceive upon those assurances, that they dealt really with him: And he conceiveth that his Majesty that now is, then Prince, and the Duke of Buckingham, were pleased to write as much to the late King's Majesty, at their first coming into Spain, and that all which the Earl had written, touching that employment, was there avowed by the Conde Olivarez and Conde Gondomar, to the said Prince and Duke, at their arrival at Madrid; and he hopeth, that if that Dispatch may be perused, it will as well appear and be adjudged, that he served his Majesty with some measure of vigilancy, as well as fulness of fidelity.

III. To the the third Article the said Earl saith, That he did not, either by words or by Letters to his late Majesty or his Ministers, extol, or magnifie the greatness and power of the King of Spain, nor represented to his late Majesty the supposed danger that might ensue unto him if a War should happen between him and the King of Spain, nor affirmed, nor insinuated the same, as in the said Article is mentioned; but if he did at any time speak or write of the power and greatness of the King of Spain, or represent any danger to his said late Majesty that might ensue by entering into Hostility with the said King of Spain, it was as a faithful Counsellor and Servant to his Majesty by way of his Advice and Opinion, which he ever delivered sincerely, faithfully, and truly, according to the present occasion, and in no wise with such an intent as in the said Article is mentioned, nor to any other evil intent or purpose whatsoever.

But he hath been so far from dissuading his late Majesty to take Arms, that he hath upon all just occasions advised, that all fitting preparations for War might be made, as beginning with the year 1621. from which time he is only charged, will appear by his Speech in Parliament presently after his return out of Germany; and that he hoped his Majesty would no longer rely upon single Treaties, but make all fitting preparations for War; and that the Parliament would enable his Majesty thereunto; and by the care he took before his going again upon his Embassy into Spain, that the establishment of an Army under his Majesty's own Standard, of Horse and Foot, and under his own pay, might be settled and provided for; as likewise his advice to the Lords of the Council, that his Majesty might have a curb upon the King of Spain upon all occasions, by continuing of Sir Robert Mansfield's Fleet upon the Coasts of Spain, as will appear by his Letter written from Vienna, 26 July

Car. 2.

He never
dissuaded
the King
to take
Arms.

Anno 1626. 26 July, 1621. mentioned in the answer to the first Article. By all which it appeareth, that he laboured and endeavoured as much as in him lay, that his Majesty might be well prepared for any occasions of War that should happen. And he no way remembered to have discourag'd, or to have spoken or written any thing that might have been understood to have tended to the discouraging of his said late Majesty for the taking of Arms, and entering into Hostility with Spain, or for resisting of him and his Forces, from attempting the Invasions of his late Majesty's Dominions, or the Dominions of his late Majesty's Confederates, Friends or Allies, as by the said Articles is charged against him; neither remembereth that he had any cause so to do. But if he have in any kind spoken or written of Spain, or the power thereof, it may have been to his late Majesty, or to his Majesty that now is, by way of discourse, speaking of the solidness of the Spanish proceedings, of their serious and deliberate debating of business before they resolve on them, of the constant pursuing of them when they are once resolved, wishing that England and other Nations would therein imitate them: For he supposeth the right way to impeach their greatness was to grow as wise as they, and to beat them at their own Weapons. But otherwise he is confident never to have been heard to speak or write any thing that might have any terror or discouragement, to his late Majesty or his chief Ministers, knowing that England well ordered, need to take little terror at the power of Spain, having almost in all attempts and enterprises won honour upon them. And as for the preventing of dangers that might ensue upon a War, though he knew not what is aimed at in that particular: yet he is most confident out of the Integrity of his own Conscience, That he neither said, nor advised any thing but what befitted a faithful Counsellor and Ambassador, which was truly to deliver his opinion as he understood it upon the present occasion. And as for affirming that his Majesty's quiet should be disturbed, and he not to be permitted to Hawk or to Hunt, he remembereth not what discourse he may have had, or written to any person, how fit it might be upon the being broiled in a great War, seriously to intend it, and make it our whole work. But as he is confident it will appear, that what discourse soever it might have been, it wanted not true zeal and affection which he hath ever born to the King's Service, and he hopeth it will not be found to want due respect and reverence on his part, which he ought to shew to so gracious a Master. Neither can it be conceived, that the considerations of Hunting and Fowling, should be considerations worthy so great and prudent a King, to withhold from a War for the good of Christendom, and his Kingdom, if he should have been justly provoked thereunto.

IV. To the Fourth Article the said Earl saith, That he did not any thing contrary to his duty and Allegiance, or contrary to the faith and duty of an Ambassador, as by this Article is alledged; but did intend the service and honour of his late Majesty; and no corrupt and sinister ends of his own advancement, as by this Article is so alledged. And as for the Conference which is pretended he should hold concerning the Treaty, That being told there was little probability that the said Treaties would or could have good success, he should acknowledge as much; and yet said, he cared not what the success thereof might be, but that he would take care to have his Instructions perfect,

and to pursue them punctually, and would make his Fortune thereby, or words to that effect; he doth not remember ever to have held such discourse. Though it be true, the time hath been many years since, when he thought the Match very unlike to be effected, in regard unequal Answers were given in Prince Henry's daies, and of the unlikelihood of accommodating the differences of Religion. And saith further, That the reviving of the Treaty of the said Match for his Majesty that now is, was not by his means, for he ever declared his opinion clearly, both to his late Majesty and to his Majesty that now is, That in the first place he wished and advised a Protestant Match, but in the duty of a Servant understanding that both their Majesties desired the Match really with Spain, he did really and faithfully intend the service and honour of their Majesties, and effectually endeavoured to procure their ends. And it is very likely he might say, he would get his Instructions perfect, and pursue them punctually, as he conceived was lawful and fit for him; but the latter part of his Conference, that he should say he would make his fortune by it, or any other words to that effect, he was in *Anno* 1621. and ever since of that rank and quality, both in regard of his Employments, Fortunes, and his Majesty's favours, that he assureth himself he did not, and dares Answer so far for his discretion, That it was impossible for him to hold so mean and unworthy discourse.

V. To the Fifth Article he saith, That what is therein alledged, is so far from being so, that contrarily upon all occasions to the uttermost of his power, he did labour to prevent all the inconveniencies in point of Religion that might come by matching with a Princess of a different Religion, as well appeareth by the Paper of his opinion, that his Majesty should marry with a Lady of his own Religion, hereafter mentioned in his answer to the Seventh Article. And for further proof thereof, he saith, That in the whole Treaty with Spain, he stood more strict in points of Religion, than by his Instructions he needed to have done, as will appear by the Testimony of Sir Walter Aston, and his Dispatches, of the Twelfth of December 1622. and other Dispatches, which he desireth may be read. And as for concealing or Perswading to set at Liberty the Priests or Jesuits, he utterly denieth to have done any such thing, as before he hath answered. Although it be true, that the Embassage in Spain be far different from the employment of other places, where there is a Body of our Reformed Religion, and whereby his Majesty hath Kindred and Allies; whereby his Majesty's Ministers may be informed of the necessary Occurrents of State without the helps of Priests or Jesuits. But in Spain there being none but Roman Catholics, nor any manner of correspondence or intelligence but by them, the Embassadors must make use of all sorts of People, especially of Jesuits and Priests, and to that end Embassadors sent thither have a large and particular Warrant under the King's hand, to treat and make use of Priests and Jesuits, and all other sorts of men, unless it be such as are proclaimed Rebels. And divers times the Ministers employed in Spain, to gratifie some whom there they employed for the King's service, have, as he believeth, at their particular Suit moved his Majesty to extend Grace and Favour to some particular Friend, and Kinsman of his, being a Roman Catholic, and imprisoned in England; and that he remembereth

He advised both King and Prince to a Protestant Match.

He never moved his Majesty to set Priests at liberty.

Anno 1626: bereth to have happened to others, but doeth not remember himself to have written to his late Majesty in that kind: And as concerning his advice and Counsel, to set at liberty Jesuits and Priests, and the granting to the Papists a Toleration, or the silencing the Laws against them, he said, that his late Majesty was engaged by the Treaty of Madrid, 1617. in divers matters concerning Religion; likewise by promise to *Cande Gondomar*, and his Letters to the King of Spain, 17 April, 1620. wherein he is pleased to promise some particulars in favour of Roman Catholicks, as by the said Letters will appear: And understanding the said Earl had sufficient Warrant under the King's own hand to assure the King of Spain whatsoever was agreed in the said Article, or in the said Letters, his Majesty would sincerely perform; yet the said Earl was so cautious in that point, that when for the conclusion of the Match, the other Articles of Religion being allowed, it was pressed by the Spanish Ministers, that a Clause of Convenience might be inserted with Protestation, That the form and way thereof should be wholly left to his Majesty's wisdom and clemency, and that his Majesty's Roman Catholick Subjects should acknowledge this Grace to have come from the King's Majesties mercy and goodness: Yet the said Earl would not condescend hereunto *De bene esse*, as by his Letters to Master Secretary *Calvert*, 8 October 1622. will appear, hereby to give his Majesty time to have recourse unto his second Consultation, and to take it into consideration before he would engage or bind himself in this point: But his late Majesty and his Majesty that now is, were pleased to condescend hereunto by signing the said Articles with their own hands, and likewise by writing their private Letters of the eighth of January, 1622. to that effect to the King of Spain, as by the said Letters will appear. Neither did the said Earl by Letters, or otherwise, ever counsel or perswade his late Majesty, to grant or allow unto the Papists or Professors of the *Romish* Religion a free Toleration, and Silencing of the Laws made and standing in force against them, but ever protested against any such Toleration; and when any such provision hath been offered to be made in Spain, he ever refused so much as to give ear to it, or to suffer it to be propounded; although it be true; that he hath since seen a Paper touching Pardons, Suspensions, and Dispensations for the Roman Catholicks, bearing date the seventh of August, 1623. signed by the Lord Conway, and others, which in effect is little less than a Toleration; which Paper is that which followeth.

Salisbury, 7 August, 1623.

The Declaration touching the Pardons, Suspensions, and Dispensations of the Roman Catholicks.

A Declaration signed by my Lord Conway in behalf of the Roman Catholicks.

FOR the satisfaction of their Excellencies, the Marquess Ynojosa and Don Carlos de Colonia, the Lords Ambassadors for the King of Spain; and to the end it may appear that his Majesty of Great Britain will presently and really put in Execution the Grace promised and intended to the Roman Catholicks his Majesties Subjects, and of

his own Grace more than he is tied to by the Articles of Treaty of Marriage:

Car. 2.

We do declare in his Majesties Name, That his Majesties Will and Pleasure is, that a Legal and Authentick Pardon shall be passed under the Great Seal, wherein shall be truly pardoned all those Penalties, Forfeitures, and Seizures, Indemnities, Commitments, and Incumbrances whatsoever, whereunto the Roman Catholicks are liable or have been proceeded against, or might be, as well Priests, as others, for matters of Conscience only, and to which the rest of his Majesties Subjects are not liable. And to the end his Majesty may make himself clearly understood, where it shall happen that any of those Forfeitures and Pecuniary Penalties have been given away under his Majesty's Great Seal; his Majesty will not hide that it is not in his power so to make void those Letters Patents, except they be voidable by Law; and then his Majesty is well pleased that all Roman Catholicks may in these Cases plead in Law, if they find it good; and shall have equal and legal Trial. And his Majesty is likewise pleased, that his General Pardon shall remain in being five years, to the end, all that will, may in that time take it out; and his Majesty will give order for the Comfort of the poorer sort, that the Pardon shall not be costly, but such-like course shall be taken as was in a like occasion at his Majesty's coming into England; and that it shall be lawful to put as many as can be possible into one Pardon.

And we do further Declare, That his Majesty's Will and Pleasure is, to the end the Roman Catholicks his Majesties Subjects may have a present and a free fruition of as much as is intended them by the Articles of Treaty of Marriage, to cause a present Suspension under his Majesties Seal of all those Penal Laws, Charges, and Forfeitures, whereunto the Roman Catholick Subjects of his Majesty have heretofore been subject, and to which the rest of his Majesties Subjects have not been liable; and in the same Grant and under the same Seal, to give a Dispensation and Toleration to all the Roman Catholicks his Majesties Subjects, as well Priests, as Temporal persons and others, of and from all the Penalties, Forfeitures, Commitments, and Incumbrances, which they have been or may be subject to, by reason of any Statute or Law whatsoever, to the observation whereof the rest of his Majesties Subjects are not bound. We do likewise declare, that his Majesty hath promised in his Royal Word, that the execution shall be no waies burthenome or penal to the Roman Catholicks, but that for the manner of publishing, and freeing them from that, he must confer with Bishops and Advocates, into which he will presently enter and expedite by all means.

And we do further declare, That his Majesties intention is presently to pursue his former Directions (which had been before executed, if their Excellencies had so thought good) to put under his Seal severally the said Pardon, and Suspension, and Dispensation; and that his Majesties Attorney and learned Counsel shall have referred to them the Charge to pen them with all those effectual

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effectual words, clauses, expressions, and reservations, which may presently give satisfaction to the Roman Catholics, his Majesties Subjects, and make them inviolable in the fruition of all that is intended and promised by his Majesty in the Articles of Marriage, and his Majesties further Grace.

And we do declare, That his Majesties further Will and Pleasure is, for the better satisfaction and discharge of the care and endeavour of their Excellencies the Ambassadors, that it shall be lawful to them to assign a discreet person to entertain such sufficient Lawyers as shall be thought fit to take care to the strength, validity, and security of the said Grants: and his Majesties Attorney shall have charge to receive and admit the said Lawyers to the sight and judgment of the said Draughts, and in any doubts to give them satisfaction, or to use such legal, necessary, and pertinent words and phrases, as the said Lawyer shall propound for the security of the Roman Catholics, and sure making of the said Grants.

And we do further declare, That his Majesties pleasure is, to make a dispatch into Ireland unto his Deputy there, by the hands of the Lord Treasurer and Secretary of State Sir George Calvert, for the present confirming and sealing the things concerning the Roman Catholics answerable to the Articles of Treaty, his Royal Promise and Proceedings here. And for Scotland, That his Majesty according to the Constitution of his Affairs there, ad regard to the Publick good and peace of that Kingdom, and as soon as possible, will do all that shall be convenient for the accomplishment of his promise in Grace add favour of the Roman Catholics his Subjects, conformable to the Articles of Treaty of Marriage.

But this Declaration, the said Earl saith and affirmeth was the effect of the Duke of Buckingham's Negotiation, and treated and concluded by the Lord Conway with the Spanish Embassadour here, whilst the Prince was in Spain; neither was his privy or advice in it; For if he had known it, he should have protested against it. All which, together with the difference betwixt the Conditions of Religion agreed at the Treaty of Madrid, 12 December, 1622. by the said Earl, and the said Sir Walter Aston, being by their Lordships considered, the said Earl doubteth not but that it will manifestly appear whose endeavour it was to advance the *Romish* Religion, and the professors thereof; and judges the said Earl most unfortunate to be charged with an Article of this kind.

VI. To the Sixth Article the Earl saith, That the Assurances which he gave his late Majesty, and his Majesty that now is, concerning the Treaties, were such, That it had been dishonesty and breach of his duty and trust, for him to have held them back, being the same that were given him by the Emperour, and the King of Spain, and their Ministers, upon as great Assurances as can pass between Ministers of Princes in the like case. And for the Delays of Spain they could be never so ill, and with so little colour complained of, as at the time of his Majesties coming thither; for that a certain time was before then prefixed for the coming of the Dispensation, viz.

in April, 1623. at the furthest, which was the next Month after the Princes arrival at Madrid; the *Dispensations* were to be within four daies following, and the *Infanta* begin her Journey into England twenty daies after: So as three months patience longer would have shewed the issue of the business without putting of the person of the Prince, being Heir Apparent to the Crown, in so eminent a hazard for the trying of an experiment. And it is an argument of great suspicion, because the Spaniards were suspected to have dealt falsely, and so the less to be trusted with the Person of the Prince, to be put into their hands to try conclusions: But the truth is, though that were made the pretended ground, and the occasion of the Journey, it was neither the Assurances of the said Earl, nor the jealousies of Spain, but other Motives that were the original cause of his Majesties said Journey, as shall be sufficiently made apparent in due time. And the said Earl having got an inkling of it by something that was let fall from the *Conde Gondomar* to that purpose, instantly dispatched away by Mr. Grishy to his late Majesty to have his Journey prevented; who upon the Confines of France, met with his Majesty and the Duke of Buckingham on his Journey towards Spain, and told them as much. So that although he confesseth what is laid in the Charge to be true, viz. That by the said Journey, the person of the Prince, the peace and safety of the Kingdom, did undergo further danger. (at the remembrance whereof the hearts of all good Subjects do tremble) yet the blame is due to the Authors and Advisers of the same Journey, and not to the said Earl; And although it pleased God, to the exceeding great joy and comfort of the said Earl, and of all good men, to send his gracious Majesty home with safety, yet never was the person of any Prince, upon such grounds, exposed to so great an hazard; and in such Cases, not the Success but the Counsellors are considerable.

VII. To the Seventh Article the said Earl saith, that he did not move or perswade his Majesty, then Prince, to change his Religion neither in the manner in the said Article mentioned, nor in any other manner whatsoever: Neither doth he conceive, that the charge in it self as it is laid, will in any reasonable construction bear any such inference as is made therein; so as he conceiveth, he needeth not make any further or other answer thereunto. Yet that it may appear that the manner he used to the said Prince, was not traiterously, falsely, or cunningly, nor without ground, or to any such intent, as in the said Article is supposed, and to manifest unto this most High and Honourable Court, how far he was from all such intention, he saith, That he doth acknowledge that within few daies after his Majesties coming into Spain, whilst he had the great honour to have his Majesty lodged at his House and to have so Royal a Guest, finding by the Spanish Ministers, That there was a general opinion, that his Majesties coming thither was with an intention to become a Roman Catholick; and the *Conde Gondomar* having that very morning pressed the Earl not to hinder so pious a work (as he term'd it) of his Majesties Conversion, and seeming to be assured of the Duke of Buckingham's assistance therein, his Majesty being all alone in a withdrawing Room in the said Earl his House, the said Earl kneeled unto him, and told him, That he had a business to impart unto him, which highly imported his Majesty to know, so that he might be

He perswaded not the Prince to change his Religion.

Anno 1626. be assured his boldness therein might be pardoned; which his Majesty graciously promised. And thereupon the said Earl told his Majesty, That the general opinion of the Court was, that his Majesties coming into Spain, was with an intention to be a Roman Catholick, and there to declare it. And he confesseth, That at the same time in regard of those things he had heard, he humbly besought his Majesty to deal freely with him as a Servant, of whose fidelity he might be confident, or words to that effect: but he was so far from perswading his Majesty to be a Roman Catholick, that without respecting his Majesties Answer he declared himself to be a Protestant; and so should alwaies continue; yet he said, he should alwaies serve his Majesty and labour to advance his and the King his Fathers affairs, with as much fidelity and honesty, as any Catholick whatsoever: and his Majesty was pleased then to make unto the said Earl a full and clear Declaration of his Religion, and of his constant resolution therein; and seemed to be much displeased, that any should have so unworthy an opinion of him, as to think he would for a Wife, or any other earthly respect whatsoever, so much as waver in his Religion. Whereupon the said Earl besought his Majesty to pardon his boldness and then intreated him not to suffer his business to be overthrown by permitting that conceit of his conversion any longer to remain in the Spaniards, nor to any thing that might give them hope therein, alledging, That it was impossible the Marriage could be without a Dispensation; and so long the Spaniards, who were to procure the Dispensation, should have hope of his Majesties Conversion, they would never content themselves with a part; to which they were tyed by the Articles agreed upon with the said Earl and Sir Walter Aston. At which time his Majesty was pleased to approve of his opinion, and said, he would expect the Dispensation, and did thereupon afterwards send Mr. Andrews to Rome to hasten it; and the next day the said Earl dealt very roundly with the Conde Olivares and Gondomar, telling them it was a discourteous manner of proceeding to press his Majesty to further Conditions than were formerly agreed upon in point of Religion, and to make his Conditions the worse, for the great Obligation he had put upon them by putting himself into their hands; whereat they took such great offence, that they estranged themselves from him for along time after. And that the said Earl did thus proceed with the said Condes, and that it was not a new framed Answer to satisfy present Objections; but that which really and indeed passed, will really appear by his Dispatches unto his late Majesty of blessed Memory; and before his Majesty that now is, came out of Spain, they were there shewed unto his Majesty, bearing date the ninth of September, 1623. So that although it be true, That he the said Earl did not dissuade his Majesty, for that there was no cause for it; yet without expecting his Majesties Answer, he first made a clear and true Profession of his own Religion; and when his Majesty had declared to him his zeal and constancy, he humbly besought him, That the Spaniards might not for any respect be longer held in hopes of that point. And because point of Religion is that which all men of honour and honesty should chiefly desire to clear, especially having an imputation of that nature laid upon them, as the said Earl hath in the said Article, He humbly beseecheth your Lordships, that he may not seem to digress from his

Charge; intending your Lordships satisfaction in that particular, not by the aforesaid verbal discourse only, which he professeth was in much zeal to Religion and dutiful care to the Prince in that kind, but by some written Testimony of his former opinion both of the Match and Religion. When he was first employed into Spain for the Treaty of this Marriage, 1617. his late Majesty having commanded him to give an account thereof unto his Majesty that now is, he at his departure towards Spain, presumed to give unto his Majesty that now is, his opinion in Writing signed with his own hand, to be kept as a Testimony of future Actions, the Copy whereof is this as followeth.

Sir,

The Opinion which I have ever presumed humbly to offer unto his Majesty concerning your Highness Marriage, hath been, that both in regard of Conscience and Satisfaction unto his Majesties People and Allies; likewise for the security and quiet of your Majesties estates, Your Highness might take for Wife some Protestant Princess, although she neither were Daughter to a King, nor had so ample a Portion as might relieve the King's present Necessities and Wants; for then there might be many waies found to help the King's wants, either by some few years providence, and frugality, or by winning the affections of the people to the supplying of his Majesty by way of Subsidies in Parliament; whereas contrariwise, if the number and power of the Papists shall be increased, as undoubtedly they will be by your Highness marching with any Catholick Princess, through the concession which must be of necessity for the exercise of her Religion for her self and Family, within your Highness Courts, and thereby by degrees these two different Religions shall grow to an equality of power; it will be great hazard and disquiet to the State, and not to be redressed without great danger, and courses of more violence, than is usual for this State to put in practice. But in case his Majesty out of his wisdom and consideration best known to himself, hold it fittest that your Highness march with France, or Spain, or any other Catholick, either for that the present time affordeth no Protestant Princess, who is for years or Blood suitable for your Highness, or that can in any considerable measure by the Portion, supply his Majesties present wants, I then conceive that the Match by which this State shall suffer least inconveniency and cumbers, and whereby his Majesties necessities shall by the greatness of the Portion be the most relieved, is with Spain, if such a Match may be made with such conditions of Religion, as other Catholick Princes will contract themselves withal.

Thus much I thought fit humbly to present unto your Highness, for that I see my employment liable to the censure of many worthy Persons, with whom though I concur in my opinion, yet I seem much to differ from them many waies, for that it is more proper to me to be true to my Master's ends and services, than by the declaring this, to procure their satisfaction: Only to your Highness I thought fit to make this declaration, and shall be a Suitor to you for your favour, as you shall see me really labour to put this in effect. And if his Majesty shall, either upon motion of Parliament, or any other Proposition that can be made unto him, think fit to proceed with a Protestant Match, as I shall wish as well unto it as any man living, so, I hope, in such sort to manage the present business that I have in hand; that it shall rather much further, than any way cross or hinder it. But in case his Majesty shall not be drawn to any Proposition for a Protestant Match, I

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then conceive, that your Highness both doth, and
Anno will approve, that I really and effectually labour to
 1626. procure a Match for your Highness in Spain, upon such
 Conditions, in point of Religion and Portion, as to his
 Majesty shall seem fit.

He con-
 stantly
 professed
 the Prote-
 stant Reli-
 gion.

Besides which Declaration of his Opinion, he hath all the daies of his life, and in all places, lived and allowed himself to be a Protestant, never having done any the least act that was not suitable to that Profession: And in all his former Employments for the space of fourteen years, of more than five hundred persons of all qualities that attended on him, there was never one perverted in his Religion, saving two Irish Foot-men, who, in Ireland had been bred Papists. And he humbly desired testimony of Doctor Mason, and Doctor Wren, his Majesties Chaplains, who were with his Majesty in Spain, and of Mr. Sampford, one of the Prebends of Canterbury, Mr. Boswell, Parson of St. Lawrence in London, and Mr. Frewen Divinity-Reader in Magdalen-Colledge in Oxford, and now one of his Majesties Chaplains, who were his Majesties Chaplains in Spain; as well for the frequent use of the Sacrament, as constant profession and exercises of Religion, and the testimony of such Catholicks as are known to have been his antient Acquaintance and Friends, to examine them upon Oath, Whether publickly or privately, in Spain or in England, they had known him in any kind to make shew, or so much as to forbear, upon all occasions to declare the Religion he professeth. And that the said Mr. Frewen and Mr. Wake may be also examined, Whether in extremity of several sicknesses, whereinto he hath of late years fallen, he hath not ever settled his Conscience with them towards God, and made a Confession of his Faith, resolving as befitting a Protestant or good Christian.

VIII. To the Eighth Article the Earl saith, That he did not at any time, or in any place, endeavour to perswade the Prince touching his Religion, to become a Roman Catholick, and to be obedient to the usurped Authority of Rome; neither did the said Earl, to that end and purpose, or otherwise, use unto his Majesty, then Prince, the words in the Article mention'd. But the said Earl acknowledgeth, That upon occasion of a Letter that came to his Majesty, then Prince, putting his Majesty in mind of the great actions of his Royal Progenitors in the Holy War, that the great Kings of those times did not only employ their Forces, but in their Persons went into the Holy Land; the Earl believeth that by way of discourse only, and not otherwise, he may have said, That in regard of the difference in Religion, it was of more difficulty to undertake such great actions now, than in former Ages; and it might well be instanced in the present Treaty of the Marriage, wherein the Pope's consent was to be obtained. And to this effect, and upon the like grounds, he is confident there were very many that have, nay, few of nearness about his late Majesty, that have not often heard his Majesty say, That he was the true Martyr, that suffered more for his Religion than all the Princes of Christendom besides; instancing in divers particulars, but especially in this, That he could not match his Children with Kings of his own rank, without the Pope's leave.

But the said Earl saith, He never alledged any such thing to any other purpose, than to shew, that only Conscience, and love to Truth, (in

which regard, Protestants suffered much) not any Temporal respects, made men constant and zealous to the profession of our Religion. By which discourse he ever attributed much to the honour and security of Protestant Religion; but never used it as an Argument to perswade to the contrary, as in the Accusation is insinuated.

Besides, he conceiveth, by way of Answer thereunto, the said Question may be asked, which his Majesty was pleased to ask of the Earl in the Seventh Article, viz. *What the said Earl saw in his Majesty, that he should think him so unworthy, as to change his Religion for a Wife, or any earthly respect whatsoever?* So, why should it be thought, that being more fit to undertake great Actions in the World (being a meer Moral and Temporal respect) should be an Argument to perswade in Conscience so Religious and wise a Prince, and so well instructed as his Majesty is, as though the Soul of a Christian Prince was to be wrought upon, in point of Truth and Belief, by temporal and worldly respects of Conveniencies and Greatness. It were necessary for the proving, that the said Earl perswaded his Majesty touching Religion, to produce some Arguments that he used out of Scripture, to satisfy him in point of Conscience in some Tenets of the Roman Church, or that he produced any Conference with Learned men for his satisfaction in point of Religion: Otherwise the Articles used in this against the said Earl, do (as he conceiveth) carry little strength to prove the Charge of perswading his Majesty, either in regard of it self, or in regard of his Majesties piety.

IX. To the Ninth Article the said Earl saith, That there was a discourse in Spain of the way of accommodating the Prince Palatine his Affairs; and by way of discourse it was moved, That the Marriage of his eldest Son with a Daughter of the Emperour, and his Son to be bred in the Emperour's Court, would be the fairest way for the pacifying of, and accommodating those businesses: And the Earl, by way of discourse, and not otherwise, did say, That he thought his late Majesty could not be adverse, either to the said Match, or to the breeding of the Prince Palatine his Son with the Emperour; so as thereby the whole Patrimonial Estate of the Prince Palatine, and the Dignity Electoral might be fully restor'd, and that his Son might be bred in his own Religion, and have such Preceptors, and such a Family, as his late Majesty and his Father, meaning the Prince Palatine, should appoint; and they to have free exercise of Religion: For so his late Majesty hath often declared himself to the said Earl, and wished him to lay hold on any occasion for the entertaining of any such Proposition. And otherwise than so, & upon the terms aforesaid, & by that way of Conference and discourse only, he delivered not any opinion to his Majesty at his Majesties being in Spain: For the said Earl is very confident, that his Majesty was returned out of Spain before any Proposition was made for the said Marriage, other than by way of discourse, as aforesaid; the same, as the said Earl believeth, being first moved and debated on by way of Proposition between Mr. Secretary Calvert, and the Embassador of the King of Spain, Octob. 2. 1623. his late Majesty, upon a relation made unto him by a Letter of Mr. Secretary Calvert, approved of the said Proposition, and declared the same to be the only way, as he conceived, to accommodate with honour those great businesses: And wrote to that pur-

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purpose to his Son-in-Law the Prince *Palatine*, by his Letters date 9 *Novemb.* 1623. a Copy of which, he, together with Mr. Secretary *Calvert's* Relation, and the Lord *Conway*, by his late Majesties commandment, sent unto the said Earl; the Tenor of which, translated out of French, is as followeth,

King
James pro-
poseth a
Match to
the Prince
Palatine,
between
his eldest
Son and
the Em-
perors
Daughter.

WE have thought good, that we may provide best and most soundly for your Affairs, not only to procure, but also to assure your peace, were to cut up by the very roots that evil, which hath been settled in the heart of the Emperour, by the great displeasure and enmity he hath conceived against you. For the removing and quite extinguishing of which, it seemeth to us no better or more powerful means can be used, than a good Alliance, which may be proposed by us between your eldest Son, and the Daughter of the said Emperour, upon the assurance we have, we shall not be refused in this nature, if you on your part will give your consent. And for the more surety of the good success thereof, we are determined, before any such Proposition be made to the Emperour, to interest the King of Spain with us in the business, who, we trust, will lend us his helping hand, as well for the effecting of it, and bringing it to a good conclusion, as in procuring likewise, that the Condition be duly observed. Amongst which Conditions, if it happen that the Emperour should demand, that your Son, during his minority, should be brought up in his Court, we shall tell you, that we, for our own part, see no reason why you should stick at it, upon such Conditions as he might be ryed unto, to wit, That the young Prince should have with him such Governour, as you shall please to appoint him, although he be no Roman Catholick; and that neither he, nor any of his, should be any way forced in matter of their Conscience. And our meaning is, so to order our proceeding in this Treaty, that before your said Son be put into the hands of the Emperour, we will have a clear and certain assurance of an honourable, entire, and punctual restitution of all whatsoever belonging to you: As also we will take care to provide accordingly, as fully and exactly for the Assurance requisite for the Liberty of Conscience, for him and his Domesticks, as they have done here with us touching those that have been granted them for the Infanta. And therefore seeing there is on inconvenience at all, that may cause your averfeness or backwardness in this business, which we, for parts, think to be the best, shortest, and most honourable way that you can take, for the compassing of the entire restitution, and making your Peace sure with the Emperour, we hope your opinion will concur with us therein, and shall intreat you, by the first, to send us your Answer.

By which Letters, after his Majesties coming out of Spain, it appeareth to your Lordships, that there was no Proposition of the Marriage between the Son of the Prince *Palatine* and the Emperour's Daughter, when that Letter was written; for therein his Majesty saith, he was determined to interest the King of Spain in the business, before any such Proposition should be made to the Emperour. And it will also thereby appear, that his late Majesties opinion was of the conveniency thereof; which the said Earl hopeth will acquit him, if by way of discourse only he declared what his Majesties inclination was, which, with honesty, he could not have concealed. And the said Earl saith, He doth not remember what Answer Sir *Walter Aston* made upon that discourse which he then delivered, nor what Replies the said Earl made; but sure he is, whatsoever the said Earl said, or what Answer or Reply soever was

made, as it was by way of discourse, and not otherwise, so it was according to that which he truly conceived to be the best and easiest way to accommodate the business, and to be his Majesties pleasure; (which the said Sir *Walter Aston* may be ignorant of, (as he is confident that he was) and not out of any disaffection to our Religion, or for any sinister respect or regard to the House of *Austria*, as by the said Article is intimated: For he did conceive the breeding of the Prince *Palatine's* Son with the Emperour, having a Governour appointed by his late Majesty and his Father, and he and his Domesticks to have free use of their own Religion, to be a matter of impossibility, or such dangerous consequence in point of Religion, as to imply his Conversion, as by the Article is intimated; well knowing, that in the Emperour's Court, all Princes there, though his Prisoners, and others his Counsellors and Servants about his Person, and of great Command in his Armies, being avowed Protestants, have the free use of their Religion: And it is not to be supposed the Son of the Prince *Palatine*, Grandchild to the King of *Great Britain*, should be matched, and no care taken to capitulate for the use of his Religion, being ever granted to the meanest Prince that is bestowed. And his Majesties special care in this point is fully seen in the said Letter.

X. To the Tenth Article he saith, That by comparing of this Article of his too much forwardness, with the Second Article, whereby he is charged with continuing the Treaty upon Generalities, without reducing them to Certainities and direct Conclusions, your Lordships will perceive how impossible it was for him to avoid an Exception. But for direct Answer to the present Charge, he saith, That he did not presumptuously, nor yet to his knowledge, break his Instructions, nor set any day at all for the Desponsories; but was therein merely passive, in admitting the day nominated by the King of Spain, according to the Capitulation before made: Nor did he presumptuously, wilfully, or willingly disobey any Commandment or Direction of his Majesty that now is, then Prince, which he could understand not to be countermanded, either by present or future Instructions otherwise explained.

And for the better manifestation of the truth of his proceedings in, and concerning the same, he saith, That on the day of the departure of his Majesty, then Prince, from the *Escorial* in Spain, his Highness delivered unto him, in presence of the Commissioners, his Proxies powers, with publick Declaration taken in writing by the Secretary to the King of Spain, of the Prince his pleasure, and how the said Earl should use them, viz. That he should deliver them to the King of Spain, upon the coming of the Dispensation cleared from Rome, according to that which hath been agreed, which was to be within ten daies after the coming of the Dispensation. And he further saith, That it is true, that the Prince afterwards by his Letters sent by one Mr. *Clark*, commanded him the said Earl not to deliver the said Proxies, till he should have received security, that the *Infanta*, after her being betrothed, should not enter into any Religious Order, and that before he proceeded, he should send to his Majesty, then Prince, such securities as should be offered, that he might judge whether it were sufficient or not.

Whereupon the said Earl, as became a faithful Servant, presented unto his Majesty that now

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We have received your Letters by Grissy, and the Copy of them to our dear Son; and we cannot forbear to let you know, how well we esteem that dutiful, discreet, and judicial Relation, and humble advice to our Son: Whereupon, having fully deliberated with our self, and communicated with our dear Son, we have resolved, with the good liking of our Son to rest upon that security, in point of doubt, for the Infanta's taking a Religious Order, which you, in your judgment, shall think meet.

And by that other Letter of his Majesty that now is, then Prince, as followeth, viz.

Your Letter to the King and me, concerning that doubt I made after I came from St. Lawrence, hath so satisfied us both, that we think it fit no longer to stick upon it, but leave it to your discretion to take what security you shall think fitting.

Whereby he was absolutely freed of that command; and being so freed thereof, he then remained under the Order which his Majesty, then Prince, had left with him at his departure, which was, to proceed according to the Capitulations, and his Highness's Declaration, when he delivered the said Proxies unto him: And so he intended to have done, till by his Highness's Letters, November 13, 1623. he was directly commanded the contrary; which Commandment he directly and punctually obeyed.

And for such his intentions, till he was countermanded, he conceiveth he had not only sufficient warrant, but had highly offended if he had done otherwise. For first, for his proceedings to consummate the Match, he had warrant and instruction under his late Majesty's hand. Secondly, It was the main scope of his Embassy. Thirdly, He was enjoined by the King and Prince his Commission, under the Great Seal. Fourthly, He had positive order, under his Majesty's hand, by Letters since. Fifthly, It was agreed by Capitulation, that it should be within so many daies after the coming of the Dispensation. Sixthly, His late Majesty, and his Majesty that now is, then Prince, signified by their Letters unto him at the same time, when they discharged him of his Commandment touching the Infanta's entering into Religion, that they intended to proceed in the Marriage, as by his Majesty's Letters, October 8. 1623. appear. Seventhly, The Proxies were to that end left in his hands, and after again renewed after his Majesty's return into England. Eighthly, He had overthrown the Marriage without order: For although Sir Walter Aston and himself used possible means for the gaining of time, and deferring the Desponsories; yet the King of Spain caused it to be protested, That in case he, the said Earl, should insist upon the deferring of the Desponsories, he would free himself from the Treaty by the said Earl's infringing of the Capitulations: And in truth, although the King of Spain should have conde-

scended to have prolonged the Desponsories until one of the daies of Christmas, as by the Letter was required; yet the Prince's Proxies had been before that time expired, and he durst not, without a precise Warrant, put such a scorn upon so noble a Lady, whom, he then conceived, was likely to have been the Prince his Wife, as to nominate a day of Marriage when the Proxies were out of date, and he was himself sworn to the Treaty. And lastly, he could not in honour and honesty, but endeavour to perform that publick Trust reposed in him, when the Proxies were deposited in his hands, with publick and legal Declaration, with an Instrument by a Secretary of State to the King of Spain, leading and directing the use of them, and the same being then *Instrumentum stipulatum*, wherein as well the King of Spain was interested by the acceptance of the substitution, as the Prince by granting of the Proxies, he could not in honesty fail the publick Trust, without clear and undoubted Warrant; which as soon as he had, he obeyed. So as the Case standing thus, the said Earl is very confident, that the supposed Countermands, Directions, and Restrictions, when they should be perused and considered of, will appear to have been very slender and insufficient Warrant against the aforesaid Orders and Reasons before specified: And is also as confident, That what is assured out of his, the said Earl's Dispatches, will also appear to be misunderstood; and that if he had proceeded to the execution of the Desponsories, before he received direct and expresse Commandment to the contrary by the aforesaid Letters, November 13. 1623. which he readily and punctually obeyed, he had not, under favour, broken his Instructions, or deserved any blame for lack of assurance of the restitution of the *Palatine*, and Temporal Articles.

And first, of the *Palatine*, his said Majesty did not send to the said Earl expresse Directions not to dispatch the Desponsories, until a full conclusion were had of the other Treaty of the *Palatine*, together with that of the Marriage, as by the said Article is alledged; only his late Majesty, by the aforesaid Letters of October 8. required the said Earl so to endeavour, that his Majesty might have the joy of both at Christmas. Whereas his Instructions of May 14. 1621. were expresse, that he should not make the business of the *Palatine* a condition of the Marriage. And his late Majesty's Letters of December 30. 1623. were fully to the same effect. Yet did the said Earl, according to what was intimated by the said Letters of October 8. so carefully provide therein, as that before the Proxies were to be executed, he had an absolute Answer in the business of the *Palatine*, the same should be really restor'd according to his late Majesty's desire; and the Conde Olivares, both in his Majesty's name, and in his own, desired the said Earl and Sir Walter Aston, that they would assure his Majesty of the real performance of the same, and intreated, if need were, they should engage their honour and life for it, as by their joynt Dispatches of Nov. 23. 1623. will appear; and so much the said Sir Walter Aston, and the said Earl, agreed should be delivered to them in writing, before they would have delivered their Proxies, and so the said Earl declared it; the which Answer in writing should have been the same, which since was given them of Jan. 8. 1623. And both Sir Walter Aston and the said Earl were confident therein, as they, by their said Letters of Nov. 23. wrote to his late Majesty, as followeth, viz.

Car. 2.

The Earl's reasons why he was forward to consummate the Match, till warrant came to the contrary.

The restitution of the *Palatine* promised by the King of Spain, and Olivares.

That

Anno 1626. That his Majesty might, according to his desire, signify to the said Earl, by his Letters of Octob. 8, 1626, as well to his Majesties Daughter that Christ-mas, the comfortable news of the aspiring of her great troubles and sufferings, into his Son the Prince the Congratulation of being married to a most worthy and excellent Princess.

By which it will evidently appear, he meant not to leave the business of the *Palatine* loose, when he intended to proceed to the Marriage; but he confessed, that he was ever of opinion, that the best pawn and assurance his late Majesty could have of the real proceeding of the *Palatine*, was, That they proceeded really to the effecting of the match; and of the same opinion was his late Majesty also, and the Lords Commissioners here in England, as appeareth by his Instructions, dated March 14. 1621. which opinion still continued in them, as appeareth by his late Majesties Letters of January 7. 1622. And as for the Temporal Articles, the said Earl saith, When the Desponsories were formerly appointed to have been, as he remembreth on Friday, August 29. before the departure of his Majesty, then Prince, out of Spain, which was only hindered by the not coming of the Dispensation, the Prince appointed him and Sir Walter Aston to meet with the Spanish Commissioners, and they drew up the Heads of the Temporal Articles, wherewith the Prince and the Duke of Buckingham were acquainted; and in case the Dispensation had come, and the Desponsories been performed on that day, there had been no other Provision made for them before the Marriage; but presently, upon the Prince his departure, he, the said Earl, caused them to be drawn into form, and sent them to his late Majesty, September 27. 1623. desiring to understand his Majesties pleasure with all speed, especially if he disapproved any thing in them; but never received notice of any dislike thereof, until the aforesaid Letters of November 13. 1623. which put off the Desponsories. So as it appeareth, the said Earl was so far from breaking his Instructions, or from having any Intention to have proceeded to the execution of the Desponsories, before his Majesty and the Prince were satisfied of this point of the *Infanta* entering into Religion, or before convenient assurance, as well for the restitution of the *Palatine*, as performance of the Temporal Articles, that he deserveth, as he conceiveth under favour, no blame, so much as in intention; but if he had erred in intention only (as he did not) the same being never reduced into Act, the fault (as he conceiveth) was removed by his obedience before the intention was put into execution: for so it is in Cases towards God. And as to the matter of Aggravation against him, that he appointed so short a time for the Desponsories, as that without extraordinary diligence the Prince had been bound; he thereto saith, as he said before, that he set no day at all thereunto, nor could defer it after the Dispensation came from Rome, without a direct breach of the match so long laboured in, and so much desired; yet he and Sir Walter Aston having used all possible industry to discover how the motion of deferring the match would be taken; and finding an absolute resolution in the King of Spain to proceed punctually, and to require the Proxies according to the Capitulation, within ten days after the coming of the Dispensation; and that time also getting advertisement from Rome, that the Dispensation was

granted, and would presently be there; he, the said Earl, to the end, in so great a Cause, he might have a clear and undoubted understanding of his late Majesties pleasures, sent a Dispatch of November 1. with all diligence unto his Majesty, letting his Majesty know, that it could not be possible for him to protract the Marriage above four days, unless he should hazard the breaking, for which he had no warrant.

But that this was no new resolution, nor the King so straitned in time, as by the said Article is pretended, will appear by the said Earls dispatch of September 28. 1623. In which, upon Scruple that was then made of the *Infanta's* entering into Religion, he wrote to the same effect; viz. That if the Dispensation should come, he knew no means how to detain the Proxies above twenty or twenty four days. So that although difficulty happened until the midst of November, 1623. yet it was foreseen, that it must of necessity happen whensoever the Dispensation should come; and then was warning of two months given thereof; viz. from September 24. until November 29. which was the time appointed for the Desponsories.

So as he most humbly submits himself unto your Lordships, which of the two ways was the safer or dutyfuller for him to take; whether upon inferences and conjectures, to have overthrown so great a business; or, on the other side, first, to have presented unto his Majesty the truth and sincerity as he did, the true estate of his Affairs, with his humble opinion therein, with an intimation, that if his Majesty should resolve to break the match, that for the said Earl his honest discharge of the publick Trust reposed in him, when the Proxies were deposited in his hands, and for his sufficient warrant in so great a Cause, his Majesty would be graciously pleased to give him clear and expresse order (which he had not) and in the interim, whilst his Majesty might take into consideration the great inconveniences that might ensue, the said inconveniences might be suspended, and the business kept upon fair terms, that his Majesty might have his way and choice clear and unfoiled before him.

And as to the evil Consequences which are pretended would have followed, if the said Earl had proceeded to the consummation of the match, before he had expresse order and warrant to the contrary; he supposeth his Majesty should speedily have seen the Marriage, which he so long sought to have effected; that the Prince should have had a worthy Lady whom he loved; that the Portion was much greater than ever was given in Money in Christendom; that the King of Spain had engaged himself for restitution of the *Palatine*; for which, the said Earl conceived a Daughter of Spain, and two Millions, had been no ill Pawn; besides many other additions of advantage to the Crown of England: Whereas on the contrary side, he foresaw, that the Prince would be kept a year longer unmarried, a thing that so highly concerneth these Kingdoms; he doubteth, that the recovery of the *Palatine* from the Emperor and Duke of Bavaria by force, would prove a great difficulty, and that Christendom was like to fall into a general Combustion: So that desiring that his Majesty should have obtained his ends, and have had the honour and happiness, not only to have given peace, plenty, and increase unto his own Subjects and Crowns, but to have propounded the greatest differences that had been these many years in Christendom: And by his Piety and Wisdom, to have prevented the shedding of so much

Car. 2.

The advantages of the Spanish Match to England

Anno 1626. much Christian Blood, as he feared, would ensue, if these businesses were disordered. These Reasons, he confessed, and the zeal unto his Majesties service, made him so earnestly desire the effecting of this business, and cannot but think himself an unfortunate man (his Majesties Affairs being so near settling to his Majesties content, as he conceived they were, and hoping to have been to his Majesty, not only a faithful Servant, but a successful Servant) to see the whole estate of his Affairs turned up-side down, without any the least fault of his; and yet he the only Minister on the English and Spanish side that remained under disgrace.

XL. To the Eleventh Article the said Earl saith, That the Article is grounded upon a Petition by him preferred to this Honourable House, supposed to be scandalous; which your Lordships (as he conceiveth) according to the Customs and Privileges of the House of Peers, would have been pleased first to have adjudged so to have been, either for matter appearing in it self, or upon hearing the said Earl; for the matter appearing in the Petition it self, be not to be excepted unto, it cannot, as he conceiveth, by collateral accidents, be taken for a Scandal, till it be examined and found false. For if a plain and direct Answer thereunto, he saith, That the said Petition is such, as will not warrant any such inference, as by the said Article is enforced. And that he hopeth to justify the Contents of the said Petition in such sort, as shall not displease his Majesty, nor deserve that expression which is used in the Charge; but contrarily what he hath said, or shall say therein in his defence, shall in all things tend to the Honour and Service of his Majesty, by reducing into his memory divers Circumstances, and laying before him the passages of divers particulars, which by undue practices have been either concealed from his Majesty, or mis-related to him.

Having thus offered to this High and Honourable Court, such Proofs and Reasons, as he hopeth shall, in your Lordships Wisdom and Justice clearly acquit him of any Capital Crime, or wilful Offence; if it shall appear, that out of Errors of Judgment, too much ferventness of zeal to his Majesties service, or the ignorance of the Laws of this Realm, (wherewith he hath not been able to be so well acquainted as he ought, by reason of Forreign Employments by the space of many years) or by any other ways or means he hath fallen into the danger in the Laws for any thing pardoned in the General Pardon, made in the Parliament holden at Westminster, *Anno Vicesimo Primo Regni, Imp. Jacobi Angliae, &c.* of blessed memory, he humbly prayeth allowance of the Pardons, and the benefit thereof (with this Clause, That he doth and will aver, that he is none of the persons excepted out of the same) although he is very confident, he shall not need the help of any Pardon, having received many significations, as well from his Majesties own mouth, that he had never offended his Majesty, as lately, by several Letters of the Lord Conway, that he might rest in the security he was in, and sit still, and should be no further questioned. But he hopes your Lordships will not only find him so far from blame, but that he hath served his late Majesty of blessed memory, and his most gracious Son, the King's Majesty that now is, with that fidelity, care, and industry, that your Lordships will take course, as you, in your wisdoms, shall think fit, not only for upholding the

Honour and Reputation of a Peer in this Realm, after so many Employments, but likewise become humble and earnest Suitors to his Majesty on his behalf (which he humbly prayeth) that he may be restored to his Majesties good favour, which, above all worldly things, he most desireth.

The Eighth of May, the Commons brought up their Charge against the Duke of Buckingham, which was delivered at a Conference of both Houses, and spun out two days time. It was managed by Eight Members of the Commons House, and Sixteen more as Assistants. The chief Managers were, Sir Dudley Diggs, Mr. Herbert, Mr. Selden, Mr. Glanville, Mr. Pym, Mr. Sherland, Mr. Wandeford, and Sir John Elliot.

Sir Dudley Diggs, by way of Prologue, made this Speech.

My Lords,

Here are so many things of great importance to be said in very little time to day, that I conceive it will not be unacceptable to your Lordships, if (setting by all Rhetorical Affectations) I only in plain Countrey Language, humbly pray your Lordships favour to include many excuses necessary to my manifold infirmities in this one word, I am commanded by the Knights, Citizens, and Burgeses of the Commons House, to present to your Lordships their most affectionate thanks for your ready condescending to this Conference; which, out of confidence in your great Wisdoms, and approved Justice, for the service of his Majesty, and the welfare of this Realm, they desired upon this occasion.

The House of Commons, by a fatal and universal concurrence of Complaints, from all the Sea-bordering parts of this Kingdom, did find a great and grievous interruption, and stop of Trade and Traffick: The base Pirats of *Sally* ignominiously infesting our Coasts, taking our Ships and Goods, and leading away the Subjects of this Kingdom into barbarous Captivity; while, to our shame and hinderance of Commerce, our Enemies did (as it were) besiege our Ports, and block up our best Rivers mouths. Our Friends, on slight pretences, made Imbargoes of our Merchants Goods, and every Nation (upon the least occasion) was ready to contemn and slight us: So great was the apparent diminution of the ancient Honour of this Crown, and one strong Reputation of our Nation. Wherewith the Commons were more troubled, calling to remembrance, how formerly, in France, in Spain, in Holland, and every where by Sea and Land, the Valours of this Kingdom had been better valued, and even in latter times, within remembrance, when we had no Alliance with France, none in Denmark, none in Germany, no Friend in Italy; Scotland (to say no more) ununited, Ireland not settled in peace, and much less security at home; when Spain was as ambitious as it is now, under a King (Philip the Second) they called their Wisest: the House of Austria as great and potent, and both strengthened with a malicious League in France, of persons ill-affected, when the Low Countries had no being: yet, by constant Counsels, and old English ways, even then, that Spanish pride was cooled, that Greatness of the House of Austria, so formidable to us now, was well resisted; and to the United Provinces of the Low Countries, such a beginning, growth, and strength

Anno 1626. strength was given, as gave us Honour over all the Christian World. The Commons therefore wondering at the Evils which they suffered, debating of the Causes of them, found there were many drawn like Lines to one Circumference, of decay of Trade, and strength of Honour and Reputation in this Kingdom; which, as in one Centre, met in one Great Man, the Cause of all, whom I am here to name, the Duke of Buckingham.

Here Sir Dudley Digges making a little stop, afterwards read the Preamble to the Charge, as followeth;

The Commons Declaration and Impeachment against the Duke of Buckingham.

For the speedy redress of great Evils and Mischiefs, and of the chief cause of these Evils and Mischiefs which this Kingdom of England now grievously suffereth, and of late years hath suffered; and to the honour and safety of our Sovereign Lord the King, and of his Crown and Dignity; and to the good and welfare of his People, The Commons in this present Parliament, by the Authority of our said Sovereign Lord the King, assembled, Do, by this their Bill, shew and declare against George, Duke, Marquess, and Earl of Buckingham, Earl of Coventry, Viscount Villiers, Baron of Whaddon, Great Admiral of the Kingdoms of England and Ireland, and of the Principality of Wales, and of the Dominions and Islands of the same, of the Town of Calis, and of the Marches of the same, and of Normandy, Gascoign, and Guinne, General Governour of the Seas and Ships of the said Kingdom, Lieutenant-General Admiral, Captain-General and Governour of his Majesties Royal Fleet and Army lately set forth, Master of the Horse of our Sovereign Lord the King, Lord Warden, Chancellor, and Admiral of the Cinque-Ports, and of the Members thereof, Constable of Dover Castle, Justice in Eyre of the Forests and Chases on this side the River Trent, Constable of the Castle of Windsor, Gentleman of his Majesties Bed-chamber, one of his Majesties most honourable Privy Council in his Realms both in England, Scotland, and Ireland, and Knight of the most Honourable Order of the Garter: The Misdemeanors, Misprisions, Offences, Crimes, and other Matters, comprised in the Articles following; and him the said Duke do accuse and impeach of the said Misdemeanors, Misprisions, Offences and Crimes.

My Lords,

His lofty Title of this mighty Man, methinks doth raise my spirits to speak with a *Paulo majora Canamus*; and let it not displease your Lordships, if, for Foundation, I compare the beautiful structure and fair composition of this Monarchy wherein we live, to the great Work of God, the World it self: In which, the solid Body of incorporated Earth and Sea, as I conceive, in regard of our Husbandry, Manufactures, and Commerce by Land and Sea, may well resemble us the Commons. And as it is encompassed with the Air, and Fire, and Spheres Celestial, of Planets, and a Firmament of fixed Stars; all which receive their Heat, Light, and Life from one great, glorious Sun, even like the King our Sovereign: So that Firmament of fixed Stars, I take to be your Lordships; those Planets, the

great Officers of the Kingdom; that pure Element of Fire, the most Religious, Zealous, and Pious Clergy; and the Reverend Judges, Magistrates, and Ministers of Law and Justice, the Air where in we breathe: All which encompass round with cherishing comfort, this Body of the Commons, who truly labour for them all; and though they be the Foot-stool, and the lowest, yet may well be said to be the settled Centre of the State.

Now (my good Lords) if that glorious Sun, by his powerful Beams of Grace and Favour, shall draw from the Bowels of this Earth an Exhalation that shall take Fire, and burn and shine out like a Star, it needs not be marvelled at, if the poor Commons gaze and wonder at the Comet, and when they feel the effects, impute all to the incorruptible matter of it; but if any such imperfect mixture appear, like that in the last Age in the Chair of *Cassiopeia*, among the fixed Stars themselves, where *Aristotle* and the old *Philosophers* conceived there was no place for such Corruption; then, as the Learned Mathematicians were troubled to observe the irregular Motions, the prodigious Magnitude, and the ominous Prognosticks of that Meteor; so the Commons, when they see such a Blazing Star in course so exorbitant in the Affairs of this Common-wealth, cannot but look upon it, and for want of Perspectives, commend the nearer examination to your Lordships, who may behold it a nearer distance. Such a prodigious Comet the Commons take this Duke of Buckingham to be; against whom, and his irregular ways, there are, by learned Gentlemen, legal Articles of Charge to be delivered to your Lordships, which I am generally first commanded to lay open.

1. The Offices of this Kingdom, that are the Eyes, the Ears, and the Hands of this Commonwealth, these have been ingrossed, bought and sold, and many of the greatest of them holden even in the Duke's own hands; which severally gave, in former Ages, sufficient content to greatest Favourites, and were work enough for wisest Countellors; by means whereof, what strange abuses, what infinite neglects have followed? The Seas have been unguarded, Trade disturbed, Merchants oppressed, their Ships, and even one of the Royal Navy, by cunning practice, delivered over into Foreign hands; and contrary to our good King's intention, employed to the prejudice (almost to the ruin) of Friends of our own Religion.

2. Next, Honours, (those most precious Jewels of the Crown) a Treasure inestimable, wherewith your Noble Ancestors (my Lords) were well rewarded, for eminent and publick Service in the Commonwealth at home; for brave Exploits abroad, when covered all with dust and blood, they sweat in service for the Honour of this Crown. What back-ways, what by-ways, have been by this Duke found out, is too well known to your Lordships. Whereas anciently it was the honour of England (as among the Romans) the way to the Temple of Honour was through the Temple of Virtue. But I am commanded to press this no further, than to let your Lordships know, one instance may (perhaps) be given of some one Lord compelled to purchase Honour.

3. As divers of the Duke's poor Kindred have been raised to great Honours, which some have been, and are likely to be more chargeable and burthensome to the Crown; so the Lands and Revenues,

Anno 1626. Revenues, and the Treasuries of his Majesty, have been intercepted and exhausted by this Duke and his Friends, and strangely mis-employed with strange confusion of the Accounts, and overthrow of the well-established ancient Orders of his Majesties Exchequer.

4. The last of the Charges which are prepared, will be an Injury offered to the Person of the late King, of blessed memory, who is with God, of which (as your Lordships may have heard heretofore) you shall anon have further information. Now upon this occasion, I am commanded by the Commons, to take care of the Honour of the King our Sovereign that lives, (long may he live to our comfort, and the good of the Christian World) and also his blessed Father, who is dead; on whom, to the grief of the Commons, and their great distaste, the Lord Duke did (they conceive) unworthily cast some ill odor of his own foul ways; whereas Servants were anciently wont to bear, as in truth they ought, their Masters faults, and not cast their own on them undeservedly. It is well known, the King (who is with God) had the same power, and the same wisdom, before he knew this Duke, yea, and the same affections too; through which (as a good and gracious Master) he advanced and raised some Stars of your Lordships Firmament; in whose hands, this exorbitancy of Will, this transcendancy of power, such placing and displacing of Officers, such irregular running into all by-courses of the Planets, such sole and single managing of the great Affairs of State, was never heard of.

And therefore, only to the Lord Duke, and his procurement, by mis-informations, these faults complained of by the Commons, are to be imputed.

And for our most gracious Sovereign that lives, whose name hath been used, and may perhaps now be for the Duke's justification, the Commons know well, that among his Majesties most Royal Vertues, his Piety unto his Father, hath made him a pious nourisher of his Affections ever to the Lord Duke, on whom, out of that consideration, his Majesty hath wrought a kind of wonder, making Favour Hereditary, but the abuse thereof must be the Lord Dukes own: And if there have been any Commands, such as were, or may be pretended, his mis-informations have procured them; whereas the Laws of England teach us, That Kings cannot command ill or unlawful things, when ever they speak, though by their Letters Patents, or their Seals. If the things be evil, these Letters Patents are void, and whatsoever ill event succeeds, the execution of such commands must ever answer for them.

Thus, my Lords, in performance of my duty, my weakness hath been troublesome unto your Lordships; it is now high time, humbly to intreat your pardon, and give way to a learned Gentleman to begin a more particular Charge.

Then were read the First, Second, and Third Articles, viz.

The Commons Articles against the Duke. His ingrossing many Offices.

I. That whereas the Great Offices, expressed in the said Duke's Stile and Title, heretofore have been the singular Preferments of several Persons, eminent in Wisdom and Trust, and fully able for the weighty Service, and greatest Employments of the State, whereby the said Offices were both carefully and sufficiently executed by several

Persons, of such Wisdom, Trust, and Ability: And others also that were employed by the Royal Progenitors of our Sovereign Lord the King in places of less Dignity, were much encouraged with the hopes of advancement. And whereas divers of the said Places severally of themselves, and necessarily require the whole care, industry, and attendance of a most provident and most able Person: He, the said Duke, being young and inexperienced, hath, of late years, with exorbitant Ambition, and for his own profit and advantage, procured and ingrossed into his own hands the said several Offices, both to the danger of the State, the prejudice of that Service, which should have been performed in them, and to the great discouragement of others; who by this his procuring and ingrossing of the said Offices, are precluded from such hopes, as their Vertues, Abilities, and Publick Employments might otherwise have given them.

II. Whereas, by the Laws and Statutes of this Kingdom of England, if any person whatsoever, give or pay any sum of Money, Fee, or Reward, directly or indirectly, for any Office or Offices, which in any wise touch or concern the Administration or Execution of Justice, or the keeping of any of the Kings Majesties Towns, Castles, or Fortresses, being used, occupied, or appointed for places of strength and defence: the same person is immediately, upon the same Fee, Money, or Reward, given or paid, to be adjudged a disabled person in the Law, to all intents and purposes, to have, occupy, or enjoy the said Office or Offices, for the which he so giveth or payeth any sum of Money, Fee, or Reward. He the said Duke did, in or about the month of January, in the Sixteenth year of the late King James of famous memory, give and pay to the Right Honourable, Charles, then Earl of Nottingham, for the Office of Great Admiral of England and Ireland, and the Principality of Wales, and for the Office of General Governour of the Seas and Ships of the said Kingdoms, and for the Surrender of the said Offices, then made to the said King by the said Earl of Nottingham, being then Great Admiral of the said Kingdoms, and Principality of Wales, and General-Governour of the Seas and Ships, to the intent the said Duke might obtain the said Offices to his own use, the sum of Three thousand pounds of lawful money of England; and did also about the same time procure, from the said King, a further reward, for the surrender of the said Office to the said Earl, of an Annuity of One thousand pounds by the year, for, and during the life of the said Earl; and by the procurement of the said Duke, the said late King, of famous memory, did, by his Letters Patents, dated the Seven and twentieth of January, in the said year of his Reign, under the Great Seal of England, grant to the said Earl the said Annuity; which he, the said Earl, accordingly had and enjoyed, during his life, and by reason of the said sum of Money, so as aforesaid paid by the said Duke. And of this the said Duke's procurement of the said Annuity, the said Earl of Nottingham did, in the same month, surrender unto the said late King, his said Offices, and his Patents of them; and thereupon, and by reason of the premises, the said Offices were obtained by the Duke for his life, from the said King of famous memory, by Letters Patents made to the said Duke, of the same Offices, under the Great Seal of England, dated the Eight and twentieth day of January, in the said Sixteenth year of the said late

Anno 1626: late King. And the said Offices of Great Admiral and Governour, as aforesaid, are Offices that highly touch and concern the Administration and Execution of Justice, within the provision of the said Laws and Statutes of this Kingdom; which, notwithstanding, the said Duke hath unlawfully, ever since the first unlawful obtaining of the said Grant of the said Offices, retained them in his hands, and exercised them against the Laws and Statutes aforesaid.

His buying the Cinque Ports of the Lord Zouch. III. The said Duke did likewise, in or about the beginning of the month of December, in the two and twentieth year of the said late King James of famous memory, give and pay to the Right Honourable, Edward, late Lord Zouch, Lord Warden of the Cinque Ports, and of the Members thereof, and Constable of the Castle of Dover, for the said Offices, and for the surrender of the said Offices of Lord Warden of the Cinque Ports, and Constable of the said Castle of Dover, to be made to the said late King of famous memory, the sum of One thousand pounds of lawful money of England; and then also granted an Annuity of Five hundred pounds yearly to the said Lord Zouch, for the life of the said Lord Zouch; to the intent that he the said Duke, might thereby obtain the said Offices to his own use. And for, and by reason of the said sum of Money, so paid by the said Duke, and of the said Annuity so granted to the said Edward Lord Zouch, he the said Lord Zouch the fourth day of December, in the year aforesaid, did surrender his said Office, and his Letters Patents of them to the said late King: And thereupon, and by reason of the Premises, he the said Duke obtained the said Offices for his life, of the said late King, by his Letters Patents under the Great Seal of England, dated the sixth day of December, in the said two and twentieth year. And the said Office of Lord Warden of the Cinque Ports, and of the Members thereof, is an Office that doth highly touch and concern Administration and Execution of Justice; and the said Office of Constable of the Castle of Dover, is an Office that highly concerneth the keeping and defence of the Town and Port, and of the said Castle of Dover, which is, and hath ever been appointed, for a most eminent place of strength and defence of this Kingdom; which notwithstanding, the said Duke hath unlawfully, ever since this first unlawful obtaining of the said Office, retained them in his hands, and exercised them against the Laws and Statutes aforesaid.

the first made engaged by Mr. Herbert. These three Articles were discoursed upon by Mr. Herbert, and touching Plurality of Offices, he observed, That in that vast power of the Duke (a young unexperienced man) there is an unfortunate complication of danger and mischief to the State, as having too much ability, if he be false, to do harm, and ruin the Kingdom; and if he be faithful, and never so industrious, yet divided amongst so many great Places (whereof every one would employ the industry of an able and provident man) there must needs be in him an insufficiency of performance, or rather an impossibility, especially considering his necessary attendance likewise upon his Court places.

le- and en- ed by To the Second and Third, namely, The buying the Office of Admiralty and Cinque Ports, (both which he comprised in one) he said, That to set a price upon the Walls and Gates of the Kingdom, is a Crime which requires rather a speedy re-

Car. 2. medy than an aggravation, and is against the express Law of 5 Edw. 6. upon this Foundation, That the buying of such Places do necessarily introduce corrupt and insufficient Officers. And in the Parliament of 12 Edw. 4. it is declared by the whole Assembly, That they who buy those Places (these are the express words) bind themselves to be Extortioners and Offenders; as if they pretended it warrantable, or as if they did lay an Obligation upon themselves to sell again. And though the buying of such Places be not against any particular Law, enjoying a penalty for them (the breach whereof is a particular Offence) yet as far as they subvert the good, and welfare, and safety of the People, so far they are against the highest Law, and assume the nature of the highest Offences.

His neglect of guarding the Seas. IV. Whereas the said Duke, by reason of his said Offices of Great Admiral of the Kingdoms of England and Ireland, and of the Principality of Wales, and of the Admiral of the Cinque Ports, and General Governour of the Seas and Ships of the said Kingdoms, and by reason of the trust thereunto belonging, ought at all time, since the said Offices obtained, to have safely guarded, kept, and preserved the said Seas, and the Dominion of them; and ought also, whensoever they wanted either Men, Ships, Munition, or other Strength whatsoever that might conduce to the better safeguard of them, to have used, from time to time, his utmost endeavour for the supply of such wants to the Right Honourable, the Lords and others of the Privy Council, and by procuring such supply from his Sovereign, or otherwise: As the said Duke hath, ever since the dissolution of the two Treaties mentioned in the Act of Subsidies of the One and twentieth year of the late King James of famous memory (that is to say) the space of two years last past, neglected the just performance of his said Office and Duty, and broken the said Trust therewith committed unto him: and hath not, according to his said Offices, during the time aforesaid, safely kept the said Seas: inasmuch that by reason of his neglect and default therein, not only the Trade and Strength of this Kingdom of England hath been, during the said time, much decayed, but the same Seas also have been, during the same time, ignominiously infested by Pyrates and Enemies, to the loss both of very many Ships and Goods, and of many of the Subjects of our Sovereign Lord the King; and the Dominion of the said Seas (being the ancient and undoubted Patrimony of the Kings of England) is thereby also in most eminent danger to be utterly lost.

His raking a Ship called St. Peter of Newhaven. V. Whereas about Michaelmas last past, a Ship called the St. Peter of Newhaven (whereof John Mallerow was Master) laden with divers Goods, Merchandize, Monies, Jewels and Commodities, to the value of Forty thousand pounds, or thereabouts, for the proper accompt of Monsieur de Villiers, the then Governour of Newhaven, and other Subjects of the French King, being in perfect Amity and League with our Sovereign Lord the King, was taken at Sea by some of the Ships of his Majesties late Fleet, set forth under the command of the said Duke, as well by direction from him the said Duke as great Admiral of England, as by the Authority of the extraordinary Commission which he then had for the

Anno 1626. the command of the said Fleet, and was by them, together with her said goods and lading brought into the Port at Plymouth, as a Prize among many others, upon probabilities that the said Ship or Goods belonged to the Subjects of the King of Spain: And that divers parcels of the said goods and lading were there taken out of the said Ship of St. Peter; (that is to say) sixteen Barrels of Cochenal, eight Bags of Gold, twenty three Bags of Silver, two Boxes of Pearl and Emeralds, a Chain of Gold, Jewels, Monies and Commodities to the value of Twenty thousand pounds, or thereabouts, and by the said Duke were delivered into the private custody of one Gabriel Marsh, servant to the said Duke; and that the said ship, with the residue of her goods and lading, was from thence sent up into the River of Thames, and there detained; whereupon there was an arrest at Newhaven, in the Kingdom of France on the seventh day of December last, of two English Merchants ships trading thither, as was alledged in certain Petitions exhibited by some English Merchants trading into France, to the Lords and others of his Majesties most honourable Privy Council; after which (that is to say) on the 28th day of the said month, his Majesty was pleased to order, with the advice of his Privy Council, That the said ship and goods belonging to the Subjects of the French King, should be re-delivered to such as should reclaim them, and accordingly intimation was given to his Majesties Advocate in the chief Court of Admiralty by the Right Honourable Sir Jo. Cooke Knight, one of his Majesties principal Secretaries of State, for the freeing and discharging the said ship and goods in the said Court of Admiralty: And afterwards, that is to say, on the six and twentieth of January last, it was decreed in the said Court by the Judge thereof, with the consent of the said Advocate, That the said ship, with whatsoever goods so seized on, or taken in her, (except three hundred Mexico Hides, sixteen sacks of Ginger, one box of gilded Beads, five sacks of Ginger more mentioned in the said Decree) should be clearly released from further detention, and delivered to the Master; and thereupon under Seal a Commission was in that behalf duly sent out of the said Court to Sir Allen Appesty, Sir John Worstenholme and others, for the due execution thereof: The said Duke, notwithstanding the said Order, Commission and Decree, detained still to his own use the said Gold, Silver, Pearls, Emeralds, Jewels, Monies and Commodities so taken out of the said ship as aforesaid: And for his own singular avail and covetousness, on the sixth day of February last, having no information of any new proof, without any legal proceeding, by colour of his said Office, unjustly caused the said ship and goods to be again arrested and detained, in publick violation and contempt of the Laws and Justices of this Land, to the great disturbance of Trade, and prejudice of the Merchants.

The fourth
Article
enlarged
by Mr.
Selden.

These were enlarged by Mr. Selden, who said, That by nature of his Office, the Duke as Admiral, ought to have guarded the Seas: By his Patent he is made *Magnus Admirallus Anglie, Hibernie, & Wallie, Normania, Aquitania, Villa Calesij & Marchiarum ejusdemque prefectus generalis classium Marium dictorum regnorum*. The Seas of England and Ireland are committed to the Admiral, as a part of the Demesne and Possessions of the Crown of England; not as if he should thereby have Jurisdiction only, as in case of the Admirals in France or Spain. The State of Genoa, Catalonia, and other Maritime parts of Spain, the Sea-town of Almain,

Zealand, Holland, Friesland, Denmark, Norway, and divers other parts of the Empire, shew that the Kings of England, by reason that their said Realm hath used, time out of mind, to be in peaceable possession, are Lords of the Seas of England, and of the Islands belonging to them. And though *Grætius* that *Hollander*, wrote of purpose to destroy all Dominion in the East Ocean; yet he speaks nothing against the Dominion of our English Seas, howsoever he hath been misapprehended; but expressly elsewhere saith, *Meta Britannicæ littoræ sunt ori*; the utmost limits of the Demesne of the Crown of England, are the shores of the neighbouring Countries; the whole Sea, or the *Territorium Maximum* that intervenes, being parcel of the possession of the Crown: the keeping and safeguard of these committed to the Lord Admiral by the name of the *Prefectus Marium & Admirallus*, being but the same anciently: Before the use of the word Admiral came in, which was under *Edw. 1.* the Admirals had the Titles of *Custodes Maris*.

And this *Prefectura* or *Custodia*, or Office of safeguarding the Seas, binds him to all care and perpetual observance of whatsoever conduceth to that safeguard, as in *Custos Sigilli, Custos Marchiarum, Custos Portuum, & Custos Comitatum*, agreeable to the Practice of former times.

1. In certifying yearly to the King and his Council, the many Forces, both of the Kings ships, and ships of Merchants, the names of the Owners, the number of the Mariners, &c. that the King and his Council may always know his Force by Sea.

2. In shewing wants of ships, &c. for the safeguarding of the Seas, with the Estimates of the supply, that so they might be procured. In personal attendance upon the service of guarding the Seas upon all occasions of weight: In 7 H. 4. *Nicholas Blackburn*, and *Richard Cliderowe* one of the Knights of Kent, were made Admiral for keeping the Seas, upon consideration had of it in Parliament, and the other Knight being *Robert Clifford*, it was agreed in Parliament that he should have the voices of both, because the other must of necessity be absent: And they both, amongst other things, petitioned the Council, That if the King in his Person should come on the Sea, they might have such a liberty to wait upon him, as they might make him their Lieutenant during the time for the service of their places. But the Council that allowed the rest, or most of their demands, answered to that, *Le Council ne peut faire*.

Then he estimated the nature of the Offence, by the consequences which follow the not guarding of the Seas, viz.

1. The losses already shewed.

2. The prevention of Trade, which gives life to the wealth of the Kingdom.

3. The weakening of the Naval strength, the Merchants being thereby discouraged from building ships which they cannot use. In 1 Rich. 2. the Commons opened the two chief and almost whole Causes of the weakning the Kingdom at that time; the neglect of Chivalry and eminent Vertue not regarded nor rewarded; the decay of Trade since the Navy was grown weak, besides all the loss of quiet possession of so large a Territory as the Seas of England and Ireland, by the free use of which, the ancient glory and greatness of the Crown of England hath so constantly subsisted.

Then

Anno 1626. Then he instanced in *Michael de la Pool*, Lord Chancellor, who in 9 Rich. 2. mis-spent Subsidies given *pro salva custodia Maris*, as appears in the Roll, and was adjudged in Parliament (though for other offences, because some other Lords of the Council had been trusted with him, and it was not fit to impeach him *sans les compagnons*) the taking it for a crime without question fit to be complained of.

Secondly, in *William Duke of Suffolk*, who for the same fault, being Admiral only in the right of *Henry Earl of Exeter* his Ward, was by the King extraordinarily commanded into banishment.

Then he brought examples of such who had been put to death, and confiscated for not safe-guarding Towns, and Castles, and Forts, which are of like nature with not safe-guarding the Seas, and with losing the possession of the Crown.

V. To the Fifth he said, The staying of the Ship called the *Peter of Newhaven*, and detaining part of the Goods, was against the Marine Laws of England, against the Common Laws, against the Laws of Merchants, and consequently the Law of Nations.

By the Marine Laws, agreeable to the Civil Laws, sentence given by any Subject or other against the King, may, upon new proof, be revoked, but not without new proof. He made, by his Patent, a Judge of all Maritime Causes, as well as Keeper of the Seas, his Jurisdiction was to be exercised *juxta leges nostras Civiles & Maritimas*, and accordingly to hear all Causes, and generally to proceed *ex officio mero mixto & promoto secundum leges nostras Civiles & Maritimas*.

Against the Common Laws.

All Justices, and all other deputed to do Law or Right, are commanded by Act of Parliament to permit the course of ordinary Justice, and although they be commanded to do the contrary, that they do execution aright, and according to Justice as far as in them lies; and so for any Letters of Commandment which may come unto them from us, or from any other, or by any other cause.

Against the Law of Nations.

Against what is agreed by the Leagues between us and Forreign Nations, That the Subjects of Nations in Amity with us, shall be well used, and permitted, without molestation, for what cause or occasion soever, according to the Laws and Customs of the Places where they shall be.

Lastly, against the Laws of Merchants, which is to have *Celerem justitiam*.

The Consequences of this offence are,

1. Great damage to our English Merchants; that have suffered by reason of it in Forreign Parts, as they alledge. 2. It is a discouragement to those that are Subjects to the Marine Jurisdiction. 3. An Example that may serve hereafter to justify all absolute Authority in the Admiral, without Law or Legal Course, over the Ships and Goods of all Merchants whatsoever, and so no security to Merchants. Lastly, He instanceth in the Duke of Suffolk, who was adjudged in Parliament for Treason, and among other offences it was laid to his Charge, that he took to his own use Goods Piratically taken, and expressly against the Order determined by the Lord Protector and the whole Council, whereunto his hand had been for the restitution of them.

Next we read the Sixth, Seventh, and Eighth Articles, viz.

VI. Whereas the honour, wealth, and strength of this Realm of England is much encreased by the Traffick, chiefly of such Merchants as imploy and build great warlike Ships, a consideration that should move all Counsellors of State, especially the Lord Admiral, to cherish and maintain such Merchants:

The said Duke abusing the Lords of the Parliament, in the One and twentieth year of the late King James of famous memory, with pretence of serving the State, did oppress the East-India Merchants, and extorted from them Ten thousand pounds, in the subtil and unlawful manner following.

About February, in the year aforesaid, he the said Duke, hearing some good success that those Merchants had at *Ormuz*, in the parts beyond the Seas, by his Agents cunningly, in or about the month aforesaid, in the year of the said late King, endeavoured to draw from them some great sum of money; which their poverty, and no gain by that success at *Ormuz*, made those Merchants absolutely to deny: Whereupon he the said Duke perceiving, that the said Merchants were then setting forth, in the course of their Trade, four Ships, and two Pinnaces, laden with Goods and Merchandize of very great value, like to lose their Voyage if they should not speedily depart: The said Duke, on the first of March then following, in the said year of the said late King, did move the Lords then assembled in the said Parliament, whether he should make stay of any Ships which were then in the Ports, (as being High Admiral he might) and namely, those Ships prepared for the East-India Voyage, which were of great burthen, and well furnished; which motion being approved by their Lordships, the Duke did stay those Ships accordingly: But the fifth of March following, when the Deputy of that Company, with other of those Merchants, did make suit to the said Duke for the release of those Ships and Pinaces; he the said Duke said, He had not been the occasion of their staying, but that having heard the motion with much earnestness in the Lords House of Parliament, he could do no less than give the Order they had done; and therefore he willed them to set down the reasons of their suit, which he would acquaint the House withal; yet in the mean time gave them leave to let their said Ships and Pinaces fall down as low as *Tilbury*. And the tenth of March following, an unusual joyned Action was by his procurement entered in the chief Court of Admiralty, in the name of the said late King, and of the Lord Admiral, against them, for fifteen thousand pounds, taken Piratically by some Captains of the said Merchants Ships, and pretended to be in the hands of the East-India Company; and thereupon the King's Advocate, in the name of Advocate for the then King and the said Lord Admiral, moved and obtained one Attachment, which by the Serjeant of the said Court of Admiralty was served on the said Merchants in their Court, the sixteenth day of March following: Whereupon the said Merchants, though there was no cause for their molestation by the Lord Admiral, yet the next day they were urged in the said Court of Admiralty to bring in the Fifteen thousand pounds, or go to Prison. Wherefore immediately the Company of the said Merchants did again send the Deputy aforesaid, and some others, to make new suit unto the said Duke, for the release of the said Ships and Pinaces; who unjustly endeavouring to extort money from the said Merchants, protested,

V 2 that

Anno 1626. that the Ships should not go, except they com-
pounded with him; and when they urged many
more reasons for the release of the said Ships and
Pinaces, the Answer of the said Duke was, That
the then Parliament must first be moved. The said
Merchants therefore being in this perplexity, and
in their consultation, the three and twentieth of
that month, even ready to give over that Trade,
yet considering that they should lose more than
was demanded by unlading their Ships, besides
their Voyage, they resolved to give the said Duke
Ten thousand pounds for his unjust demands.
And he the said Duke, by the undue means afore-
said, and under colour of his Office, and upon
false pretence of Rights, unjustly did exact and
extort from the said Merchants the said Ten thou-
sand pounds, and received the same about the 28
of April following the discharge of those Ships,
which were not released by him, till they the said
Merchants had yielded to give him the said Duke
the said Ten thousand pounds for the said Release,
and for the false pretence of Rights made by the
said Duke, as aforesaid.

His deli-
vering
Ships into
the hands
of the
King of
France.

VII. Whereas the Ships of our Sovereign Lord
the King, and of his Kingdoms aforesaid, are
the principal strength and defence of the said
Kingdoms, and ought therefore to be always pre-
served, and safely kept, under the command, and
for the service, of our Sovereign Lord the King,
no less than any the Fortresses and Castles of the
said Kingdoms: And whereas no Subject of this
Realm ought to be dispossessed of any his Goods
or Chattels without order of Justice, or his own
consent first duly had and obtained: The said
Duke being Great Admiral of England, Governor-
General and Keeper of the said Ships and Seas,
and therefore ought to have and take a special and
continual care and diligence how to preserve the
same; the said Duke in or about the end of July
last, in the first year of our Sovereign Lord the
King, did, under the colour of the said Office of
Great Admiral of England, and by indirect and
subtil means and practices, procure one of the
principal Ships of his Majesties Navy-Royal, cal-
led the *Vanguard*, then under the command of
Captain John Pennington, and six other Merchants
Ships of great burthen and value, belonging to
several persons inhabiting in London, the natural
Subjects of his Majesty, to be conveyed over, with
all their Ordnance, Munition, Tackle, and Ap-
parel, into the parts of the Kingdom of France,
to the end that being there, they might the more
easily be put into the hands of the French King, his
Ministers and Subjects, and taken into their pos-
session, command and power: And accordingly
the said Duke, by his Ministers and Agents, with
menaces and other ill means and practices, did
there, without order of Justice, and without the
consent of the said Masters and Owners, unduly
compel and enforce the said Masters and Owners
of the said six Merchants Ships, to deliver the said
Ships into the said possession, command and pow-
er of the said French King, his Ministers and Sub-
jects; and by reason of his compulsion, and under
the pretext of his power as aforesaid, and by his
indirect practices, as aforesaid, the said Ships a-
foresaid, as well the said Ship Royal of his Maje-
sty, as the others belonging to the said Merchants,
were there delivered into the hands and command
of the said French King, his Ministers and Sub-
jects, without either sufficient security or assu-
rance for re-delivery, or other necessary caution in
that behalf taken and provided, either by the said

Duke himself, or otherwise by his direction, con-
trary to the duty of the said Offices of Great Ad-
miral, Governor-General, and Keeper of the said
Ships and Seas, and to the faith and trust in that
behalf reposed, and contrary to the duty which
he oweth to our Sovereign Lord the King in his
place of Privy Counsellor, to the aparent weak-
ning of the Naval strength of this Kingdom, to
the great loss and prejudice of the said Merchants,
and against the liberty of those Subjects of our So-
vereign Lord the King, that are under the Juris-
diction of the Admiralty.

VIII. The said Duke, contrary to the purpose
of our Sovereign Lord the King, and his Majesties
known zeal for the maintenance and advancement
of the true Religion established in the Church of
England, knowing that the said Ships were in-
tended to be employed by the said French King
against those of the same Religion at Rochel, and
elsewhere, in the Kingdom of France, did procure
the said Ship Royal, and compel, as aforesaid, the
said six other Ships to be delivered unto the said
French King, his Ministers and Subjects, as afore-
said, to the end the said Ships might be used and
employed by the said French King, in his intended
War against those of the said Religion in the said
Town of Rochel, and elsewhere within the King-
dom of France: And the said Ships were, and
have been since so used and employed by the said
French King, his Ministers and Subjects, against
them. And this the said Duke did, as aforesaid,
in great and most apparent prejudice of the said
Religion, contrary to the purpose and intention of
our Sovereign Lord the King, and against his du-
ty in that behalf, being a sworn Counsellor to his
Majesty, and to the great scandal and dishonour of
this Nation. And notwithstanding the delivery
of the said Ships by his procurement and compul-
sion, as aforesaid, to be employed, as aforesaid,
the said Duke, in cunning and cautelous manner,
to mask his ill intentions, did, at the Parliament
held at Oxford in August last, before the Commit-
tee of both Houses of Parliament, intimate and
declare, That the said Ships were not, nor should
they be so used and imployed against those of the
said Religion, as aforesaid, in contempt of our
Sovereign Lord the King, and in abuse of the said
Houses of Parliament, and in violation of that
Truth which every man should profess.

These three Articles were aggravated by Mr.
Glanville.

MY Lords, (said he) in this great business
of impeachment against the Duke of
Buckingham, I am commanded by the Commons
in Parliament to bear a part of some impor-
tance.

The Articles allotted to my Charge are three,
the sixth, seventh, and eighth; which I shall open
with as much brevity and perspicuity as I may:
The substance of several Cases concerning the
same; The Evidence to make them good, toge-
ther with such Observations as naturally arise out
of the matter; whereby your Lordships may
the better discern wherein the Duke's faults do
consist, and what punishment may be answer-
able to such offences.

The sixth Article is a distinct Charge, different
from the other two, wherefore I will handle it,
with the Incidents thereof, by it self. The Se-
venth and Eighth Articles being of one nature
and subject, are indeed several parts of one
Charge,

Car. 2.

Those
Ships to
be used to
his know-
ledge a-
gainst Ro-
chel.

Mr. Glan-
ville en-
largeth the
sixth Arti-
cle.

Anno 1626. Charge, rather than several Charges, and have such a connexion in themselves, that, with your Lordships leaves, I will handle them both together without dividing them, which I hold will be the shortest and fittest way to do right to the Cause, and to your Lordships.

The Sixth Article giveth me occasion (my Lords) thus to enlarge my self. In a Treaty the 18 of August, 1604. between our late Sovereign King James of glorious memory, and Philip the Third King of Spain, It was agreed, That there should be perfect Amity and Peace to endure for ever by Land, Sea, and Fresh-waters, between these King, their Heirs and Successors, their Dominions, Liege-men and Subjects then being or which should be; And that either party should then after abstain from all depredations, offences and spoils, by Sea, Land, and Fresh-waters, in what Dominions or Government soever of the other, and should cause restitution to be made of all depredations which then after should be committed, and the damages growing by means thereof; And that the said Kings shall take care that their Subjects should from thenceforth abstain from all force and wrong-doing, and that they likewise should revoke all Commissions and Letters Patents of Reprisal or Mart, or otherwise, containing Licence to take Prizes; All which are declared by the said Treaty it self to be void, and that whosoever should do any thing contrary, should be punished not only criminally according to the merit of his offence, but should also be compelled to make restitution and satisfaction for the losses to the parties damnified, requiring the same. Lastly, It was concluded, That between them and every of their Subjects might be free Commerce in all the Dominions by Sea, Land, and Fresh-waters, in which before the Wars there hath been Commerce, and according to the use and observance of the ancient Leagues and Treaties before the Wars, the Customs as they were at that present rated according to the Ordinance of the Places, being paid.

This Treaty being settled and continuing, his late Majesty King James by his Highness Letters Patents bearing date the 14 of September, Anno 13 of his Reign, did grant unto the Governours of the Merchants of London trading into the East-Indies, and to their Successors, in case they be justly provoked or driven thereunto, in defence of their Persons, Goods, or Ships, by any disturbance or hinderance in their quiet course of Trade, or for recompence or recovery of the Persons, Ships, or Goods of any of his Majesties Subjects, that had been formerly in or near the East-Indies, or for any other just cause of their defence, or recompence of losses sustained; That then the Captains or principal Commanders of the said Company, or any other under their Government, should or might attempt, surprize or take the Persons, Ships, and Goods of any Prince or State, by whose Subjects they should sustain any wrong or loss in manner as aforesaid, as by the said Letters Patents appeareth. Some years after the granting of these Letters Patents under pretext that the said Treaty was broken, there was some interruption and violence offered by the King of Spain's Subjects in the Ports of East-India to the Merchants of the East-India Company trading into those parts, whereby they were much damnified; and thereupon suspecting that it might be in vain to complain for redress in an ordinary course of Justice in the East-

India, or in default thereof to return into Spain to make complaint to that purpose, where nothing was likely to be done till they had sent from thence again into the East-Indies, and received an answer; And after all this, upon denial of Justice in Spain, to come into this Kingdom for Letters of Request, without which in ordinary course they should not use Reprisal, and many years would be spent before they could come to have an end of their suits; It is true, that thereupon, partly in their defence, and partly for amends, and partly for revenge, they did by pretext of the said Letters Patents take some Goods of the Portugals in the East-Indies, Subjects to the King of Spain; and afterwards being Commanded by the King of Persia to transport certain Forces of his in Ormus an Island situate in the Country of Persia, some Goods of Portugals Subjects to the King of Spain were there taken by Captain Blish and Captain Wedel, and others of their Company, being servants and in pay under the East-India Company.

In July, 1623. Two Ships called the Lyon and the Jonas, being part of a Fleet belonging to the said Company, returned from Ormus aforesaid out of an East-Indian Voyage, and arrived in the Downs richly laden with Goods and Merchandise lawfully belonging to the said Company and estimated to the value of One hundred thousand pounds. The Duke of Buckingham, in or about October 1623. being advertised thereof, well knowing the Company to be rich, and apprehending in himself a probable ground how he might exact and extort some great sum of Money from the said Company out of the profit of these Ships and their lading, by colour of his Office of Lord Admiral of England, and out of his power and greatness, his Office being used for a ground-work of his design therein, did thereupon pretend, that the lading of the said Ships was for the most part with Goods Pyratally taken at Sea in the parts about Ormus aforesaid, and that a Tenth part, or some other great share thereof, did belong to him in the right of his said Office of Lord Great Admiral of England, and by vertue of his Letters Patents and Grant from his late Majesty in that behalf; alledging withal, howsoever the said Company might peradventure answer the matter, yet there would and might be strong opposition against them. These words were used to possess them with fear, and to make them stand in awe of his power, when he should come afterwards particularly to press them to yield to his unjust demands. Having once resolved of his ends, which was to get Money, he thus proceeded to effect the same. In the Months of November, December, January, and February then next following, he had divers times Treaties by himself and his Agents with the then Governour and others of the said Company, for the effecting of his said designs, wherein he still unlawfully pretended that a Tenth part, or some other great share out of the Lading of the said Ship belonged unto him; albeit the said Company upon right information of their Cause to their Council, both Civilians and Common-Lawyers, were advised that there did no Tenths or other such shares belong to the said Duke, as he pretended.

And whereas the said Duke by this time finding that he could not prevail to get his ends by any fair course, continued yet resolute to make his gain upon the Company by right or wrong,

Car. 2.

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1626. as he might; and to that purpose made use of the following opportunities and advantages; in such cunning and abusive manner as I shall further open to your Lordships: The said Duke well knowing that the said Company had then four Ships, called the *Great James*, the *Jonas*, the *Star*, and the *Eagle*, and two Pinaces called the *Spy*, and the *Scout*, the said Ships and Pinaces, with their Victuals, Store and Ordnance, were of the value of Fifty four thousand pounds and more, laden with Lead, Cloth, and other Merchandise in them to the value of Twenty thousand Pounds and more, and having in them also about Thirty thousand pounds in Royals of Spanish Money; in all, One hundred thousand pounds and more.

These Ships and Pinaces were well near ready to set Sail for a Voyage into the *East-Indies* by the first day of *March*, in the One and twentieth year of his said late Majesties Reign; and he well knowing how great a hinderance it would be to the said Company, if the said Ships and Pinaces should be stayed for any long time, the rather in regard if they did not set Sail about that time of the year, or within Twenty daies after, they had utterly lost their Voyage for that year; the reason thereof dependeth upon a secret of Winds, called the *Man-sounds*, which are constantly six Months Easterly, and six Months Westerly, every year, at their set times, in those parts of *Africa*, about the Cape of *Bona Speranza*; (for of those Winds, all Ships going hence into the *East-Indies*, are to make their use, in the usual and due time; which yet cannot be done, if men take not their opportunity by coming to the Cape in their proper and due season, and in so long and dangerous a Voyage, wherein the Equinoctial Line is twice to be passed, it is no good discretion to stay the utmost time in going from hence, in confidence of fair Winds, but rather to take time enough beforehand, for fear of the contrary: Nor can the Lord Admiral of *England*, who is *Custos marium Domini Regis*, and hath Jurisdiction of all Foreign parts, *Super altum mare*, be admitted to pretend himself ignorant of this Secret, or of any other particulars belonging to the Seas and Voyages.) The Duke therefore apprehending, and well weighing how great a hinderance, or rather what an absolute loss it would be to the Company, if these their Ships and Pinnaces of so great value, and bound forth in so instant and difficult a Voyage, should be stayed for any long time, now they were ready to set Sail, and the season of going upon point to expire: The said Duke, upon the said first day of *March*, 1623. to effect his designs upon the said Company, and to get that by circumvention and surprisal, which in a legal and due course of Justice he had no hopes to obtain: Not thinking it sufficient, that the sense of his displeasure lying over the Company as an ominous cloud threatening a storm, if they did not appease him by some great Sacrifice; and to cast them yet further into a farther strait, not sparing to abuse your Lordships in Parliament, by making you unwilling Instruments to give colour and advantage to his secret and unlawful practices: Upon the said first day of *March*, he put your Lordships, sitting in Parliament, in mind, touching the great business likely to ensue upon dissolution of the then Treaties with *Spain*, and that a speedy resolution thereof was necessarily required, for that the Enemy would pretermitt no time; and if we should

lose the benefit of that Spring, he said it would be irrevokable; and thereupon he took occasion to move that House, whether he should make stay of any Shipping that were then in the Ports, (as being High Admiral he might) and namely, the said Ships prepared for the *East-Indian* Voyage, which were of great burden, well furnished, and fit to guard our own Coasts: Which motion was generally approved of the whole House, knowing nothing of the Duke's secret designs and private intentions. And the same day a motion was made amongst the Commons in Parliament to the same effect, by Sir *Edward Seymour*, Knight, the Vice-Admiral to the Duke of the County of *Devon*; which, in respect of the time when, and person by whom it was propounded, is very suspicious, that it issued all from one Spirit, and that he was set on by the Duke, or some of his Agents; the truth whereof, your Lordships may be pleased to search out, and examine as you shall see cause. By colour of this Order of the Lords House of Parliament, the Duke caused *John Pexal*, Marshal of the Admiralty, to make stay to be made of the said Ships and Pinnaces; howbeit, notwithstanding all the occasion pretended for the defence of the Realm, there were not any other Ships staid at this time.

The Company perceiving, by the course of things, from whence these Evils moved, upon the Fifth of *March*, 1623. became earnest Suitors to the said Duke for a Release of their said Ships and Pinaces; whereunto the said Duke replied, That he had not been the cause of their stay; but having heard the motion in the Lords House, he could do no less than order as they had done: Yet to attain his ends, and put them in some hope of favour by his means, he told them withal, That he had something in his Pocket that might do them good, and willed them to set down what Reasons they would for their Suit, and he would acquaint the House therewith: Nevertheless about this time, he presumed of himself at *Thobalds*, to give leave for the Ships and Pinaces to fall down as far as *Tilbury*, there to attend such further directions as should be given unto them, with leave so to signify by word of mouth to the Sergeant of the Admiralty, for that the Duke had then no Secretary with him. Thus sometime by threatening of strong oppositions and terrors, and otherwhile by intimating hopes of favour, and good assistance, the Duke sought to accomplish his purpose, yet prevailed not; and so the Tenth of *March*, 1623. the King's Advocate, Mr. *Dr. Reeves*, Advocate for the King, and Lord Admiral, made Allegation in the Admiralty on the Duke's behalf; and by his procurements, that it appeared by Examinations there taken, that 150000 *l.* and more, Pyratikally taken by the said Captain *Blith*, and *Wedel*, and their Complices, upon the Sea near *Ormus*, and in other parts, within the Jurisdictions of the Admiralty, was come into the possessions of the Treasures of the *East-India* Company, and remained in their hands, and prayed it might be attached; and the said Treasurers be monished to appear the *Wednesday* then next following, and there to bring in the 150000 *l.* to remain in Deposit with the Register of that Court.

The same Tenth of *March*, a Warrant issued forth accordingly, directed to the Marshal of the said Court; and upon the same next *Wednesday*, the Seventeenth of *March*, the said Warrant,

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rant was returned by the said Marshal, that the day before he had attached the said Moneys in the hands of Mr. Stone, then present in the Court, and had admonished him, and Mr. Abbot, the Deputy-Governour of that Company, and divers others then present, to bring in the same into Court. Upon the same Wednesday also, it was pray'd by the King's Advocate, That Mr. Stone, and all that had an interest in this Money, might be pronounced as in Contumacy, and therefore be arrested and detained until 150000*l*. were brought into the Register. Hereupon Sentence of Contumacy was pronounc'd, but the payment thereof was respited until Friday following. Upon which Seventeenth of March, this Sentence being pronounced, Mr. Stone, Mr. Abdy, and others, Officers of the said Company, then present, informed how the Governour was lately dead, and buried but the day before; and that upon Wednesday then next following, they had appointed a Court for Election of a new Governour, and until then they could resolve of nothing, and therefore desired further respite. The Advocate nothing relenting at this reasonable excuse, and desire of the Company, did again earnestly press their Imprisonments, but the Judge took time to consider of it. The Company finding by these extraordinary and extreme courses, the drift of the Duke, whose greatness and power seemed unresistable, and his mind implacable, without satisfaction to his own content, and withal observing what a streight they were cast into, by reason of the stay of their Ships; which, if it were much longer, they must needs lose their Voyage utterly for this year, and the very unloading of them would endamage them to the value of the sum extorted; And being told, that the Eye of the State was upon this business, and that it would light heavy upon them; and hearing the Duke protest, their Ships should not go, unless they compounded with him; and finding that he made difficulty of releasing their Ships, by saying, The Parliament must be moved, before they could be discharged, albeit the Wind were now fair for them. And making overture of some reasonable grounds of composition, by offering to grant Letters of Mart to the said Company for the future, against the Subjects of the King of Spain, while yet the Peace and Treaty between his late Majesty and the King of Spain, were not broken or dissolved.

The said Company being intangled by the Duke's subtilty, and overcome at last by the terror of his power and greatness, was drawn to make offer of Six thousand pounds to the said Duke, which was rejected as a base offer. And now the time pressing them on very hard, some consultations were had amongst them, Whether it were better for them to make use of a Clause in their Patent, allowing them Three years to draw home their Estates, and so to let their Company die, and be dissolved, or else to yield to the Duke's desire: Yet in conclusion, they were drawn in to offer him Ten thousand pounds for their Peace, if it could serve; which offer was made unto him accordingly, but at first he would not accept it; howbeit, about the Three and twentieth of March, 1623. they agreed to give him the said Ten thousand pounds, which he accepted; and forthwith moving the Lords of Parliament, or acquainting them therewith, he retracted their Ships, and gave them leave to depart on their Voyage; which they accordingly

did, setting Sail the Seven and twentieth day of the Month from the Downs. And afterwards upon the Fifth of April, 1624. the Duke signified unto the Lords House of Parliament, That his Majesty, at the humble Petition of the East-India Company, had commanded him to discharge the East-India Ships, which he had once stayed, according to the order of this House, made the First day of March then last past; and moved, That the said Order might be countermanded: and thereupon it was ordered, That the Clerk of that House should cross the said Order of the First of March out of his Book, which was done accordingly; and afterwards the said Ten thousand pounds was paid unto the said Duke; which he received and accepted accordingly. And upon the Eight and twentieth day of April aforesaid, suffered a colourable Sentence in the Admiralty to be given against him for their discharge, in such sort, as by the same Sentence appeareth. And for a colour, he sealed and delivered unto the said Company, a Deed of Acquittance or Release of the said Ten thousand pounds, and of all his pretended rights against them, as by the Deed thereof also appeareth. And whereas it may be imagined by some misconceit, that out of this an aspersion may be laid upon his late Majesty, in regard the Duke was pleased to say in the Conference between both Houses, 18 March last, That the said King had Ten thousand pounds of the said Company, by occasion of this business: The House of Commons have been very careful in their proceedings in this, as in all other things they have, and ever shall be, to do nothing which may reflect upon the Honour of their Kings: And in this particular, by that which hath been here at first declared of the manner and occasion of the said Goods and Moneys taken from the said Portugals, and receiving the same as aforesaid, while the said Peace was continuing, and the said Treaties indissolved; it appeareth, that it had not been safe for the said Company to stand out a Suit concerning that business, wherein they might have need of his Majesties Mercy and Pardon, but it was both safe and good for them to give Ten thousand pounds; and it well stood with his late Majesties Honour, for that sum to grant them a Pardon, which he did, to their great contentment and satisfaction; and yet we find, that this Ten thousand pounds also was paid into the hands of Mr. Oliver, the Duke's Servant, but find not any Record, by which it doth appear unto us, that ever it came unto his late Majesties use. And it is observable in this case, That the oppression fell upon the same Company shortly after the great affliction which happened unto some of them at Amboyna in the East-Indies, by means of the Dutch, which might have moved a Noble mind, rather to pity than punish the Company, after such a Distress so lately suffered.

Having now finished the Narrative part belonging to this Charge, I shall observe unto your Lordships upon the whole matter, the nature of the Duke's offences by this Article complained of, and what punishment it may deserve. His default consisteth in the unjust extorting and receiving the Ten thousand pounds from the East-India Company, against their wills, by colour of his Office. Yet, as offenders in this kind have commonly some colour to disguise and mask their Corruptions, so had he: His colour was the

Anno 1626. the release of his pretended right to the Tenth part, or some other share of the Goods, supposed to be Pyratcally taken at Sea by the Captain, and the Servants, or the Company: And though his Lordship may perhaps call his Act therein, a lawful Composition, I must crave pardon of your Lordships to say thus, That if his supposed Right had been good, this might peradventure have been a fair Composition: The same pretence being unsound, and falling away, it was a meer naked Bribe, and an unjust Extortion; for if way should be given to take Money by colour of Releases of pretended Rights, men, great in power, and in evil, would never want means to extort upon the meaner sort at their pleasures, with impunity. It remains therefore, that I should prove unto your Lordships only two things: First, That a pretence of Right by the Duke, if he had none, will not excuse him in this case; and in the next place, to shew by reason and good warrant, That he had in Law no Right at all to Release.

For the former, I will rely upon the substance of two notable Presidents of Judgments in Parliament, the one ancient in the 10 Rich. 2. at which time the Commons preferred divers Articles unto the Lords in Parliament, against Michael de la Pool, Earl of Suffolk, Lord Chancellor of England, accusing him, amongst other things, by the first Article of his Charge, That while he was Lord Chancellor, he had refused to give Livery to the chief Master of St. Anthony's, of the profit pertaining to that Order, till he had security from them, with Sureties by Recognizance of Three thousand pounds, for the payment of One hundred pounds per annum to the Earl, and to John his Son, for their lives. The Earl, by way of Answer, set forth a pretended Title in his Son, to the chief Mastership of that Order, and that he took that One hundred pound per annum, as a Composition for his Sons Right. The Commons replied, shewing amongst other things, That the taking of Money for that which should have been done freely, was a selling of the Law, and so prayed Judgment. In conclusion, the pretended Right of his Son not being just, or approved, the offence remained single by it self a sale of Law and Justice, as the Law termeth it, and not a Composition for the Release of his Interest. So the Earl for this, amongst the rest, was sentenced, and greatly punished, as by the Records appeareth.

The other President of like nature, is more Modern, in the Case of the Earl of Middlesex, late Lord Treasurer of England, who was charged by the Commons in Parliament, and transmitted to your Lordships for taking of Five hundred pounds of the Farmers of the Great Customs, as a Bribe, for allowing of that Security for payment of their Rent to the late King's Majesty, which, without such reward of Five hundred pounds, he had formerly refused to allow of. The Earl pretended for himself, That he had not only that five hundred pounds, but five hundred pounds more, in all, one thousand pounds, of those Farmers, for a Release of his Claim, to Four of Two and thirty parts of that Farm: But, upon the proof, it appearing to your Lordships, that he had not any such part of that Farm as he pretended, it was in the 13 of May, in the 22 year of his late Majesties Reign, adjudged by your Lordships in Parliament (which I think is yet fresh in your memories) That the Earl for this, amongst other things, should undergo many grievous Censures, as appeareth by the

Records of your Lordships House, which I have lately seen and perused.

And now being to prove, that the said Duke had no Title to any part of the Goods by him claimed against the East-India Company, I shall easily make it manifest, if his Lordships pretence by his own Allegation in the Admiralty were true, That the Goods whereof he claims his share, were Pyratcally taken. From which Allegation, as he may not now recede, so it is clear by Reason and Authority, That of such Goods, no part or share whatsoever is due to the Lord Admiral, in right of his Office, or otherwaies.

1. For that the Parties from whom the same were taken, ought to have restitution, demanding it in due and reasonable time; and it were an injury to the intercourse and Law of Nations, if the contrary should be any way tolerated.

2. By Law; for so are the Statutes of this Kingdom, and more especially in 27 Edw. 3. 13. whereby it was provided, That if any Merchant, Privy or Stranger, be robbed of his Goods upon the Sea, and the same came afterwards into this Realm, the Owner shall be received to prove such Goods to be his, and upon proof thereof shall have the same restored to him again.

Likewise 1, 2, 3 Edw. 6. 18. in the Act of Parliament, touching Sir Thomas Seymour, Great Admiral of England, who therein, amongst divers other things, is charged with this, That he had taken to his own use Goods Pyratcally taken against the Law, whereby he moved almost all Christian Princes to conceive a grudge and displeasure, and by open War to seek remedy by their own hands: And therefore for this, amongst other things, he was Attainted of High Treason, as appeareth by that Act, wherein the Law is so declared to be as before is expressed.

But if it should be admitted, that the Duke had Right in this case, for which he might compound; yet the manner of his seeking to try and recover his Right, is, in it self, an high offence, and clearly unlawful in many respects, whereof I will touch but a few: As, in making the most Honourable House of Parliament an Instrument to effect his private ends for his profit: In proceeding to arrest and stay the Ships of men not apt to fly, but well able to answer and satisfy any just Suits which he might have against them, though their Ships had gone on in their Voyage, In prosecuting things so unseasonably, and urging them so extremely by his Advocate, for bringing in of so great a sum of money upon the sudden, and formally under colour of Justice and Service for the State: In reducing that Company into that strait and necessity, that it was as good for them to compound, though the Duke had no Title, as to defend their own just Right against him upon these disadvantages, which by his power and industry he had put upon them.

Then he read the Seventh and Eight Articles, which he handled jointly, as being not two Charges, but two several parts of one and the same Charge, as followeth:

Your Lordships may have observed, how in handling the former Articles, I have in my discourse used the method of time, which I hold to be best for the discovery of the truth: I shall therefore, by your Lordships patience, whereof now I have had some good experience, use the like order in my enlargement upon these latter Articles; touching which, that which I have to say, is thus:

In

Anno
1626:
In or about the two and twentieth year of the
Reign of our late dear Sovereign Lord King
James, of famous memory, there being then a
Treaty between our said late Sovereign and the
French King, for a Marriage to be had between
our then most Noble Prince (now our most gra-
cious King) and the French King's Sister (now
our Queen) and for entering into an active War
against the King of Spain, and his Allies in Italy,
and the Valloine. Our said late Sovereign passed
some promise to the French King's Embassadour
here, the Marquess D'Effiat, for procuring or
lending some Ships to be employed by the French
in that Service, upon reasonable conditions;
but without thought or intent that they should
be employed against the Rochellers, or any others
of our Religion in France: For it was pretended
by the French King's Ministers to our King, That
the said Ships should be employed particularly
against Genoa, and not otherwise. But after-
wards some matter of suspicion breaking forth
from those of our Religion in France, that the
Design for Italy was but the pretence to make a
Body of an Army fall upon the Rochellers, or other
of our Religion in that Kingdom; the King
grew so cautious in his Conditions, that as he
would perform his promise to lend his Ships, so
to preserve those of our Religion, he contracted
or gave directions, that the greatest part of the
Men in the same Ships should be English, where-
by the power of them should be ever in his hands.

And the Duke of Buckingham then, and yet,
Lord Great Admiral of England, well knowing
all this to be true, pretended he was and would
be very careful, and proceed with Art, to keep
the said Ships in the hands of our King, and up-
on our own Coasts; and yet nevertheless under-
hand he unduly intended, practised and endea-
voured the contrary: For afterwards by his di-
rection or procurement, in or about the Two and
twentieth year aforesaid, a Ship of his Majesties
called the Vanguard, being of his Majesties Royal
Navy, was allotted and appointed to be made
ready for the Service of the French King, and
seven other Merchant Ships of great burden and
strength, belonging to several persons, Natural
Subjects of our said late Sovereign Lord, were
by the Duke's direction impressed as for the Ser-
vice of his said late Majesty, and willed to make
themselves ready accordingly. The Names and
Tonnage of the said seven Merchants Ships were
as followeth.

1. The Great Neptune, whereof Sir Ferdinando Gorge was Captain.
2. The Industry, of the burden of four hundred and fifty Tons, whereof James Moyer was Captain.
3. The Pearl, of which Anthony Touchin was Captain.
4. The Marigold, of 300 Tons, Thomas Davies Captain.
5. The Loyalty, of 300 Tons, Jasper Dare Captain.
6. The Peter and John, of 350 Tons, John Davies Captain.
7. The Gift of God, of 300 Tons, Henry Lewen Captain.

Also about the same time a Contract was made
by and between Sir John Cook, and other the
Commissioners of his Majesties Navy, as in be-
half of his Majesty for his said Ship the Vanguard,
and on behalf of the Captains, Masters, and

Owners of the said seven Merchants Ships, but
without their privy or direction, for the service
of the French King, upon conditions to be safe
and reasonable for our King, this Realm and
State; as also for the said Captains, Masters,
and Owners of the said seven Merchants Ships,
and for the Companies. For Sir John Cook drew
the Instructions for the Direction, of the said
Contracts; which Instruction passed and were
allowed by the King, and such of the Council,
as were made acquainted therewith, and used in
this business. In which Instructions, as Sir John
Cook hath since alledged in the House of Com-
mons, there was care taken for provision to be
made, that the said Ship of his Majesty called the
Vanguard, should not serve against the City or
Inhabitants of Rochel, or those of that Religion in
France; nor take into her more men of the
French, than she could from time to time be well
able to command and Master. But whether the
Instructions for the Merchants Ships, and the
King's said Ship, were all one, is not yet cleared
unto the Commons; howbeit, it appeareth not,
but that the intent of our King and State was, to
be alike careful for both. Nevertheless a form
of Articles, dated the Five and twentieth day of
March, in the three and twentieth year of his
said late Majesties Reign, was prepared, ingros-
sed, and made ready to be sealed, without the
knowledge of the Captains, Masters, and Owners
of the said Merchants Ships, between the said
Marquess D'Effiat, the Embassadour, on the
one part, and the several Owners of the said Mer-
chants Ships respectively, on the other, viz. A
several Writing or Instrument for every of the
said Ships respectively, whereby amongst other
things, as by the same appeareth, it was cove-
nanted and agreed by and on the part and behalf
of the Owners, to and with the said Marquess
D'Effiat, to this effect, namely,

1. That their said Ships respectively, with a
certain number of men for every of them limited,
with Ordnance, Munition, and other necessa-
ries, should be ready for the French King's Ser-
vice, the 13 of April then next following.
2. That they should go in that Service under a
French General, to be as Captain in every of the
said Merchants Ships respectively; of the ap-
pointment of the French King, or his Embassa-
dour.
3. That they should serve the French King
against any whomsoever, but the King of Great
Britain.
4. That they should take in as many Souldiers
into their said several Ships as they could stow or
carry, besides their Victual and Apparel.
5. That they should continue Six Months, or
longer, in the Service, so that the whole time
did not exceed Eighteen Months.
6. That they should permit the French to
have the absolute command of their Ships, for
Fights and Voyages.

And it was amongst the said Articles, besides
other things, covenanted and agreed by the said
Marquess D'Effiat; as, for and on the behalf of
the French King, to this effect, namely.

- I. That there should be paid to every Owner
a Months Freight in hand, after the rate agreed
on; and Freight for two Months more after the
same rate, within fifteen daies after the date of
the Articles; the computation of the Months to
begin from the 28 of March.

X

II. And

11. 'And that the Ships should be ready in a certain form prescribed at the end of the Service.

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'When all things were in a readiness for circumvention and surprisal of the Owners, Captains, and Masters of the said Ships, then, and not before, they were suddenly pressed to seal the Counterparts of the prepared Articles, and they were about the same time released and discharged from the Imprest of his Majesties Service, and acquainted and designed to serve the French King, the said three Months Pay being offered, and afterwards paid unto them beforehand, as a Bait to draw on and intangle them in the business. Nevertheless, the Captains and Owners of the said Merchants Ships doubted upon some points, (to wit) First, against whom they should be employed. Secondly, what Foreign Power they should be bound to take into their Ships. And Thirdly, What sufficient security they should have for that Freight, and redelivery of their Ships.

'But there were private Instructions given to Captain John Pennington, Captain of the King's Ship the *Vananguard*; as for him and the whole Fleet, that he should observe the first Instructions, to wit, Not to serve against those of the Religion, and to take into his Ship no more French-men than they could Master. The pretence of *Genoa*, and these private Instruments for Pennington, were but a further Artifice of the Duke's to draw the Ships into France, and to conceal the breaking forth of the matter here in England: And the more to endear them, and confirm them in an opinion of right intention, they were commanded to conceal these private Instructions, as if the Duke and his Agents had trusted them more than they did the Embassadors: By these and other like cunning and undue proceedings of the said Duke, the said Marquess *D'Effiat* sealed one part, and the Owners of the said Merchants Ships respectively sealed the other parts of the said pretended Articles, trusting they should not be bound to the strict performance thereof, by reason of the said private Instructions to the contrary. After the passing of these Articles, the said Ships being formerly ready, the said Duke May 8. 1625. made a Warrant under the Great Seal, to call the companies aboard which had been raised & fitted for the said French service, according to former Instructions, & with first opportunity to go to such Port as the French Embassador should direct, &c. there to expect Directions of the Party that should be Admiral of the said Fleet, so prepared, with a require of all Officers to be assistant hereunto.

'All things being now in readiness, Captain Pennington being Admiral of this whole Fleet, in May 1625. went with the King's said Ship the *Vananguard*, and the seven Merchants Ships aforesaid to *Diep* in France: There instantly the Duke of *Memorancy*, Admiral of France, would have put 200 French Souldiers aboard the Ship called the *Industry*, being no more men than she could stow, but a far greater proportion of men than her proper Company was able to command or master; and offered also to do the like to every one of the said Ships, telling the said Captain Pennington, and other the said English Captains, and Owners, and their Companies in direct terms, that they were to go, and should go to serve against the City and Inhabitants of *Rochel*, and against those of our Religion: whereunto they all shewing themselves unwilling, there were

'Chains of Gold and other Rewards offered unto some of the Captains, Masters, and Owners, to induce them: All which they utterly refused, protesting unanimously against the Design, and would not take in above a fit number of men, such as they might be able to command.

'Also the Company of the Kings Ship did there inform Captain Pennington of this Overture made to go against *Rochel*, and exhibited a Petition to him against the same, subscribing their names to the Petition in a Circle or Compass, that it might not appear who was the beginner of the same, and then they laid it under his Prayer-Book, where he found and read it. Whereupon Captain Pennington and the rest consulted more seriously of the matter, and by a general assent returned all back to the Downs, where they arrived about the end of June, or beginning of July 1625. From thence Captain Pennington sent a Letter to the Duke of Buckingham by one *Ingram*, with the said Petition, and imployed him to become a Suitor to get a discharge from serving against *Rochel*: *Ingram* delivered the Letter to the Duke, and saw him read it together with the said Petition: whereby, as by other former and later means, he had full notice of the Design, and intent of the French to go against the *Rochellers*: James Moyer also about the same time came to the Court, and had conference with my Lord Conway and Sir John Cook, (now Secretary) acquainting them what had passed at *Diep*, praying them to acquaint the Duke, which they did, and the Duke delivered the said Letter and Petition to Sir John Cook. The Duke of Chevreux and Monsieur de Villocleer being now come into England, as Extraordinary Embassadors from the French King, they and the said Marquess *D'Effiat*, more especially *D'Effiat*, solicited and got a Letter from the Lord Conway by the Duke's means, dated July 10. 1625. directed to Captain Pennington, whereby he took upon him to express and signify his Majesties pleasure to be, That his Majesty had left the command of the Ships to the French King, and that now Captain Pennington should receive into them so many men as that King should please for the time contracted, and recommended his Letter to be as a sufficient Warrant in that behalf. All this while the King or body of the Council were never made acquainted with any other design than that of *Genoa*, nor heard any thing of the passages at *Diep*, nor of the design of *Rochel*, nor of our Masters and Companies Petitions, Informations, or Complaints thereupon. This Letter of the Lord Conway's was sent by Parker from Hampton-Court unto Pennington, being now about the Downs, and was not long after delivered into his hands. About this time Monsieur de la Touche, and others, as from the Duke de Rohan, and others of the Protestant party in France, solicited our King and Council against the going of the Ships, and had good words and hopes from both, but from the Duke the contrary, who told them, the King his Master was obliged, and so the Ships must and should go.

'The Ships remain still in the Downs, and afterwards, viz. about July 15. 1625. there was a Treaty at Rochester between the three Embassadors Extraordinary of France, and James Moyer, and Anthony Touchin for themselves and other English Captains, and Masters of Ships, &c.

Anno 1626. The said *Moyer* and *Touchin* being by message commanded to attend the Duke of *Buckingham* at *Rocheſter*, for concluſion and ſettlement to be had of this buſineſs, the ſaid Ambaſſadors did there proffer and offer to the ſaid *Moyer* and *Touchin* an *Instrument* in French purporting thus, viz.

1. That the ſaid Engliſh Captains and their Companies ſhould conſent and promiſe to ſerve the French King againſt all, none excepted but the King of *Great Britain*, in conformity of the Contract formerly paſſed between *d'Effiat* and them.

2. That they ſhould conſent and agree, in conſideration of the aſſurance given them by the Ambaſſadors, to the Articles of *March 25. 1625.* whereby the French King ſhould be made Maſter of the ſaid ſhips, by indifferent Inventory; that then they ſhould by him be warranted againſt all hazards of Sea-fight, & if they miſcarried, then the value thereof to be paid by the French King, who would alſo confirm this new Propoſition within fifteen days after the ſhips ſhould be delivered to his uſe by good caution in *London*.

3. That if the French King would take any men out of the ſaid ſhips, he might, but without any diminution of freight for or in reſpect thereof.

The ſaid *James Moyer* having gotten the French *Instrument* interpreted, answered, 1. They would not go to ſerve againſt *Rochel*; 2. nor ſend their ſhips without good warrant for their going; and 3. not without ſufficient ſecurity to their liking for payment of their freight, and reddition of their ſhips, or the value thereof; for the Ambaſſadors ſecurity was by them taken not to be ſufficient, and they proteſted againſt it, and utterly reſuſed this peraffetted *Instrument*: Here alſo *Sir John Epſly* and *Sir Thomas Love* diſſwaded the Duke from this enterpriſe, telling him, he could not juſtifie nor answer the delivery of the ſhips to the French.

The Lord Duke being at *Rocheſter*, and there acquainted with all theſe proceedings, commanded the ſaid *Moyer* and the reſt before theſe Ambaſſadors, that they ſhould obey the Lord *Conway's* Letter, and return to *Diep* to ſerve the French, and that ſo was our King's pleaſure; Howbeit, herein his Majeſties pleaſure appeared not, but the contrary: yet privately at the ſame time the Duke told them, that the ſecurity offered, or formerly given by the Ambaſſador, was inſufficient, and that though they went to *Diep*, yet they might and ſhould there keep their ſhips in their own power, till they had made their own Conditions to their own liking. *July 16. 1625.* the Duke of *Chevereux*, and *Monsieur Villocleer*, finding that they could not accompliſh their deſigns at *Rocheſter*, but they muſt be fain to defer the getting thereof till the coming of the ſhips back again to *Diep*, where it was thought that better opportunity, and more advantage for their ends would be had, did, to that purpoſe, make and ordain the Marqueſs *d'Effiat* their Deputy to contract with the Captains and Maſters of the Engliſh ſhips for the French King's ſervice, as effectually as themſelves might do, thereby transferring their power in that behalf to the ſaid *d'Effiat*, who intended to go over to *Diep* forthwith about this buſineſs. The Duke of *Buckingham* having thus the ſecond time dealt with the Captains and Maſters to go to *Diep*, and arm'd and prepar'd *d'Effiat* how and in what manner there to circumvent them, ſent over to *Diep* privately; and un-

derhand, his Secretary, *Mr. Edward Nicholas*, together with *d'Effiat*. *Mr. Nicholas* at and before the going over, had inſtructions from the Duke by word, to ſee the execution of the King's pleaſure ſignified by the Letter from my Lord *Conway*, and to procure the Captains and Maſters of the ſaid Merchants ſhips, to deliver over their ſhips into the hands of the French, upon the ſecurity peraffetted at *Rocheſter*, by the three French Ambaſſadors, and by them delivered to the Duke of *Buckingham*, who committed the ſame to the ſaid *Mr. Nicholas*, as the ſecurity, which in that behalf he was to take and accept. *Mr. Nicholas*, according to thoſe Inſtructions, went to *Diep* with *d'Effiat*, and was there very urgent to get the ſhips delivered to the French, according to the ſaid Inſtructions at their coming over to *Diep*: *d'Effiat* entred a Suit and Proteſt againſt our Captains and Maſters, and their original Articles, the better to enforce them to perform the ſame, without reſpect to the Duke's verbal pretences or allegations, made to the Captains and Maſters at *Rocheſter*, and in other places formerly to the contrary.

The Captains and Maſters came over again to *Diep* about *July 20.* where they found themſelves in a ſtrait, by reaſon of the ſaid Proteſt there entred againſt them, the Duke's inſtructions by word being too weak to exempt them from obtaining their Contract under their Hands and Seals; alſo *Mr. Nicholas* uſing the King's Name with threatning words, was there very earneſt from day to day, and very vehemently preſſed them to deliver over their ſhips, before ſecurity given to their content, contrary to the former Propoſition (viz. the Lord Duke's word to them at *Rocheſter*) which they reſuſing to yield unto, advertiſement thereof was ſpeedily ſent to the Duke of *Buckingham*, and to his Agents in *England*; and *Mr. Nicholas* continued ſtill at *Diep* about his former Negotiation.

July 27. 1625. *Sir Ferdinando Gorge*, Amb. *Touchin*, *James Moyer*, *Hen. Lewen*, *Tho. Davies*, *Jasp. Dard*, and *James Davies*, as Owners and Captains of the ſaid ſeven Engliſh ſhips hired for the French, did expreſs in writing, that they held it fit they ſhould not quit their ſhips till they had made their own reaſonable conditions, and were freed from the queſtions and troubles they were in; and in particular,

1. They pray to be free of the ſaid Proteſt, that they might the better treat of their affairs.

2. If the French King would have delivery of their ſhips into his power and poſſeſſion, that then they might have ſecurity by money depoſited in *London*, without revocation for ſatiſfaction of their ſhips, the former ſecurity by Merchants being inſufficient, and a ſtop already made of their Pay, which, upon that ſecurity, they know not how to come by.

3. Becauſe their ſhips, being Fortreſſes of this Kingdom, and the delivery of them over into the hands of a Foreign Prince without good warrant, concerneth even their very lives, that they might have a Warrant in that behalf under the Great Seal of *England*, before they ſhould be bound to deliver them over.

4. To be free of their bonds entred into for not ſelling their Ordnance, and alſo free of puniſhment in that behalf; and they ſhewed how they were more cautious herein, for that Commiſſioners drew the firſt Articles, which were now wholly broken, and theſe Articles were to be done by themſelves.

And this writing they sent from their ships by one Mr. *Basset Cole*, to present on shoar to the *Marquess d'Effiat* at *Diep*, who appointed the said Mr. *Cole* to treat for a speedy conclusion according to these Articles, who treated accordingly: And the said *Marquess*, to induce him to yield to his demands, shewed a Letter in French, signed by the Duke of *Buckingham*, whereby the Duke promised his endeavours to get the *Marquess* his turn served touching these ships.

The next day, viz. 28 July, 1625. Mr. *Nicholas* came aboard the *Neptune*, and declared in writing under his hand, how and why he was sent over by the Duke of *Buckingham*, as before, and craved the Captain and Master's Answer in writing under their hands, whether they would conform to the Lord *Conway's* Letter, and to the Instrument peraffetted at *Rochester*, for delivery over of the said ships, yea or no, offering to procure them a sufficient discharge to their contentment, for their so doing.

The same day also, Sir *Ferdinando Gorge*, and the rest, by writing, under their hands subscribed, did declare as followeth; namely,

That they were all willing to obey our King, but held not the security peraffetted at *Rochester*, by the three Ambassadors, to be sufficient (though honourable) and so they absolutely refused to deliver their Ships upon that security, desiring better caution in that behalf.

1. By Merchants of Paris.
2. To be transferred to London.
3. Irrevocable.
4. And such as might not be protected by Prerogative; and to have this under the Hands and Seals of both Kings.

All this while our King, or Body of the Council, knew nothing in certain of any other design of the French, than only of their pretence against *Genoa*, and believed, that all the Articles and Instruments that had passed between the French and us, or the Captains, Masters, and Owners of the English ships had been penn'd and contriv'd with full and good cautions accordingly, for prevention of all dangers that might grow to the contrary. Also the same 28 July, the Captains and Masters taking notice of Mr. *Nicholas* pressing them to deliver their ships before security given to their content, contrary to former Propositions, which they held unreasonable, did make answer unto the *Marquess* in writing, That until they should have security to their contentment, they would not quit the possession of their ships unto the French, (which was but reasonable) and they sent therewith a valuation of their several ships, as they would stand to. They likewise demanded a performance of all things, formerly sent to his Lordship from them by Mr. *Nicholas* (save only for the security by money deposited) saying, That for all the rest they durst not proceed otherwise.

Lastly, They prayed for a speedy Answer, that the delay in this business may not seem to be in them.

But *d'Effiat* being confident of the Duke of *Buckingham's* Letters, promises, and proceedings aforesaid, would not consent to these reasonable demands of the Captains and Masters of the English ships, protracting the time till he might hear further from the said Duke out of England.

While these things were thus in handling both

in France and in England, there were written over out of France into England Letters of advertisement, how, and upon what ground, or by what act or means procured or occasioned, appeareth not; yet from one Mr. *Larking*, a servant to the Earl of *Holland*, and a kind of Agent, a person some way employed by our State, or under some of our Ambassadors or Ministers in France; That the Peace was concluded with those of our Religion in France; and that within fourteen days the War would break forth, or begin in Italy, with a design upon *Genoa*; a matter of great importance for annoying the Spaniard.

This Letter of *Larking* came to the English Court at *Richmond*, 28 July, when the Dutches of *Cheveraux's* child was there Christned; and the Contents thereof (as hath been alledged) were confirmed by the Ambassadors of *Savoy* and *Venice*: By the advantage and colour whereof, the Duke of *Buckingham* drew the King, who all this while knew nothing of the design upon *Rochel*, or those of our Religion, but thought the former Articles had been safe and well penned, both for him and his Subjects, (according to the most Religious and Politick intention, and instructions in that behalf originally given by his late Father) to write a Letter dated at *Richmond* the same 28 July, directed to the said Captain *Pennington* to this effect, viz.

His Majesty did thereby charge and command the said Captain *Pennington*, without delay, to put his Highness former command in execution, for consigning the *Vanguard* into the hands of the *Marquess d'Effiat* for the French, with all her Furniture, assuring her Officers, his Majesty would provide for their indemnity; and to require the seven Merchants ships, in his Majesties name, to put themselves into the service of the French King, according to the promise his Majesty had made unto him; and in case of backwardness or refusal, commanding him to use all forcible means to compel them, even to sinking; with a charge not to fail, and this Letter to be his Warrant.

This Letter was sent by Captain *Thomas Wilbraham* to Captain *Pennington*, who was yet in the Downs. In the beginning of August 1625. Captain *Pennington* went over again to *Diep*, carrying with him the said Letters of his Majesty, and certain Instructions in writing from the Duke of *Buckingham* to Mr. *Nicholas*, agreeable in substance to the former verbal Instructions given by the Duke to him at *Rochester*, as the said *Nicholas* alledged: who also affirmeth, that in all things what he did touching that business, he did nothing but what was warranted by the Duke's Instructions to him: which, if it be true, then the Duke of *Buckingham* who commanded and employed him therein, must needs be guilty of the matters so acted by the said Mr. *Nicholas*. If there be any subsequent act or assent of Council, or of some Counsellors of State for the going of these ships to the French, or for putting them into their power, it was obtained only for a colour, and was unduly gotten, by misinforming the Contents of the sealed Articles, and concealing the Truth, or by some other undue means: Neither can any such latter act of Council in any sort justify the Dukes proceedings, which, by the whole current of the matter, appears to have been indirect in the business even from the beginning. About the time of Capt. *Pennington's* coming over to *Diep* the second time, Mr. *Nicholas* did, in his speeches to the Captains and Masters of the 7 Merchants ships, threaten and tell them, That it was as much as their lives were

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were worth, if they delivered not their ships to the French, as he required; which put them in such fear, as they could hardly sleep: And thereupon two of them were once resolved to have come again away with the Ships; and because the former threats had made them afraid to return into England, therefore to have brought and left their ships in the Downs, and themselves, for safety of their lives, to have gone into Holland.

Captain Pennington being the second time come into Diep, there forthwith delivered and put the said ship, the *Vanguard*, into the absolute power and command of the said French King, his Subjects and Ministers, to the said French King's use, to be employed in his service at his pleasure; and acquainted the rest of the Fleet with the effect of his Majesties Letter and Command, and demanded and required them also, to deliver and put their ships into the power and command of the French King accordingly. The Captains, Masters, and Owners of the seven Merchants ships refused so to do, as conceiving it was not the King's pleasure they should so do, without security for delivery of their ships, or satisfaction for the same to their good contentment. Hereupon Pennington went on shoar at Diep, and there spake with *d'Effiat* the Ambassador, and shortly after returned aboard, and gave the Captains, Masters, and Owners an answer, resting upon the validity, and urging the performance of the former Contract made and peraffected in England.

Then the said Masters and Captains prepared to be gone, and weighed Anchor accordingly. Whereupon Captain Pennington shot at them, and forced them to come again to Anchor, as yielding themselves for fear to his mercy and disposal. Upon this, Captain Pennington and the Frenchmen, that now commanded the *Vanguard*, came aboard the Merchants ships, and there proposed unto them a new way for their security touching their ships, namely, to accept the security of the Town of Diep: Whereupon they all went ashore, except Sir Ferdinando Gorge, who, with his ship, the *Great Neptune*, adventured to come away, as not liking these new and unreasonable Propositions. At their coming ashore they speak with Mr. Nicholas, and there by his enforcement came to a new agreement to accept the Security of the Town of Diep, upon certain hard Conditions; namely, The said Marquefs *d'Effiat*, as Extraordinary Ambassador in England, and as having power by deputation from the Duke of Cheverex and Villocleer, on or about August 15. 1625. did agree and promise to the said Moyer Touchin, Thomas Davies, Dard, John Davies, Leyen, as Captains and Owners of the said ships, called the *Industry*, the *Pearl*, the *Marygold*, the *Loyalty*, the *Peter* and *John*, and the *Gift of God*, then being in the Road of the Town of Diep, That the French King should give and furnish to the said Owners (they being present, and accepting it in this Town) this sufficient security, That within fifteen days after the said French King should be in possession of the said ships, he should give sufficient caution in London, for the sum of Two hundred and thirteen thousand Livers, whereat the said Ships were estimated, with all that appertaineth to them, as Cannons and other Munitions of War, viz. Fifty thousand pounds. And in or about the same 15th of August, 1625. the Commonalty of the said Town of Diep entered security, and bound

the goods of their Commonalty to the said English Captains and Owners, That the said French King and his Ambassadors should furnish the security within the City of London within the time, and for the sum aforesaid.

On or about August 16. 1625. the said Marquefs *d'Effiat*, as well in his quality of being Ambassador, as by vertue of his said Deputation, did by publick Act promise unto the said Moyer, Touchin, &c. to give and furnish to them (they being present, and requiring it in the Town of Diep) sufficient security in the City of London, within fifteen days after the French King should be in peaceable possession of the said ships, for the sum of Two hundred and thirteen thousand Livers Turnoys, whereat the said ships were valued, namely, for the said ship called the *Industry*, and so a several sum for every ship, which security should remain for assurance to pay to every of them the prices of their ships, before specified in that Act, in case they should be left in the French King's hands, with other particulars in the said Act mentioned, without derogating nevertheless from the Clauses of the said Contract March 25. 1625. Albeit, because the said Ambassadors had found it good now to discharge the English Mariners out of the said ships, that therefore the freight agreed upon by the said former Contract should not be wholly paid, but only for the space of the first six months; yet if the French King would use them for twelve months longer, or for any less time, that then he should pay freight for the same according to a new particular rate and manner expressed in the said Articles, and bound the goods of himself and the said Duke of Cheverex and Monsieur Villocleer, for the performance hereof, as by the said Article it self, reference being thereto had, amongst other things more fully appeareth.

This Article being passed and recorded at Diep, all the said seven Merchants ships, except the *Great Neptune*, who was gone away in detention of the Action intended by the French, were forthwith delivered into the absolute possession, power, and command of the French King, and of his said Ambassador *d'Effiat*, and other the Ministers and Subjects of the French King; to be employed by him in his service at his pleasure, and not one of all the English Company, Man or Boy, (other than one only man, a Gunner as it should seem) would stay in any of those ships, to serve against the *Rochellers*, or those of our Religion.

As soon as these ships were thus delivered into the possession and power of the French, the said Ambassador then moved them, and dealt earnestly with them for the sale of their ships. Mr. Nicholas having finished the work he went for, at his coming from Diep, he received a Diamond Ring worth fifty pounds, and an Hatband set with sparks of Diamonds, worth one hundred Marks, of the Ambassador, as a recompence for his painstaken in this Employment, which (although Ambassadors do confer greater rewards sometimes at their parting upon persons of Mr. Nicholas his quality, for less service done) yet was it more then so ill an office as he was employed in, could in any sort deserve.

The said Captain Pennington returned speedily into England, and took his journey towards the City of Oxford, where the Parliament was then sitting, by adjournment from Westminster thither, and there several Propositions were taken into debate for the good of our Religion, and the supply

Anno 1626. supply of his Majesties occasions: For the well resolving and settling whereof the true knowledge who, and upon what occasions and terms the severall ships were sent, delivered, imployed, and to be imployed, was very requisite. Afterwards nevertheless upon or about August 6. 1625. at a meeting and conference between both the Houses of Parliament in Christ-Church Hall, after the reading there of his Majesties most gracious Answer to a Petition of the Lords and Commons formerly exhibited unto his Majesty touching our Religion, and much for the good thereof, the Duke of Buckingham well knowing all the passages which I have now related to your Lordships to be true, did not only cautiously conceal the same, but also much boldly and untruly, by colour of a message delivered from his Majesty to both the Houses, affirm unto them touching those ships to this effect; That it was not always fit for Kings to give account of their Counsels, and that about five of the six months were already past, and yet the said ships were not imployed against Rochel; willing and advising the said Lords and Commons to judge the things by the event, to which he seemed to refer the matter. By which cunning Speeches the Duke intended, and accordingly did make the Lords and Commons then to believe that the said ships were never meant, or any way in danger to be employed against the Rochellers; or those of our Religion in France; and herein he did great injury and disservice to his Majesty, to the great scandal and prejudice of our Religion and Affairs, and highly abused both the Lords and Commons by this cautelous and subtle Speech and Insinuation, and thereby gave both Houses occasion to forbear petitioning or suing to his Majesty for Redress in this business, while the time was not then passed; for his ships were not as then actually imployed against the Rochellers, albeit in truth they were then delivered into the French King's Power.

And the same time before the Parliament was dissolved, Captain Pennington, who could have opened the whole truth of the business for the service of the King and the Realm, came to Oxford, but was there drawn to conceal himself by means of the Duke, and not to publish in due time his knowledge of the Premises, as was there shortly after reported. The truth whereof, the Lords in this Parliament may be pleased to examin, as they shall see cause; the Parliament at Oxford being shortly after, viz. August 12. unhappily dissolved.

In or about September, 1625. the said ships were actually employed against the Rochellers, and their Friends, to their exceeding great prejudice, and almost utter ruin. It hath been said by some of the French, that the *Vanguard*, she mowed them down like grass; to the great dishonour of our Nation, and the scandal of our Religion, and to the disadvantage of the great Affairs of this Kingdom, and all Christendom.

Also the ships themselves were in eminent peril to be utterly lost, for lack of sufficient cautions. If they be come home since this Parliament sate down, long after the matter was here expounded and taken into examination; it may be well presumed, that it is by some underhand procuring of the Duke, and the secret complying of the French with him, to colour out the matter; which the Lords may examin as they see cause. The one and only English man that

presumed to stay in one of the ships, and serve against the poor Rochellers of our Religion, at his return was slain in charging a Piece of Ordnance, not by him well sponged. Car. 2.

Upon February last, 1625. Monsieur de la Touche having speech with Mr. Thomas Sherwell, a Member of the Commons House of Parliament, at Salisbury; as he was coming up to the Parliament, and Monsieur de la Touche going down into Somersetshire to Mr. John Paulers to Monsieur Sobysa; He told Mr. Sherwell, in the hearing also of one Mr. John Clements of Plymouth, who is now in Town, the words that the Duke had spoken to him the last Summer, touching these ships; and thereupon used these words, *Ce Duque est un méchant homme.*

Upon this whole Narration of the Fact touching the manner of Delivery of the Ships to the French, divers things may be observed, wherein the Duke's offences do consist: as, in betraying a ship of the King's Royal Navy unto a Forreign Prince's hand, without good Warrant for the same; the dispossessing the Subjects of this Realm of their ships and goods by many artifices and subtilties, and, in conclusion, with high and open violence, against the good will of the Owners; In breaking the duty of Lord Admiral and Guardian of the Ships and Seas of this Kingdom; In varying from the original good Instructions, and presuming to give others of his own head in matters of State; In violating the duty of a sworn Privy Counsellor to his Majesty; In abusing both Houses of Parliament by a cautelous Misinformation, under a colour of a Message from his Majesty; and in disadvantaging the Affairs of those of our Religion in Forreign parts: Offences of an high and grievous nature.

For the proof of some parts thereof, which are not the least, I offer to your Lordships consideration the Statute of the 2 & 3 of E. 6. touching the Duke of Somerset; wherein is recited, That amongst other things, he did not suffer the Piers, called the *Newhaven* and *Blackest*, in the parts beyond the Seas, to be furnished with Victuals and money, whereby the French were encouraged to invade and win the same; and for this offence, amongst others, it was Enacted, That a great part of his Land should be taken from him. And if *Non-feazance* in a matter tending to lose a fixed Castle belonging to the King, be an high offence; then the actual putting of a Ship-Royal of the Kings, into the hand of a Forreign Prince, which is a moveable and more useful Castle and Fortrefe of the Realm, must needs be held a greater Offence.

I will forbear to cite any more Presidents of this kind, because some of those who have gone before me, have touched at divers Presidents of this nature, which may be applied to this my part. Only, because the abuse of the Parliament, which is the chiefeft Council of State and Court of Judicature in the Realm, is not the least offence in this business, I shall desire your Lordships to take into consideration the Statute of Westm. 1. cap. 30. whereby such as seem to beguile Courts of Justice, are to be sore judged in the same Courts, and punished, as by that Statute appeareth.

So he concluded, and left the Duke to their Lordships equal Justice.

Anno
1626.

The Ninth and Tenth Articles were read next.

IX. Whereas the Titles of Honour of this Kingdom of *England* were wont to be conferred as great Rewards, upon such vertuous and industrious Persons as had merited them by their faithful service; the said Duke, by his importunate and subtle procurement, had not only perverted that ancient and most honourable way, but also unduly, for his own particular gain, he hath enforced some that were rich (though unwilling) to purchase Honour: as, the Lord R. Baron of T. who, by practise of the said Duke and his Agents, was drawn up to *London*, in or about *October*, in the Two and twentieth year of the Reign of the late King *James* of famous memory, and there so threatened and dealt withal, that by reason thereof he yielded to give, and accordingly did pay the sum of Ten thousand pounds to the said Duke, and to his use: For which said sum, the said Duke, in the month of *January*, in the Two and twentieth year of the said late King, procured the Title of Baron R. of T. to the said Lord R. In which practise, as the said Lord R. was much wronged in this particular, so the example thereof tendeth to the prejudice of the Gentry, and the dishonour of the Nobility of this Kingdom.

X. Whereas no Places of Judicature in the Courts of Justice of our Sovereign Lord the King, nor other like Preferments given by the Kings of this Realm, ought to be procured by any Subject whatsoever for any Reward, Bribe, or Gift; he the said Duke, in or about the month of *December*, in the Eighteenth year of the Reign of the late King *James* of famous memory, did procure of the said King, the Office of High Treasurer of *England* to the Lord Vicount M. now Earl of M. which Office, at his procurement, was given and granted accordingly to the Lord Vicount M. And as a Reward for the said procurement of the same Grant, he the said Duke, did then receive to his own use, of and from the said Lord Vicount M. the sum of 20000*l.* of lawful money of *England*. And also in or about the month of *January*, in the Sixteenth year of the Reign of the said late King, did procure of the said late King, of famous memory, the Office of Master of the Wards and Liveries, to and for Sir L. C. afterward Earl of M. which Office was, upon the same procurement, given and granted to the said Sir L. C. and as a reward for the same procurement, he the said Duke, had, to his own use, or to the use of some other person by him appointed, of the said Sir L. C. the sum of Six thousand pounds of lawful money of *England*, contrary to the Dignity of our Sovereign Lord the King, and against the duty that should have been performed by the said Duke unto him.

Mr. Pym aggravateth and enlargeth on these and the eleventh Article as followeth.

My Lords,

Although I know that I shall speak to my own disadvantage, yet I shall labour to speak with as little disadvantage to the matter as I can. I have no learning or ornament, whereby I might shew my self, and I shall think it enough plainly to shew the matter: For all that I aim at, is, that I may lose nothing of the Cause. And therefore, my Lords, I shall apply my self with

as much convenient brevity, as one that knows that your Lordships time is much more precious than my words: Your Lordships being such Judges, as will measure things by true and natural proportions, and not by the proportion of the action or expression.

The first entrance into my service must be reading the Articles.

My Lords, this Charge, for matter of fact, is so notorious and apparent, that it needs no proof, that these Honours have been procured: And therefore I will only insist upon the Consequence. First, I will shew, that by this fact the Duke hath committed a great offence: And secondly, That this offence hath produced a great Grievance to the Commonwealth. And I will conclude, in strengthening the whole by some Precedents of former times, that Parliaments have proceeded in that course, in which your Lordships are like to proceed.

First, to prove it a fault or an offence, I must prove that there was a duty; for every fault presupposeth a duty: And in this case the first work is to shew, that the Duke was bound to do otherwise: For which I need to alledge nothing else, than that he is a sworn Servant and Counsellor to the King, and so ought to have preferred his Majesties Honour and Service before his own pride, in seeking to Ennoble all that Blood that concerned him. And it is not enough to say, that it is not questionable; for there have been great Men questioned in the like cases. There be some Laws made that are particular, according to the temper and occasions of several States: There are other Laws that be coessential and collateral with Government; and if those Laws be broken, all things run to disorder and confusion. Such is that Rule observed in all States, of suppressing Vice to encourage Vertue, by apt Punishment and Rewards: And this is the fittest Law to insist upon in a Court of Parliament, when the proceedings are not limited either by the Civil or Common Laws, but matters are adjudged according as they stand in opposition or conformity with that which is *Suprema Lex, salus Populi*.

2. By this late Law, whoever moves the King to bestow Honour, which is the greatest reward, binds himself to make good a double proportion of Merit in that party who is to receive it; The first, of value and excellence; the second, of continuance and durableness. And as this Honour sets men up above others, so they should be eminent in Vertue beyond others: As it is perpetual, not ending with their persons, but descending upon their posterity; so there ought to be in the first root of this Honour some such active merit in the service of the Commonwealth, as might transmit a vigorous Example to his Successors, whereby they may be raised to an imitation of the like Vertues.

He said, He would forbear to urge this point further; out of a modest respect to those persons whom it did collaterally concern, professing his Charge to be wholly against the Duke of *Buckingham*.

3. From the consideration of Honour, together with the price of Money; the which being compared together, may be reduced to two heads (may it please your Lordships;) the one being earthly and base, may be bought with a proportionable price of white and red Earth, Gold and Silver: The other, which is Spiritual (which is sublime) to which Money cannot be a proportionable price. Honour is transcendent, in regard

Car. 2.

Mr. Pym
enlargeth
the Eleventh
Article.

Anno 1626. *W*gard it was held a Sacred and Divine thing; in-
somuch that there was a Temple dedicated to
her by the *Romans*: And so I conclude by pre-
scription, that Honour is a Divine thing; for the
Scripture calls Kings, *Gods*; and then those that
are about Kings must needs be resembled to those
Powers and Principalities that attend next to the
Throne: And if Honour be such a Divine thing,
it must not then be bought with so base a price as
Money.

4. Lastly, Honour is a publick thing, it is the
reward of publick deserts.

And thus your Lordships have seen, that the
sale of Honour is an offence unnatural against the
Law of Nature. Now what an offence this is,
your Lordships may discern, considering the
kinds of the offence, and the Adjuncts, which I
now fall upon.

1. It extreemly deflowers the Flowers of the
Crown; for it makes them cheap to all behold-
ers.

2. It takes from the Crown the most fair
and frugal Reward of deserving Servants: For
when Honour comes to be at so mean a rate
as to be sold, there is no great man will look after
it.

3. It is the way to make a man more studious of
lucre and gain, than of sufficiency of Vertue;
when they know that they shall be preferred
to Titles of Honour according to the heaviness
of purse, and not for the weightiness of their mer-
it.

4. It introduceth a strange confusion, mingling
the meaner with the more pure and refined me-
tal.

5. Lastly, It's a prodigious scandal to this
Nation, (as the House of Commons think.)

For Examples and Presidents, I am confident
there are none; and your Lordships can look for
none, because it is not parallel'd to any President.
But certainly it is now a fit time to make a Pre-
sident of this Man, this great Duke, that hath
been lately raised to this transcendent height in
our Sphere; who thinketh he cannot shine en-
ough unless he d'm your Lordships Honours,
in making the same contemptible through the sale
of it, by the commonness of it.

Yet I am commanded further to observe ano-
ther step of unworthiness in this Gentleman,
who hath not only set Honour to sale by his A-
gents, but compelled men likewise, unwilling
to take Titles of Honour upon them. For the
particular, that Noble Gentleman that this con-
cerns, I am commanded to say of him from the
House of Commons, That they conceive of him,
that he was worthy of this Honour, if he had not
come to it this way; They can lay no blame up-
on him, that was constrained to make this bar-
gain to redeem his trouble. But we must distin-
guish of this, as Divines do between the Active
and Passive Usurers; they condemn the Active,
speaking favourably of the Passive.

And I must here observe to your Lordships,
by the Direction of the House of Commons,
That it seems strange to them, that this Great
man, whom they have taken notice of to be the
principal Patron and Supporter of the Semipela-
gian and a Popish Faction, set on foot to the dan-
ger of this Church and State, whose Tenets are
Liberty of Freewill, though somewhat mollified;
That a man, embracing these Tenets, should not
admit of Liberty in Moral things: And that he

should compel one to take Honour and Grace
from a King whether he will or no; what is that,
but to add Inhumanity and Oppression to Injury
and Incivility? *Car. 2.*

But here I must answer a President or two,
which may be by misunderstanding enforced a-
gainst me; 5 H. 5. There was *Martin*, and *Bar-
bington*, and others, which were chosen to be
Serjeants, and they did decline from it out of
their modesty, and doubted that their Estates
were not answerable to their Place: Yet upon
the charge of the Warden of *England*, they ac-
cepted it, and appeared to their Writs. Like-
wise there is a Writ in the *Register*, that many,
by reason of the Tenure of their Lands, may be
compelled to be made Knights. But this makes
rather against than for this Faction: For it is
true, that this is the wisdom and policy of the
Common Law, that those that be thought fit men
for Employment, may be drawn forth to be em-
ployed for the good of the Commonwealth,
where otherwise they would not take it upon
them: But that any man, for his gain, should
force a man to take Degrees of Honour upon
him; certainly this is beyond all Presidents, and a
thing not to be exemplified, either in our Nation, or
any other.

And further, I am commanded to tell your
Lordships, That it is dangerous, that if a great
Lord, by his power or strength, may compel a
Subject to take such Honours, why may he not
compel them as well to take his Lands at what
price he will, and to sell them again as he thinks
fit; yea, to marry his Children as it pleaseth
him? The consequence of this is great, if that
it be well considered; and they conceive that it
is of so great a consequence, that if it be not
stopped, it may come in time to make way for
a dangerous Subversion, and demonstrates a
great Tyranny of a Subject, under a most wise,
most gracious, and most moderate King.

And thus, my Lords, I have done with the
first Article allotted to my Charge, and so I pro-
ceed to the next.

My Lords, Before I enter into the enforcement
of this Article, I shall, by way of Protestation
from the House of Commons, do in this, as I did
in the other Article. And first, for the King's
Majesty, under whom we are now happily go-
verned and placed, I must, by their direction,
say, for his honour, and our comfort, and, with
humble acknowledgment, confess, that since his
coming to the Crown, there have been men of
as great parts and learning advanced into Places
in Church and Commonwealth, as any have been
heretofore. And then for the first of those Lords,
whose names are mentioned in this Article, I
must say, that they do not intend to reflect at
all upon him; nay, they think his person so wor-
thy, as to be advanced to as high a Place, without
any price at all, and that he ought to have kept it
longer, if those that shuffled in those times, had
not shuffled him out. *The tenth Article enlarged.*

Now to the matter of this Article, which is
the Sale of Places of Judicature, being an offence:
And to prove this, is all one as to make the
Glass clear by painting of it. The grounds
whereon I shall go, shall be laid open; *Magna
Charta*, chap. 29: the words are these; *Nulli ven-
demus, nulli negabimus Justitiam*. It may be said,
this comes not close to my purpose; yet, by your
Lordships favour, I shall make it good, that it
doth,

doth, and I shall begin with the latter of the two
Anno first, *Nalli negabimus*: For if any that hath pow-
 1626. er or favour with the King, should procure him
 to delay the making of Judges, when there were
 Judges to take it, it will not be denied, that they
 do their best endeavour to make the King break
 his word; for if any use their favour about the
 King to procure Places of Judicature for money,
 they do what in them lies to make Justice sale-
 ble; for it is plain, that he that buys, must sell,
 and cannot be blamed if he do sell.

I shall open the evil consequences that depend
 upon the sale of Places of Judicature, or any
 Places of great Trust.

1. By this means, unable men shall be sure of
 the precedence unto Places; for they being con-
 scious of their own want of Merits, they
 must be made up by the weight of Gold.

2. It must needs hence follow, that Suits, Con-
 tentions, Brawls, and Quarrels shall be increas-
 ed in the Commonwealth. For when men come
 to seats of Judicature by purchase, they must, by
 increase of Suits, increase their own pro-
 fit.

3. Men will not study for sufficiency of Learn-
 ing to be able to discharge their Places, but how
 they may scrape together money to purchase
 Places.

4. It will follow, That those that have the
 best Purfes, though worst Causes, will carry
 away the Victory always.

5. It will follow, That when they be prefer-
 red for money to those Places, they are tied to
 make the best of those Places, *vis & modis*: And
 then the Great Man that sold those Places to
 them, must uphold them in their Bribery; and
 he is tied to it, because they are his Creatures;
 nay further, he is tied to support them in their
 Bribery, to advance their Places upon the next
 remove.

6. And lastly, when good men, and well de-
 serving, come to any Place, they shall not con-
 tinue there, but they shall be quarrelled at, so
 that there may be a vacancy in that Place, and
 then some other shall suddenly step into the sad-
 dle, by giving a competent price.

Upon these and the like Reasons, this fact
 of selling and buying Places and Offices of Trust,
 hath not only been declaimed against by Chri-
 stians, but also by Moral Pagans. *Aristotle*
 in his 5. *lib. of Ethics*, cap. 8. gives it as a *Ca-*
vas, That no man amongst the *Thebans* was to
 take upon him any place of Government in the
 Commonwealth, if that he were a Merchant,
 unless there were Ten years distance between.
 And the Reason is this, Because Merchants are
 used to buying and selling, it is their Trade
 and Art to get money, so that their fingers are
 accustomed to that which they cannot leave,
 when they come to Places of Trust and Judica-
 ture. Nay further, in honour of the Merchants,
 He is accounted the wisest Merchant that gains
 most; so that if such comes to Offices and Pla-
 ces of Trust, he thinks it best to advance his pro-
 fit.

Next to the Pagans, the Popes, a Generation
 full of Corruption, yet they, by their Bulls, are
 full of Declamation against such. And this is
 plainly by a Bull of *Pius Quintus*, who lays the
 penalty of Confiscation of Goods of any that do
 for money acquire any Offices, and condemns
 them by his Papal Sentence to be great sin-
 ners. So *Gregory the Thirteenth* condemns the
 like.

And now to come nearer home, to come to
 that which will principally lead your Lordships,
 which are the Judgments of your Ancestors in
 Parliament; wherein it appears by the Statute
 of 5 H. 6. that the same Statute condemns the
 Seller and Receiver, as well as the Buyer and
 Giver. It further appears by the Preamble of
 that Statute, that such offences were against
 the Law, and they foresaw the Corruptions of
 those that came into those places by those means,
 and that it is a hindrance of sufficient and worthy
 men from those places. And also 2 & 3 E. 6.
 which was likewise cited in the Case of the Duke
 of *Somerset*, by which he was to forfeit his E-
 state, that one thing was for selling of Places in
 the Commonwealth for money. And certainly
 with your Lordships favour, it is most just and
 probable, that they that profess themselves to be
 Patriots, and shew by their actions, that they aim
 at their own lucre, and labour to hinder the di-
 stributing of Justice; it is most just and proper,
 that those men should return back again to the
 publick Treasury of the King and Kingdom, what
 they have by their unsatisfied lucre gotten.

And so, my Lords, craving pardon of you
 for my boldness, confusion and distractions, in
 going through this business, I humbly leave my
 self to the judgments of your favours and chari-
 ties, and this great Man, the Duke, to your wise
 Censure and Justice.

Then was read the Eleventh and Twelfth Arti-
 cles.

XI. That he the said Duke hath, within these
 ten years last past, procured divers Titles of Ho-
 nour to his Mother, Brothers, Kindred, and Al-
 lies; as, the Title of *Countess of Buckingham* to
 his Mother, while she was *Sir Thomas Compton's*
 Wife; the Titles of *Earl of A.* to his younger
 Brother *Christopher Villiers*; the Titles of *Baron*
of M. P. Vicount F. and *Earl of D.* to his Sister's
 Husband, *Sir W. F.* the Titles of *Baron of S.* and
Vicount P. to *Sir John Villiers*, elder Brother unto
 the said Duke; and divers more of the like kind
 to his Kindred and Allies: whereby the Noble
 Barons of *England*, so well deserving in them-
 selves, and in their Ancestors, have been much
 prejudiced, and the Crown disabled to reward
 extraordinary Vertues in future times with Ho-
 nour; while the small Estates of those for whom
 such unnecessary Advancement hath been procu-
 red, are apparently likely to be more and more
 burthensome unto the King, notwithstanding
 such Annuities, Pensions, and Grants of Lands
 annexed to the Crown, of great value, which the
 said Duke hath procur'd for those his Kindred, to
 support these their Dignities.

XII. He the said Duke not contented with the
 great Advancement formerly received from the
 late King, of famous memory, by his procure-
 ment and practise, in the Fourteenth year of the
 said King, for the support of the many Places, Ho-
 nours, and Dignities conferred on him, did ob-
 tain a Grant of divers Mannors, parcel of the Re-
 venue of the Crown, and of the Duchy of *Lan-*
caster, to the yearly value of One thousand six
 hundred ninety seven pounds two shillings half-
 penny farthing, of the old Rent, with all Woods,
 Timber, Trees, and Advowson; part whereof a-
 mounting to the sum of Seven hundred forty se-
 ven pounds thirteen shillings four pence, was rated
 at Two and thirty thousand pounds, but in truth
 of

Car. 1.

His imbe-
 zelling
 and ingro-
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 King's Mo-
 ney and
 Lands.

of a far greater value. And likewise in the Sixteenth year of the same King's Reign, did procure divers other Mannors annexed to the Crown of the yearly value, at the old Rent, of Twelve hundred pounds, or thereabouts, according as in a Schedule hereunto annexed appeareth: In the Warrant for passing of which Lands, he, by his great favour, procured divers unusual Clauses to be inserted, (*viz.*) That no Perquisites of Courts should be valued, and that all Bailiffs Fees should be reprised in the particulars upon which those Lands were rated; whereby a President hath been introduced, which all those who, since that time, have obtained any Lands from the Crown, have pursued to the damage of his late Majesty, and of our Sovereign Lord the King that now is, to an exceeding great value. And afterwards, he surrendered to his said Majesty divers Mannors and Lands, parcel of those Lands formerly granted unto him, to the value of Seven hundred twenty three pounds eighteen shillings and two pence half penny *per annum*; in consideration of which surrender, he procured divers other Lands of the said late King to be sold and contracted for, by his own Servants and Agents, and thereupon hath obtained Grants of the same, to pass from his late Majesty, to several persons of this Kingdom, and hath caused Tallies to be stricken for the Money, being the consideration mentioned in those Grants in the Receipt of the *Exchequer*, as if any such Monies had really come to his Majesties Coffers; whereas the Duke (or some other by his appointment) hath indeed received the same sums, and expended them upon his own occasions. And notwithstanding the great and inestimable gain by him made by the sale of Offices, Honours, and by other Suits by him obtained from his Majesty, and for the countenancing of divers Projects, and other Courses, burthensome to his Majesties Realms, both of *England* and *Ireland*; the said Duke hath likewise, by his procurement and practise, received into his hands, and disbursed to his own use, exceeding great sums, that were the monies of the late King of famous memory, as appeareth also in the said Schedule hereunto annexed: And the better to colour his doings in that behalf, hath obtained several Privy Seals from his late Majesty, and his Majesty that now is, warranting the payment of great sums to persons by him named, causing it to be recited in such Privy Seals, as if those sums were directed for secret Services concerning the State, which were notwithstanding disposed of to his own use; and other Privy Seals by him have been procured for the discharge of those persons without accompt; and by the like fraud and practise, under colour of free gifts from his Majesty, he hath gotten into his hands great sums which were intended by his Majesty to be disbursed for the preparing, furnishing, and victualling of his Royal Navy; by which secret and colourable devices the constant and ordinary course of the *Exchequer* hath been broken, there being no means by matter of Record to charge either the Treasurer or Victualler of the Navy with those sums which ought to have come to their hands, and to be accounted for to his Majesty; and such a confusion and mixture hath been made between the King's Estates and the Dukes, as cannot be cleared by the Legal Entries and Records, which ought to be truly and faithfully made, and kept, both for the safety of his Majesties Treasure, and for the indemnity of his Officers and Subjects whom it doth concern. And also in the Sixteenth year of the said King, in the Twentieth

year of the said King, he did procure to himself several Releases from the said King of divers great sums of Money of the said King by him privately received, and which he procured, that he might detain the same for the support of his Places, Honours and Dignities. And these things, and divers others of the like kind, as appeareth in the Schedule annexed, hath he done, to the exceeding diminution of the Revenue of the Crown, and in deceit both of our Sovereign Lord the King that now is, and of the late King *James* of famous memory, and to the detriment of the whole Kingdom.

Before Mr. *Sherland* entred and enlarged upon the Twelfth Article, in general concerning Honours mentioned in the preceding Article, and spake as followeth,

My Lords,

‘I hath pleased God (who hath the disposing even of all things in his hands) to cast this service now upon me, who did formerly endeavour to decline it, considering the weightiness of the business, the greatness of this presence, and my manifold defects, best known to myself: But another that should have with better contentment, I doubt not; performed this service, being fallen now sick, there is a necessity imposed on me by the House of Commons, wherein I shall be very plain and short, according to the warning I had; yet I shall deal plainly and faithfully, according to the sense of that House by whose command I now appear: And since I am now thrust as a Bush into the Gap, I hope your Lordships will not expect such a composition and strength of Speech which you have had from others of my Companions. The Subjects that fall to my Lot to speak of before your Lordships, are *Honour* and *Justice*, two great Flowers of the Crown: I confess my self exceeding unfit and unable to speak of these Points before an Assembly of such Persons of so great Honour, and such Superiour Judges of this Kingdom; but I must take my Lot: It pleaseth your Lordships, as in Sphere to take knowledge of the Grievances presented by the Commons House, which I desire and hope your Lordships will not take presumption.

‘May it please your Lordships, the parts of this Charge, as you discern upon the reading of it, are two; the one general, the other particular: The general is, perverting the ancient and noble course of attaining to the Title of Honour. 2. The other, the compulsion or enforcement of Men unwilling to purchase Honour.

‘For the first by way of Protestation, I am Mr. *Sherland* commanded by the House of Commons, to say, that they repine not at their advancement upon whom those Honours were conferred, but they think them worthy thereof; yet they wish, for their sakes, and the safety of this Nation, their vertues had solely raised them, and that they had not been forced and constrained to contribute to this bottomless Gulf to attain their Titles.

‘They complain again of this unworthy way brought in by this great man, they fall upon this in this manner, and found the Evils under which the Commonwealth suffers, and the causes of them being two principal Evils, which are the decay and stopping of the Trade, and the determination of Honour. In examination of

Anno
1626: of which second Evil, the Trade and Commerce of Honour, we have, as the Commons do, received, *confusum rem*: For he endeavouring to colour the matter, says for himself, That he was not the only introducer and first bringer in of this; but they find that he was the first that defiled this Virgin of Honour so publicly, making an account, that all things and persons should stoop and subject themselves to his vain desires and extravagancy. Now that this commerce of Honour is an offence; then to prove what kind of offence it is, is the only thing I shall trouble your Lordships with.

1. And first that it is an offence, I shall draw my first Argument from the Nature of Honour; Honour is a Beam of Vertue; now this Honour can be no more fixed upon an undeserving Person for Money, than fire can be struck out of a stick.

2. From the Subject of Honour, which is Merit, for the which no price ought to be paid to any great man by any undeserving person for the same, but their own merit and desert.

Then he passed to the Grievances which are caused by the selling of Titles, and they are Three.

1. First, It is prejudicial to the Noble Barons of this Kingdom.
2. To the King, by disabling him to reward extraordinary vertues.
3. To the Kingdom, which comprehends both Kings, Lords, and People.

For the first, he said, He would not trouble their Lordships with recital, how ancient, how famous the Degree of Barons hath been in these Western Monarchies; He said, the Baronage of England hath longer upheld that Dignity, and doth yet retain a greater height than in any other Nation; they are great Judges, a Court of the last resort, they are great Counsellors of State, and not only for the present, but as Law-makers, Counsellors for the time to come; and this not by Delegacy and Commission, but by Birth and Inheritance; So that when any man shall be made a Member of this great Body, who is not qualified for the performance of such noble Functions, it must needs be a prejudice to the whole Body, and dishonour to the Head. As if a little water be put into a great Vessel of Wine, as it receives spirit and strength from the Wine, so it doth impart some degrees of its own infirmity and coldness to the Wine.

Secondly, It is prejudicial to the King; not that it can disable him from giving Honour (for that is a power inseparable) but by making Honour ordinary, it becomes as an incompetent Reward for extraordinary vertue. When men are noble, they are taken out of the Press of the common sort, and how can it chuse but fall in estimation, if Honour it self be made a Press?

Thirdly, It is prejudicial to the Kingdom; the Stories and Records are full of the great assistance which the Crown hath received from the Barons, both in Forreign and Domestick Actions, not only by their own persons, but by their Retinue and Tenants, and therefore they are called by *Bracton*, *Robur Belli*; how can we now expect the like from such as have no Tenants, and are hardly able to maintain themselves?

But this is not all; for the prejudice grows not primitively by defect of that assistance which

they might give the State, but positively they have been a great burthen to the Kingdom by Gifts and Pensions already received, and yet stand in need of more for the future support of their Dignities. This makes the Dukes offence the greater, that in this weakness and consumption of the Commonwealth, he hath not been contented alone to consume the Publick Treasure, (which is the blood and nourishment of the State) but hath brought in others to help him in this work of Destruction. And that they might do it more eagerly, by enlarging the Honours, he hath likewise enlarged their Necessities, and their Appetites. He did second his Charge with two Presidents; the first, 28 Hen. 6. in the Complaint against the Duke of Suffolk, in the one and thirtieth Article of that Complaint, this was one of his Charges, That he *William de la Pool*, Duke of Suffolk, had procured one who had married his Niece to be made Earl of Kendal, and obtained for him One thousand pounds *per Annum* in the Dutchy of Guienne; and yet this Party was the Son of a Noble and well deserving Father. So you see this is no new thing for the House of Commons to complain, that those that are near the King should raise their Kindred to an unnecessary Honour; and if that were worthy of punishment for advancing of one, then what punishment is he worthy of that hath advanced so many?

The second President is 17 Edw. 4. There passed an Act of Parliament for the degrading of *John Nevil*, Marquess *Montague*, and Duke of *Bedford*; the reason expressed in the Act is, because he had not a Revenue sufficient for the maintaining of that Dignity; to which is added another reason of that nature, that when men of mean birth are called to a high Estate, and have not livelyhood to support it, it induceth great poverty, and causeth briberies and extortions, imbraceries and maintenance.

And now, my Lords, how far these Reasons shall lead your Judgments in this Case, I must leave it to your Lordships.

Then he read the Twelfth Article, the Title whereof was, the Exhausting, Intercepting, and Misemploying the King's Revenues.

My Lords, This Article consists of several Clauses, which in some respects may be called so many distinct Charges; for though they all tend to one end and scope, the diminishing the King's Treasure, yet it is by divers ways, so that every Clause is a particular Branch. Therefore he desired to break it into parts, and to select the most material, either in point of offence or grievance, intending to pass through them with this order; first, to declare the state of the proof, and then to add such reasons and inforcements as he did conceive most conduceable to that Judgment which the Commons were to expect from their Lordships.

He made two main Branches of this Article. The first concerns Lands obtained from the Crown; the second concerns Money in Pensions, Gifts, Farms, and other kind of profit.

Touching the Lands he observed four things,

1. The sum of three thousand thirty five pounds *per Annum* of old Rent, besides the Forest of *Loxfield* of which we have no value, and we

can find no Schedule granted by the late King to my Lord of *Buckingham* within ten years past, as appeareth by the several Grants vouched in the Schedule annexed; and it was in it self a grievance, that in a time of such necessity, when the King's Revenues are not able to support such a great charge, that so much Land should be conveyed to a private man: this he acknowledged was not the Duke's case alone, for others had received divers Grants from the King, but none in so great measure.

And because the Commons aim not at judgment only, but at Reformation, he wished, that when the King should bestow any Land for support of Honours, that the caution which was wont to be carefully observed might again return into use; that is, to annex those Lands to the Dignity, lest being obtained and wasted, the Party repair to the King for a new support; by which provision the Crown will reap this benefit, that as some Lands go out of new Grants, others will come in by spent Intails.

He said he would not trouble their Lordships with repetition of the Laws heretofore made for preventing the alienation of the King's Lands, and for resuming those that had been alienated, nor of the Ordinances made in this high Court for the same purpose, and Fines set upon those that presumed to break such Ordinances; he only added, as a further enforcement of the Grievance, that when the King's Revenues be unable to defray publick necessities, the Commons must needs be more burthened with Supplies.

2. His second Point was, the unusual Clauses which the Duke by his greatness hath procured to be inserted into the Warrants for passing of those Lands, of which two were mentioned; the first, That the casual profits should not be rated in the particulars; the second, That all Bailiffs Fees should be reprimed: Both which are to be proved by the Warrants remaining with the Auditors of the Rates, and other Auditors; whereupon he presented these Considerations.

First, That it was a mark of Ingratitude and Infatiableness in the Duke, thus to strain the King's Bounty beyond his intention; and that he would not receive this Bounty by the ordinary way, but by the way of practice.

Secondly, It argued Unfaithfulness in him, that being a sworn Counsellor, he should put the King into such Courses of so much prejudice, deceitfully, in concealing the value of that which he bought; so that the King gave he knew not what; For under the proportion of Two thousand pounds, he gives it may be Four thousand pounds. And by this the King did not only sustain great loss for the present, but it opened a way of continual loss, which hath ever since been pursued by all those who have passed Lands from the Crown.

Thirdly, The King is hereby not left Master of his own Liberality, neither in proportion nor certainty; for it might so fall out, that the Quantity passed from him, might be treble to that he intended.

3. The third was, The Surrender of divers parcels of these Lands back to the King, after he had held them some years, and taking others from the King in exchange. Where he noted,

That the best of the Lands and most vendible being passed away, the worst lay upon the

King's hand; that if he should have occasion to raise Money by sale of Lands, that course is not like to furnish him. Besides, that in the meantime betwixt the Grants and the Surrenders, opportunity was left to the Duke to cut down Woods, to enfranchise Copyholds, to make long Leases, and yet the old Rent remaining still, the Land may be surrendered at the same value. Whether this have been practised, he could not affirm, not having had time to examine it; yet he desired the Lords to enquire after it, the rather for that the Mannor of *G. in Lincolnshire* being dismembered, and Seventeen pounds of the old Rents sold out of it, was by a Surrender turned back upon his Majesty.

4. The fourth point of this Branch was, The colourable Tallies divers parcels of these Lands had from the Crown in lieu of this surrender, being sold and contracted for by his own Agent, and the Money received by himself or to his use, and yet Tallies were stricken out, as if it had really come to the *Exchequer* for his Majesties service. This is to be proved by his own Officers, by the Officers of the *Exchequer*, and by the Tallies themselves, which Tallies amount unto 20563 *l.* 16 *s.* 8 *d.* Whence he observed,

First, That there ran a trade of Falshood toward the King throughout all this his dealing.

Secondly, That this was a Device thought upon to prevent the wisdom of Parliament; for by this means the Grant seems to have the face of valuable purchases, whereas they were indeed free Gifts.

Thirdly, If the Title of those Lands should prove questionable, it appearing by Record, as if the King had received the Money, he was bound in honour to make restitution, and yet the Duke had the profit.

But it may be said, This was the Purchasers desire for their own security. Of which Objection he made this use, That the Subjects generally took notice of so much Lands given to the Duke, that there is good cause to expect a Resumption.

In the second general branch of this Article concerning Money, the first point observed was, the total sum received by him in ten years space, amounting to 162995 *l.* besides the Grant he hath of the Overplus above Three thousand pounds per Annum to be made of the Third imposed upon Strangers Goods, and besides the Moiety of Seven thousand pounds out of the Customs of *Ireland*, which he is bound to pay to the King; but whether it hath been paid, or no, is doubtful.

This he delivered as a Sum Estimative, yet so computed as it may be more, but not less. And this total ariseth by free Gifts or Pensions to himself, else by profit of Farms, by Pensions to others; for Offices, whereof he received the profit, as the *Admiralty*, and *Mastership of the Horse*. All which appear by a Schedule annexed to his Charge.

The Grievances consist in this; That the Commonwealth hath been bereaved of the use and employment of so publick Treasure in a time of as great want, and great occasions in this State, as it hath had in many Ages, when the expences of the King's Court can hardly be supplied, when his Houses and Castles were unfurnished, when the Seas have been unguarded, the Coast subject to the incursion and spoil of Enemies by default of Provision in the Navy, to the dishonour

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dis honour of the Nation, and damage of the Subjects, and hazard of the whole. And the offence is this, that the wants in the Navy and the Stores being within his own Charge, he was no more sensible of them; whereby it appears, he preferred the serving of his own turn before his duty and before the safety of this State.

The second point observed in this branch, was, That the Duke under pretence of secret services, had procured great sums of Money to be issued by Privy-seals to sundry persons named by himself, but afterward employed to his own use. Hereof two instances are propounded: the one of eight thousand pounds paid to Sir Robert Pye, 12 Aug. 1610. and by him disbursed for the Duke's purchase of *Burleigh*; and Sir Robert Pye discharged by another Privy-seal, 4 Junij following. The second instance is of Sixty thousand pounds paid to *Burleigh* by a Privy-seal, in September 1625. Which time he rather noted, because the Parliament at Oxford was broken up a little before out of discontent that the King was not supplied for the setting out of the Fleet, which would have been done with a less sum. For the proof of that the House of Commons will offer to your Lordships Witnesses.

The quality of this offence he left to their Lordships judgment; yet propounding some things by way of enquiry, from whence it might receive measure and proportion. 1. Whether it had not affinity with the Crime in the Civil Law, called *Crimen peculatus*; which was when a man did unjustly turn to his own use that Money which was either *sacra*, dedicated to God's service religiously; or *Religiosa*, used about Funerals and Monuments of the dead; or *Publica*, of which kind the matter now in question is. And this offence by that Law was Death and Confiscation of Goods and Estate. Which he notes the rather, that their Lordships might perceive, that in the wisest State the Publick Treasure was held in the same reputation with that which was dedicated to God and Religion. 2. And whether it doth not resemble another Crime in the same Law termed *Crimen falsi*, and is defined to be when a man shall *imitatione veri suum compendium alieno dispendio per dolum facere*, by semblance of truth make gain to himself of other mens losses: Which in the case of a Bondman was death, and in case of another man Banishment and Confiscation, or otherwise very penal, as the Judges should find cause of moderation, or rigour, in the nature and circumstances of the Fact. 3. Whether their Lordships will estimate it according to any Sentences in the *Star-Chamber*, which have been very frequent in cases of Fraud, or according to the Common-Law, which so much detests this kind of dealing, as that they term it *Covins*, and make it vitiate ordinary and lawfull actions. Or lastly, Whether they will Measure it by that Judgment which the Duke hath pass'd against himself in the guilt of his own Conscience? (Direct Actions are not afraid to appear open-faced; but Injustice and Fraud desire to be masked with subtilty and closeness.) It were offence enough, if there were no more but a cunning concealing of unthankfulness to hide his Majesties bounty; or guilt of unworthiness, as if he durst not avow the receipt of that which he hath not merited; both which proceed from *Malum culpa*, or else that

other kind of guilt which proceeds from *Malum poena*, the fear of punishment, fore-seeing this Inquisition into his actions, and hoping, under this disguise of Publick service, to escape their Lordships censure.

The third Point in this branch is, That he hath received sundry sums of Money intended for the maintenance of the Navy: whereof there are two instances: the one whereof is 20000 l. the other of 30000 l. both in January 1624. By Privy-seal, by the which these sums are issued, they appear to be Free gifts: But by the affirmation of some in answer for the Duke, it hath been said, He was only the hand to convey them to the Treasury of the Navy. If the truth be according to the Privy-seal, they are to be added to the former Total as parcel of his own gain: If according to that allegation, it may prove a President of greater damage to the King, than the Money is worth; for by this way his Majesty hath no means by matter of Record to charge the Treasurer of the Navy with these sums, and may lose the benefit of the Act of Parliament 13 Eliz. whereby Accomptants Lands are made liable to the payment of their Debts to the King, and in many cases may be sold for his Majesties satisfaction. The Treasurer of the Navy is a worthy man, but if he should die, the King loseth the benefit.

The fourth Point of this branch is, That he hath caused so great a mixture and confusion between the King's Estate and his own, that they cannot be distinguished by the Records and Entries which ought to be kept for the safety of his Majesties Treasure, and indemnity of the Subject. This is proved in divers instances, whereof the last alledged is one, and others follow.

By the wisdom of the Law in the constitution of the *Exchequer*, there be three Guards set up on the King's Treasure and Accompts. The first is a legal Impignoration, whereby the Estates personal and real of the Accomptants are made liable to be sold for the discharge of their Debts, which I mentioned before. The second an apt Controllment over every Office; by which the King relies not upon the industry and honesty of any one man; but if he fail in either, it may be discovered by some other sworn to take notice of it, and either to correct his Errors, or amend his Faults. The third is; a durable Evidence and Certainty, not for the present time only, but for perpetuity because the King can neither receive, or pay, but by Record.

All these Guards have been broken by the Duke, both in the Cases next before recited, and in these which follow. The custom of the *Exchequer* is the Law of the Kingdom, for so much as concerneth the King's Revenue. Every breach of a Law by a particular offence, is punishable; but such an offence as this, being destructive of the Law it self, is of a far higher nature.

The fifth Point of this second branch, is concerning two Privy-seals of Release; the one 16, the other 20 Jac. whereby this Duke is discharged of divers sums secretly received to his Majesties use, but by virtue of these Releases to be converted to the support of his own Estate. The proof hereof is referred to the Privy-seals themselves. From which he made one observation, of the subtilty he used to wind him-

Anno 1626. 'himself into the possession of the King's Money, and to get that by cunning steps and degrees, which peradventure he could not have obtained at once. A good Master will trust a Servant with a greater sum that is out of his Purse, than he would bestow upon him being in his Purse; and yet after it is out of his hands, may be drawn more easily to make a Release, than at first to have made a Free gift. This is a proper instance to be added to the proof of the point of mingling his own Estate with the King's; and of the same kind be other particulars mentioned in the Schedule, though not expressed in the Charge; as twenty thousand pounds received in Composition for the Earl of M. his Fine, which cannot be discovered whether part or all be converted to the Dukes benefit, and yet it appears by a Private-Seal to be clearly intended to the King's own service for the Household and Wardrobe, till by the Duke's practice it was diverted into this close and by-way.

'Another instance in this, is, His endeavour to get the Money which should be made of Prize-goods into his own hands; and for this purpose, he first laboured to procure that his man *Gabriel Marsh* might receive it; and when it was thought fit some partner should be joyned with him, trial was made of divers, but none of any credit would undertake the charge with such a Consort: And the Commons have reason to think there was good cause of this refusal; for he is so ill an Accomptant, that he confessed in their House (being examined) that by authority from the Duke he received divers bags of Gold and Silver out of the *St. Peter of Newhaven*, which he never told.

'When this practice of employing his own man would take no effect, then he procured a Commission from *Sir William Russell*, who is indeed without exception an able and worthy Officer; but that is not enough for the King's security; For however he was to receive the Money, it was to be disbursed by and to the Duke's warrant and profit. Which Clause hath been altered since this was questioned in Parliament; and now it is to be issued from an immediate Warrant from his Majesty: But as it was before, it may be noted as an incroachment upon the Office of my Lord Treasurer, whereby he might make a more easie way to some sinister end of his own; so that upon the matter, *Sir William* was but a safeguard of the Money for the Duke himself. And this I must note of some guilt in the very act of it.

'The last point upon this whole Charge, was a reduction of the value of the Land, together with the Money into one total, and to that purpose he rated the Land, being valued at a reasonable value, at forty years purchase; for although some of it was sold for thirty, yet a great part was worth more than a hundred years purchase, so as forty years is conceived to be an easie Medium; at this rate, 3035*l.* amounteth to 121400*l.* which being added to the total of the Money received, 162995*l.* both together make the sum of 284395*l.* besides the Forest of *Leyfield*, and besides the profit made out of the thirds of Strangers Goods, and the Moiety of the profit made out of the Customs of *Ireland*.

'This is a great sum in it self, but much greater by many Circumstances; if we look upon the time past, never so much came into any private man's hands out of the publick Purse; if we

respect the time present, the King never had so much want; never so many Foreign occasions, important and expensive; the Subjects have never given greater supplies, and yet those supplies unable to furnish these expences. But as the Circumstances make the sum greater, so there be other Circumstances which make it less, if it be compared with the inestimable gain he hath made by the sale of Honours and Offices, and by projects hurtful to the State, both of *England* and *Ireland*; or if it be compared to his profusion, it will appear but a little sum. All these gifts and other waies of profit notwithstanding, he confessed before both Houses of Parliament, that he was indebted 100000*l.* If this be true, how can we hope to satisfy his prodigality? if false, how can we hope to satisfy his covetousness? and therefore their Lordships need not wonder, if the Commons desire, and that earnestly, to be delivered from such a Grievance.

'That this complaint and proceedings of theirs may appear to be suitable to the proceedings of their Predecessors in like cases; he alledged three Presidents, which he said were Presidents in kind, but not in proportion, because there hath never been the like.

'The first, 10 *Rich. 2.* in the complaint against *Michael de la Pool*, Earl of *Suffolk*; out of which he took three Articles: The first, That being Chancellor, and sworn to the King's profit, he had purchased divers Lands from the King, more than he had deserved, and at an under rate; yet this was thought to be an offence against the State.

'The second, That he had bought of one *Tydeman* an Annuity of five hundred pounds per annum; which Grant was void by the Laws, yet he being Chancellor, procured the King to make it good by a new Grant, upon surrender of the old. This was complained of in Parliament, and there punished.

'The third, Whereas the Master of *St. Anthony's*, being a Schismatick, had forfeited his Possessions into the King's hand; this Earl took them in Farm at twenty Marks a year, converting the over-plus, which was one thousand Marks, to his own profit, which would have come to the King.

'The next President, 11 *Rich. 2.* in the Judgment against *Robert de Vere* of *Oxford*, and others; out of which he took two Articles, the Fifth and Seventh: The Fifth was for taking Mannors and Lands annexed to the Crown, whereby they themselves were enriched, and the King made poor. The Seventh was for intercepting the Subsidies granted for the defence of the Kingdom.

'The third President is that of 18 *Hen. 6.* in the Parliament-Roll, out of the complaint against *William de la Pool*, Duke of *Suffolk*, Article 29. That he being next and primest of Council to the King, he had procured him to grant great Possessions to divers persons, whereby the King was much impoverished, the expence of his House unpaid, Wages, Wardrobe, Castles, Navy, Debts, unsatisfied; and so by his subtil Council, and unprofitable Labour, the Revenues of the Crown, and the Dutchy of *Lancaster*, and other the King's Inheritances, so much diminished, and the Commons of the Kingdom so extremely charged, that it was near to a final destruction.

'The

Anno 1626. The Fourth was, That the King's Treasure was mischievously distributed to himself, his Friends and well-willers; so that for lack of Monies, no Army, nor Ordnance, could be provided in time; and because these great Persons were not brought to judgment upon these Articles alone, but for other misdemeanors, he made this observation, That ravening upon the King's Estate, is alwaies accounted with other great faults that deserve judgment.

Then he said, he had done with that which had been left to him; and so he left the Duke to their Lordships Justice, That as he had exceeded others in this offence, so he might not come behind them in punishment. And so he humbly desired their Lordships to be pleased to pardon his Delivery, and to give a favourable censure of him.

Lastly, The Thirteenth Article was read.

XIII. Whereas special care and order hath been taken by the Laws of the Realm, to restrain and prevent the unskilful Administration of Physick, whereby the health and life of Men may be much endangered. And whereas most especially, the Royal Persons of the Kings of the Realm, in whom, we their Loyal Subjects humbly challenge a great interest, are, and alwaies have been esteemed by us so sacred, that nothing ought to be prepared for them, or administered unto them in the way of Physick or Dyet, in the times of their sickness, without the consent and direction of some of their sworn Physicians, Apothecaries, or Chirurgeons. And the boldness of such (how near soever to them in place and favour) who have forgotten their duties so far, as to presume to offer any thing unto them beyond their experience, hath been alwaies ranked in the number of high Offences and Misdemeanors. And whereas the sworn Physicians of our late Sovereign Lord King James, of blessed memory, attending on his Majesty in the Month of March, in the two and twentieth year of his most glorious Reign, in the times of his sickness, being an Ague, did, in due and necessary care of, and for the recovery of his health, and preservation of his Person, upon, and after several mature Consultations in that behalf had and holden, at several times in the same Month, resolve and give directions, That nothing should be apply'd or given unto his Highness, by way of Physick or Dyet, during his said sickness, but by, and upon, their general advice and consents, and after good deliberation thereof first had: more especially by their like care, and upon like consultations, did justly resolve, and publicly give warning to, and for all the Gentlemen, and other Servants, and Officers of his said late Majesties Bed-Chamber, That no Meat or Drink whatsoever should be given unto him, within two or three hours next before the usual time of, and for the coming of his Fit in the said Ague, nor during the continuance thereof, nor afterwards, until his cold Fit were past. The said Duke of Buckingham, being a sworn Servant of his said late Majesty, of and in his Majesties said Bed-Chamber, contrary to his duty, and the tender respect which he ought to have had of his Majesties most Sacred Person; and after the Consultations, Resolutions, Directions, and Warning aforesaid, did nevertheless, without any sufficient warrant in that behalf, unduly cause and procure certain Plaisters, and a certain Drink or Potion to be provided for

the use of his said Majesty, without the direction or privity of his said late Majesties Physicians, not prepared by any of his Majesties sworn Apothecaries or Chirurgeons, but compounded of several Ingredients to them unknown. Notwithstanding the same Plaisters, or some Plaister like thereunto, having been formerly administered unto his said Majesty, did produce such ill effects, as that some of the said sworn Physicians did altogether disallow thereof, and utterly refused to meddle any further with his said Majesty, until these Plaisters were removed, as being hurtful and prejudicial to the health of his Majesty; yet nevertheless the same Plaisters, as also a Drink or Potion, was provided by him the said Duke; which he the said Duke, by colour of some insufficient and slight pretences, did upon Monday, the one and twentieth day of March, in the two and twentieth year aforesaid, when his Majesty, by the judgment of his said Physicians, was in the declination of his disease, cause and procure the said Plaisters to be applied to the Breast and Wrists of his said late Majesty. And then also at, and in his Majesties Fit of the said Ague, the said Monday, and at several times within two hours before the coming of the said Fit, and before his Majesties then cold Fit was passed, did deliver, and cause to be delivered, several quantities of the said Drink or Potion to his said late Majesty; who thereupon at the same times, within the seasons in that behalf prohibited by his Majesties Physicians, as aforesaid, did, by the means and procurement of the said Duke, drink, and take divers quantities of the said Drink or Potion.

After which said Plaisters, and Drink or Potion, applied and given unto, and taken and received by his said Majesty, as aforesaid, great distempers, and divers ill symptoms appeared upon his said Majesty; insomuch, that the said Physicians finding his Majesty the next morning much worse in the estate of his health, and holding a Consultation thereabout, did, by joyned consent, send to the said Duke, praying him not to adventure to minister to his Majesty any more Physick, without their allowance and approbation. And his said Majesty himself finding himself much distressed and affected with pain and sickness, after his then Fit, when by the course of his Disease he expected intermission and ease, did attribute the cause of such his trouble unto the said Plaister and Drink, which the said Duke had so given, and caused to be administered unto him. Which said adventurous act, by a Person obliged in duty and thankfulness, done to the Person of so great a King, after so ill success of the like formerly administered, contrary to such Directions as aforesaid, & accompanied with so unhappy event, to the great grief and discomfort of all his Majesties Subjects in general, as an offence and misdemeanor of so high a nature, as may justly be called, and is, by the said Commons, deemed to be an act of transcendent presumption, and of dangerous consequence.

Mr. Wandesford deputed to enlarge and aggravate upon the Thirteenth Article, commended the charity and providence of that Law, which makes it penal for unskilful Empyricks, and all others to exercise and Practise Physick upon common persons, without a lawful Calling and Approbation, branding them that thus transgress as *Improbos, Ambitiosos, Temerarios, & Audaces homines*: But he that without skill and calling shall direct a Medicine, which upon the same

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The Thirteenth Article enlarged by Mr. Wandesford.

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person had wrought bad effects, enough to have dissuaded a second adventure; and then when Physicians were present, Physicians selected for Learning and Art, prepared by their Office and Oaths, without their consent, nay, even contrary to their Direction, and in a time unseasonable; he must needs (said he) be guilty, albeit towards a common person, of a precipitate and unadvised rashness, much more towards his own Sovereign. And so pious are our selves to put the Subjects in mind of their duty towards their Princes, Persons so Sacred, that in the attempt of a Mad-man upon the King, his want of Reason, which towards any of his fellow Subjects might have quit him of Felony, shall not excuse him of Treason. And how wary and advised our Ancestors have been not to apply things in this kind to the Person of a King, may appear by a President, 32 Hen. 6. where *John Arundel*, and others the King's Physicians and Chyrurgeons, thought it not safe for them to administer any thing to the King's Person, without the assent of the Privy Council first obtained, and express Licence under the Great Seal of England.

This Medicine found his Majesty in the declination of his disease, (and we all wish it had left him so) but his better daies were shortly turned into worse; and instead of health and recovery, we hear, by good testimony (that which troubles the poor and Loyal Commons of England) of great distempers, as Droughts, Raving, Fainting, an intermitting Pulse, strange effects to follow upon the applying of a Treacle Plaister. But the truth is, Testimony tells us, that this Plaister had a strange smell, and an invective quality, striking the malignity of the disease inward; which Nature otherwise might have expelled outward. Add to this the Drink, twice given to his Majesty, by the Duke his own hands, and a third time refused, and the following complaint of that blessed Prince, the Physicians telling him, to please him for the time, That his second impairment was from cold taken, or some other ordinary cause: No, no, said his Majesty, *it is that which I had from Buckingham*. And though there be no President (said he) of an act offered to the Person of a King, so insolent as this; yet it is true, that divers persons as great as this, have been questioned and condemned for less offences against the Person of their Sovereign; It was an Article amongst others laid against the Duke of *Somerset*, for carrying *Edward* the Sixth away in the night time, out of his own head, but from *Hampton-Court* to *Windso*; and yet he was trusted with the Protection of his Person. Presidents failing us in this point, the Common Law will supply us. The Law judgeth a Deed done in the execution of an unlawful act, Man-slaughter, which otherwise would but have been Chance-medly; and that this act was unlawful, the House of Commons do believe, as belonging to the Duty and Vocation of a sworn and experimented Physician, and not the unskilfulness of a young Lord. And so precious are the lives of men in the eye of the Law, that though *Mr. Stanford* saith, If a Physician take one into his Cure, and he die under his hands; it is not Felony, because he did it not feloniously; yet it is *Mr. Bracton's* opinion, That if one that is no Physician or Chyrurgeon undertake a Cure, and the Party die under his hands, this is Felony. And the Law goeth further, making Physicians and Chirurgeons themselves accountable for the death of their Patients, if it appear they have transgressed the Rules of their own Art; that is,

by undertaking a thing wherein they have no experience, or having yet failed in their care and diligence.

Lastly, he said, He was commanded by the House of Commons to desire their Lordships, that seeing the Duke hath made himself a President in committing that which former Ages knew not, their Lordships will, out of their Wisdom and Justice, make him an example for the time to come.

The several Articles being thus enlarged and aggravated by the said respective Members, Sir *John Elliot* was appointed to make the *Epilogue* to the Impeachment, who spake thus.

My Lords,

Y Our Lordships have heard, in the Labours of these two daies spent in this service, a representation from the Knights, Citizens and Burgesses of the Commons House of Parliament, of their apprehension of the present evils and dangers of this Kingdom, of the Causes of the same; and of the application of them to the Duke of *Buckingham*, so clearly and fully, as I presume your Lordships expect I should rather conclude, than add any thing to his charge.

Your Lordships have heard how his Ambition was expressed in procuring and getting into his hands the greatest Offices of Strength and Power of this Kingdom; by what means he had attained them, and how Money stood for Merit.

There needs no Argument to prove this, but the common sense of the miseries and misfortunes which we suffer; adding but one, the Regality of our Narrow Seas, the antient Inheritance of our Princes, lost or impeached.

This I need not further to press, but from hence my Observation must descend to his other Virtues, and that by way of Perspective: I shall give it so near and short, as rather to exercise your Lordships memory, than to oppress your patience.

First, I propose unto your Lordships, the inward Character of the Duke's mind, which is full of collusion and deceit; I can express it no better than by the Beast, called by the Antients *Srellionatus*; a Beast so blurr'd, so spotted, so full of foul lines, that they knew not what to make of it: so do we find in this man's practise, who first inveigled the Merchants, drawing them to *Die* to be intralled; then dealt deceitfully with the King to colour his offences, his design being against *Rochel* and the Religion: Next with the Parliament, to disguise his actions; a practise no less dangerous and disadvantageous to us, than prejudicial to our Friends and Allies.

Next, I present to your Lordships, the Duke's high oppression, and that of strange latitude and extent, not to men alone, but to Laws, and Statutes, to Acts of Council, to Pleas and Decrees of Court, to the pleasure of his Majesty, all must stoop to him, if they oppose or stand in his way. This hath been expressed unto you in the Ship called the *St. Peter*, and those of *Die*; nay, he calls on the colour of his Majesties great Name to shadow his design.

It had been his duty, nay, the rest of the place, not to have translated them into the hand of Strangers; that had his Majesty yielded in that point, the Duke should have opposed it by his con-

Car. 2.

Sir John
Elliot's
Speech,
conclud-
ing the
Duke's
Impeach-
ment.

Anno
1626.
‘ continual Prayers and Intercessions, making
‘ known unto his Majesty the Inconveniences like-
‘ ly to ensue, and not to rest there, but to have re-
‘ ported it to your Lordships sitting in Council,
‘ to have desired and prayed your aid and assistance,
‘ in a matter of so great importance: And if this
‘ had failed, he should have entered into a Protestati-
‘ on against it. This hath been done by worthy
‘ Predecessors in that Office, and this hath been the
‘ worthy discharge of the great Trust reposed in
‘ his Place.

‘ I heard the Ships were returned, but I know
‘ it not; but if I knew so, this neither excuseth,
‘ nor qualifyeth the Duke’s offence. The French
‘ in this case are to be commended, not he excused;
‘ he left them in the hands of a Foreign Power,
‘ who when they once had them, for any thing he
‘ knew, might easily have kept them.

‘ The third Head is, The Duke’s Extortion, in
‘ exacting from the East-India Company, without
‘ Right or colour, Ten thousand pounds, exquisi-
‘ tely expressed, and Mathematically observed
‘ by the Gentleman (you know by whom em-
‘ ployed) who, by his Marine experience, learn-
‘ ed this Observation, That if the Fleet gained
‘ not the Wind by such time at the Cape, the Voy-
‘ age was lost.

Here one of the Lords interposing privately,
It was the King that employed him; Sir John Eliot,
in the name of the Commons, makes this
Protestation.

‘ Far be it from them to lay an *Odium* or Asper-
‘ sion on his Majesties Name; they hold his Ho-
‘ nour spotless, nor the least shadow of blemish
‘ can fix upon him in this business.

‘ Next to the foul Extortion, is Bribery and
‘ Corruption in the sale of Honour and Offices of
‘ Command. That which was wont to be the
‘ Crown of Virtue and Merit, is now become a
‘ Merchandise for the greatness of this man, and
‘ Justice it self made a prey unto him. All
‘ which particulars your Lordships have heard
‘ opened, and enforced with Reasons and Proofs,
‘ what in themselves they are; and therefore I spare
‘ further to press them.

‘ In the fifth place, I observe a wonder in Policy
‘ and in Nature, how this man, so notorious in
‘ evil, so dangerous to the State in his immense
‘ greatness, is able to subsist of himself, and keep
‘ a Being: To this I answer, That the Duke hath
‘ used the help of Art to drop him up: It was
‘ apparent, that by his skill he hath raised a Party
‘ in the Court, a Party in the Country, and a
‘ main Party in the chief Places of Government
‘ in the Kingdom: so that all the most deserving
‘ Offices that require Abilities to discharge them,
‘ are fixed upon the Duke, his Allies and Kin-
‘ dred. And thus he hath drawn to him and his,
‘ the power of Justice, the Power of Honour,
‘ and the Power of Command, and, in effect,
‘ the whole Power of the Kingdom, both for
‘ Peace and War, to strengthen his Allies; and
‘ in setting up himself, hath set upon the King-
‘ doms Revenues, the Fountain of Supply, and
‘ the Nerves of the Land.

‘ He intercepts, consumes, and exhausts the
‘ Revenues of the Crown, not only to satisfy his
‘ own lustful desires, but the luxury of others;
‘ and by emptying the Veins, the Blood should
‘ run in, he hath cast the Body of the Kingdom
‘ into an high Consumption.

‘ Infinite sums of Money, and Mass of Land,
‘ exceeding the value of Money, Contributions in
‘ Parliament have been heaped upon him, and
‘ how have they been employed? Upon costly
‘ Furniture, sumptuous Feasting, and magnificent
‘ Building, the visible evidences of the express
‘ exhausting of the State; and yet his Ambition,
‘ which is boundless, resteth not here, but, like
‘ a violent flame, bursteth forth, and getteth fur-
‘ ther scope: Not satisfied with injuries, and in-
‘ justice, and dishonouring of Religion, his at-
‘ tempts go higher, to the prejudice of his Sove-
‘ reign, which is plain in his practise. The ef-
‘ fects I fear to speak, and fear to think. I end
‘ this passage, as *Cicero* did in a like case, *Ne gra-
‘ vioribus uar verbis quam rei natura fert, aut levis-
‘ ribus quam cause necessitas postulat.*

‘ Your Lordships have an *Idea* of the Man,
‘ what he is in himself, what in his affections.
‘ You have seen his power, and some, I fear, have
‘ felt it; you have known his practice, and have
‘ heard the effects. It rests then to be considered,
‘ what (being such) he is in reference to the
‘ King and State; how compatible or incompati-
‘ ble with either. In reference to the King, he
‘ must be stiled the Canker in his Treasure; in re-
‘ ference to the State, the Moth of all Goodness.
‘ What future hopes are to be expected, your
‘ Lordships may draw out of his Actions and Af-
‘ fections; I will now see, by comparison with
‘ others, to what we may find him likened, I can
‘ hardly find him a Match or Parallel in all Presi-
‘ dents; none so like him as *Sejanus*, who is thus
‘ described by *Tacitus*, *Audax, sui obsequens, in ali-
‘ os criminator, juxta adulator & superbus.*

‘ To say nothing of his Veneries, if you please
‘ to compare them; you shall easily discern where-
‘ in they vary; such boldness of the one hath late-
‘ ly been presented before you, as very seldom or
‘ never hath been seen. For his secret intentions
‘ and Calumniation, I wish this Parliament had
‘ not felt them, nor the other before. For his
‘ Pride and Flattery, it is noted of *Sejanus*, that
‘ he did *Cientes suos Provinciis adornare*. Doth
‘ not this man the like? Ask England, Scotland,
‘ and Ireland, and they will tell you. *Sejanus*’s
‘ pride was so excessive, as *Tacitus* saith, He neg-
‘ lected all Council, mixed his business and service
‘ with the Prince, seeming to confound their acti-
‘ ons, and was often stiled *Imperatoris laborum soci-
‘ us*. How lately and how often hath this man
‘ commixed his Actions in Discourses with Acti-
‘ ons of the Kings?

‘ My Lords, I have done, you see the man; on-
‘ ly this which was conceived by the Knights, Ci-
‘ tizens, and Burgesses, should be boldly by me
‘ spoken, That by him came all these evils, in him
‘ we find the Cause, and on him we expect the Re-
‘ medies, and to this we met your Lordships in
‘ Conference; to which, as your Wisdom invites
‘ us, so we cannot doubt, but in your Lordships
‘ Wisdom, Greatness, and Power, we shall, in
‘ due time, find Judgment as he deserves.

‘ I conclude, by presenting to your Lordships
‘ the particular Censure of the Bishop of Ely,
‘ reported in the 11 *Rich. 1.* and to give you a
‘ short view of his faults. He was first of all
‘ noted to be luxurious; Secondly, He married
‘ his own Kindred to Personages of highest rank
‘ and place; Thirdly, no mans business was done
‘ without his help; Fourthly, he would not suf-
‘ fer the King’s Council to advise in matters
‘ of State; Fifthly, he grew to such a height
‘ of

of Pride, that no man was thought worthy to speak unto him; and lastly, His Castles and Forts of Trust, he did obscuris & ignotis hominibus tradere. His doom was this, *Per totam insulam publice proclamatur, pereat qui perdere cuncta festinat, opprimatur ne omnes opprimat.*

Sir John Elliot and Sir Dudley Digges committed to the Tower. Sir Dudley Digges who made the Prologue, and Sir John Elliot the Epilogue, in this Impeachment of the Duke, they were both by the King's command committed to the Tower. Upon the Impeachment of the Duke, a Paper was said to be privately conveyed to the King, to this effect.

Private Suggestions to the King, in behalf of the Duke. That this great opposition against the Duke, was stirred up and maintained by such as seek the destruction of this free Monarchy. Because they find it not yet ripe to attempt against the King himself, they endeavour it through the sides of the Duke. The persons agreeing in this one mischief, are of divers sorts and humours. First, Medling and busie persons, who love popular speeches: Secondly, Covetous Landlords, Inclosers, Depopulators, &c. who being of the Parliament, ease themselves in Subsidies, and lay it on the true Commons, and cry out, the Grievances are caused by the Duke. Thirdly, Recusants, who hate the Duke for the breach of the Spanish Match. Fourthly, Persons indebted, who, by Priviledge of Parliament, avoid payment. Fifthly, Puritans and Sectaries, though two of them scarcely agree in what they would have: Haters of Government, and would have the King's power extinguished in matters Ecclesiastical, and limited in Civil. Sixthly, Malecontents, who look upon the Duke with an evil eye, because themselves are not preferred. Seventhly, Lawyers, who are very fit in Parliaments to second any Complaint against both Church and King, and all his Servants, with their Customs, Antiquities, Records, Statutes, Presidents, and Stories. Eighthly, Merchants and Citizens, who deceive the King of Custom. Ninthly, Innovators, Plebicolæ.

That since the time of Henry the Sixth, these Parliamentary discouragements might never be suffered, as being but certain symptoms of subsequent Rebellions, Civil Wars, and the dethroning our King, and no one Patriot daring to oppose them, lest he incur the reputation of a Fool or Coward in his Countries Cause.

His Majesty therefore strengthened himself ever with some Favourite, as whom he might better trust, than many of the Nobility, tainted with this desire of Oligarchy.

It behoveth, without doubt, his Majesty to uphold the Duke against them, who, if he be decourted, it will be the Corner-stone, on which the demolishing of his Monarchy will be builded: For if they prevail with this, they have hatched a thousand other demands to pull the Feathers of Royalty.

They will appoint him Counsellors, Servants, Alliances, Limits of Expences, and Account of his Revenues; chiefly if they can, they will now dazzle him in the beginning of his Reign.

Lastly, King James and King Charles are the Dukes Accusers, in all the Aspersions that are laid upon him. King James, for the Money destined for the Wars in this time, spent in Treaties, &c. And his Majesty can testifie for the things done in his time. And all these, though actions of the King, are imputed to the Duke: Who if he suffer for obeying his Sovereign, the next attempt will be to call the King to account for any thing he undertakes, which doth not prosperously succeed, as all men would desire it.

If it please his Majesty to remove and set aside all these disadvantages, he shall find the Charge against the Duke very empty and of small moment: And if His Majesty and the Duke's Grace think it no impeachment to their Honours, all that the Parliament hath objected against the Duke, except two or three things that may receive an Answer, is pardoned at the King's Coronation, which benefit every poor Subject enjoyeth.

But whether any such Paper ever came to his Majesties hands may be much questioned, though the Historical Collector hath inserted it.

May 11. The King coming to the Parliament, spake to the House of Peers as followeth.

My Lords,

The cause, and only cause of my coming to you this day, is to express the sense I have of all your Honours; for he that toucheth any of you, toucheth me in a very great measure. I have thought fit to take order for the punishing some insolent Speeches lately spoken. I have been too remiss heretofore in punishing such speeches as concern my self; not that I was greedy of their Moneys, but that Buckingham, through his importunity would not suffer to take notice of them, lest he might be thought to have set me on, and that he might come the forwarder to his Tryal. And to approve his innocency as touching the matters against him, I my self can be a Witnes to clear him in every one of them.

I speak not this to take any thing out of your hands; but to shew the reason why I have not hitherto punished those insolent speeches against my self. And now I hope you will be as tender of my Honour, when time shall serve, as I have been sensible of yours.

After the delivery of that Speech His Majesty was pleased to depart.

At the same time the following Message was brought from the Commons to the Lords by Sir Nathaniel Rich.

The Commons taking into serious consideration the main mischiefs and inconveniences which this renowned Kingdom doth now suffer, threatening apparent danger to the King and Common-wealth, have by search and disquisition into the Causes thereof, found that they do principally flow from the exorbitant power and abusive carriage of the Duke of Buckingham, whereof he hath this Parliament been impeached before their Lordships by the Commons, besides an accusation of a Per in their own House, who hath charged him (as they are informed) of High Treason: They therefore with one voice make an entire Declaration. That they hold it a thing of dangerous Consequence both for the present and future times, that a man of so great eminence, power and authority, being impeached and accused of such high Crimes and Offences, should yet enjoy his Liberty, hold so great a part of the strength of the Kingdom in his hands, sit as a Per in Parliament, and be acquainted with the Councils thereof, whereby inevitable mischief may suddenly fall upon the Kingdom. Wherefore they have thought it their Duty to recommend this their unanimous desire to

Anno 1626. *to their Lordships, as agreeable to Law and reason, That they would be pleased forthwith to commit the person of the said Duke to safe Custody.*

The Duke's defence in the Lords House.

My Lords,

The Duke's
Speech
against the
Commons.

' If I should hold my peace, it would argue guilt; If I should speak, it would argue boldness, being so foully accused. Your Lordships see what complaints are made against me by the House of Commons. How well I stood in their opinions not long since, your Lordships know it. What I have done since to lose their good opinions, I protest I know not. I cannot so distrust my own Innocency, and my heart which abhors guilt, as to decline any Course, or Court of Justice: And had they not brought My Cause to your Lordships, it should have been my own work; and they have done me a Favour to deliver me out of their hands into your Lordships.

' I will not speak any thing to cast dirt at those, who had taken pains to make me so foul; but to protest my innocency in that measure, which I shall ever hope to prove, it being before such just Judges, I desire my Tryal may be hastned, That I may no longer suffer than I most needs. And now that my Accuser hath not been content only to make my Process, but to prescribe to your Lordships the manner of your Judgment, and to Judge me before I am heard, I shall not give way to any of their unjust demands, &c.

The Commons
discontented
at the im-
prisonment
of their
Members.

The Commons upon the Imprisonment of their Members, and the offence taken by the King at the words spoken by those two Gentlemen in impeaching the Duke, resolved to proceed in no other business till they were righted in their pretended Libertie, and ordered that the House be turned into a grand Committee presently, to sit and consider of the best way and means to effect the same, and that no Member be suffered to go forth. At which time Sir Dudley Charlton observing that unusual, and as he then termed it, fullen silence of the House, spake as followeth.

Sir Dudley
Charlton's
Speech.

' I Find (by a great silence in this House) that it is a fit time to be heard, if you please to give me the patience. I may very fitly compare the heaviness of this House unto some of my misfortunes by Sea in my Travels: for as we were bound to *Merseilles*, by over-sight of the Mariners we mistook our course, and by ill fortune met with a Sand; That was no sooner over-past, but we fell on another; and having escaped this likewise, we met with a third, and in that we stuck fast. All the Passengers being much dismayed by this disaster, as now we are here in this House for the loss of those two Members: At last an old experienced Mariner upon consultation affirmed, That the speediest way to come out from the Sands, was to know how we came there; So, well looking and beholding the Compass, he found by going in upon such a point we were brought into that straight; wherefore we must take a new point to rectifie and bring us out of danger.

' This House of Parliament may be compared to the Ship; the Sands to our Messages; and the Commitment, to the Sands that the Ship did stick fast in; and lastly the Compass, to the Table where the Book of Orders doth lie. Then I beseech you let us look into the Book where the

Orders are, whether the Gentlemen did go no further than the Order did warrant them. If they did not, it is fit that we should defend them whom we employed in our behests: But if they have exceeded their Commission, and delivered that which they had not warrant for, it is just that we let them suffer for this presumption; and this our Course will bring us from these Rocks.

' I beseech you Gentlemen, move not his Majesty with trenching upon his Prerogatives, lest you bring him out of love with Parliaments. You have heard his Majesties often Messages to you, to put you, forward in a Course that will be most convenient. In those Messages he told you, That if there were not Correspondency between him and you, he should be forced to use new Counsels. Now I pray you consider what these new Counsels are, and may be, I fear to declare those that I conceive. In all Christian Kingdoms you know that Parliaments were in use antiently, by which their Kingdoms were governed in a most flourishing manner until the Monarchs began to know their own strength, and seeing the turbulent spirit of their Parliaments, at length they, by little and little, began to stand upon their Prerogatives, and at last overthrew the Parliaments throughout Christendom, except here only with us.

' And indeed you would count it a great misery, if you knew the Subject in Foreign Countries as well as my self; to see them look not like our Nation, with store of flesh on their backs, but like so many Ghosts, and not Men, being nothing but skin and bones, with some thin cover to their nakedness, and wearing only wooden Shoes on their feet; so that they cannot eat Meat, or wear good Clothes, but they must pay and be taxed unto the King for it. This is a misery beyond expression, and that which yet we are free from: Let us be careful then to preserve the King's good opinion of Parliaments, which bringeth this happiness to this Nation, and makes us envied of all others, while there is this sweetness between His Majesty and His Commons; lest we lose the repute of a Free-born Nation, by turbulency in Parliament. For in my opinion, the greatest and wisest part of a Parliament are those that use the greatest silence, so as it be not opiniatory, or fullen, as now we are by the loss of these our Members that are committed.

' This good Correspondency being kept between the King and his people, will so joyn their love and favour to his Majesty with liking of Parliaments, that his Prerogative shall be preserved entire to Himself, without our trenching upon it; and also the Priviledge of the Subject (which is our happiness) inviolated, and both be maintained to the support of each other. And I told you, if you would hear me patiently, I would tell you what exception his Majesty doth take at those Gentlemen that are committed. You know that 8 Members were chosen to deliver the Charge against the Duke, but there were only six employed for that purpose; inasmuch that there was no exception.

' As for Sir Dudley Diggs his part, that was the Prologue, and in that his Majesty doth conceive that he went too far beyond his Commission, in pressing the death of his ever blessed Father in these words, That he was commanded by the House, concerning the Plaster apply'd to the King, That he did forbear to speak further in regard of the King's Honour, or words to that effect; this his Majesty conceiveth to be to his

Anno 1626. dishonour, as if there had been any underhand dealing by his Majesty, in applying of the Plaister, and this may make his Subjects jealous of his doings: In this point his Majesty is assured, that the House did not warrant him. Now for that which is excepted against Sir John Elliot, his over bitterness in the Aggravation upon the whole Charge, and specially upon some of the heads of it: For if you please to remember, when I moved for putting of the St. Peter of Newhaven out of the Charge against the Duke of Buckingham, and shewed my reasons for that purpose, you know how tender Sir John Elliot was of it, as if he had been a Child of his own, and so careful in the handling thereof by a Stranger, that he would not suffer it to be touched, though with never so tender a hand, for fear it may prove a Changeling: which did manifest, how specious soever his pretences were, that he had *oculum in cauda*: And I must confess, I was heartily sorry when he delivered his Aggravation to the Lords, to see his Tartness against the Duke; when as he had occasion to name him, he only gave him the Title of *This man*, and *The man*; whereas the other observed more respect and modesty in their Charges against so great a Person as the Duke is, considering that then he was not convicted, but stood *reus in Curia*. Lastly, For pressing the death of his late Majesty, you know that the Sense of the House concluded, That it is only an Act of presumption; nay, some of them expressly said, *Nay God forbid that I should lay the death of the King to his Charge*. If he without warrant from the house insisted upon the Composition of the Plaister, as if there were *Aliquid latet quod non patet*; This was beyond his Commission from our house and this is that which his Majesty doth except against; And this I say, drew his Majesty, with other insolent Invectives, to use his Regal authority in committing them to the Tower.

Sir Dudley Diggs being charged for saying in the matter of applying the Plaister to his late Majesty, *That he did forbear to speak further of that in regard of the King's honour*, or words to that effect; There passed a Protestation of every man in particular for himself; by Order of the Commons House, and it was Ordered in the House, That they that were sick in the Town, should have three of the House sent to them to take this Protestation likewise.

The Commons Protestation touching words imputed to Sir Dudley Diggs.

I Protest before Almighty God and this House of Parliament, That I never gave consent that Sir Dudley Diggs should speak these words that he is now charged withal, or any words to that effect; And I have not affirmed to any that he did speak such words, or any to that effect.

Sir D. Diggs released out of Prison, protests he never spake the words charged on him.

Sir Dudley Diggs was presently after released, and himself also made the same Protestation, and that it was so far from his words that it never came into his thoughts, thanking the Commons for the respect the House had shown him; and signifying that he had received from his Majesty a gracious Testimony of his satisfaction also, that the Duke was not satisfied though 36 Lords, present at that Conference, protest they heard not the words.

These Lords were,

The Earl of Mulgrave.
Earl of Cleveland.
Earl of Westmerland.
Earl of Bullingbrook.
Earl of Clare.
Earl of Denbigh.
Earl of Cambridge.
Earl of Devon.
Earl of Warwick.
Earl of Northampton.
Earl of Bridgewater.
Earl of Montgomery.
Earl of Nottingham.
Earl of Lincoln.
Earl of Essex.
Earl of Hereford.
Earl of Kent.
Earl of Oxon.
Lord Grey of Warke.
Lord Noell.
Lord Montague.
Lord Russell.
Lord North.
Lord Cromwell.
Lord Vaux.
Lord Dudley.
Lord Morley.
Lord Piercy.
Lord Bishop of Sarum.
Lord Bishop of Landaffe.
Lord Bishop of Chester.
Lord Bishop of Cov. and Lich.
Lord Bishop of Worcester.
Lord Bishop of Norwich.
Lord Vicount Say and S.
Lord Vicount Rocheford.

Sir John Elliot being released from the Tower the Vice Chamberlain spake as followeth,

'That he intended not to charge him, but to give him an occasion to discharge himself. First, That all the others had used respective words in the Conference; but for the manner of his Speech, he conceived it was too tart and harsh to the Person of the Duke, and that in representing a Character of his mind, by comparing him with a strange Beast, he had out-gone his Commission. Secondly, That contrary to the sense of the House, as if they were ignorant of the return of the Ships out of France, he said, *They say they are come, but I know it not*; when the House knew it full well. That speaking of the Duke, he said, *That man*, which phrase in all Languages is accounted a great indignity to persons of Honour: That he made scandalous comparisons between the Duke and *Sejanus*, and the Bishop of Ely, which was likewise besides his Charge; That he brake off ambiguously and abruptly with a Sentence of *Cicero*, as if something else might be which was not yet discovered.

Sir J. Elliot is released out of the Tower.

Is charged by Sir Dudley Diggs for his Speech against the Duke.

And Sir John Elliot made this return,

'First, Considering the Duke's plurality of great and different Offices together with his deceit and fraud, in perswading the Merchants to go to *Diep*, there to entrap them; in colouring the Designs to the King, which he had plotted to serve against those of his Religion; in abusing the

Anno 1626. the Parliament at Oxford; and disguising his purpose, as if the ships were to go to *Rachel*; these particulars being so various, and of such a nature, he called by the name of *Srellionatus*, from a beast discoloured, uncertain, and doubtful, that they knew not by what name to call it, or by what colour to describe it; and these he called a Character of the mind, because they lie in the heart, and were deceits to abuse the King and Parliament.

Secondly, As to his saying, *He knew not the Ships were come*; he answered he did not know it then, and as yet he knew it not, though it was true that he heard it.

Thirdly, He denied not, that speaking of the Duke, he sometimes used this word, *that man*, though at other times he was not wanting to give him his due Titles; and said, That the Latins, speaking of *Cesar*, called him *Ille Cesar*, and that the same is usual in all Languages; nor did he think the Duke to be a God.

Fourthly, He confessed, That he parallel'd him with the Bishop of *Ely* and *Sejanus*; and though there were many particular censures of that Bishop, yet he produced none but such as were within the compass of his Charge; nor did he apply the Veneries and Venefices of *Sejanus* to the Duke, but excluded them.

Lastly, Touching the Physick of the King, he said, he brake off so abruptly in aggravation of the Duke's offence, who not content with the injury of Justice, the wrong of Honour, the prejudice of the State, nor that of the Revenue, his attempts go higher, even to the person of the King, making on that his practice in such a manner, to such an effect, that he said, he feared to speak, nay, he doubted to think; in which regard he left it, as *Cicero* did another thing, *Ne gravioribus, &c.*

The Commons Vote hereupon, That Sir *Dudley Diggs*, Sir *John Elliot*, and the rest, who managed the Impeachment, had not exceeded their Commission.

The Lord's House Petition the King, That the Earl of *Arundel*, now Prisoner in the Tower, may be released; for that his Commitment was against the Liberties and Privileges of their House. The Petition followeth;

May it please your Majesty,

The Lords Petition to the King about the Earl of Arundel, imprisoned in the time of Parliament.
The cause that moves us now to attend your Majesty, (as at first we did) is because that we observe that the House of Commons have speedily received a Member of theirs who was committed: We the Peers, ambitious to deserve of your Majesty, and to appear to the eye of the world as much respected in our Rights and Privileges, as any Peers or Commons have ever been, acknowledging you a King of as much goodness as ever King was; do now humbly beseech that the Earl of *Arundel*, a Member of our House, may be restored to us; it so much concerning us in point of Privilege, that we all suffer in what he suffers in this restraint.

In March last, when the Earl of *Arundel* was committed, the House of Lords purposed to take the same into their considerations, and so to proceed therein, as to give no just cause of offence to his Majesty, and yet preserve the Privileges of Parliament.

The Lord Keeper of the Great Seal thereupon signified unto the House, that he was commanded to deliver this Message from his Majesty unto their Lordships; viz.

Cur. 2.

That the Earl of *Arundel* was restrained for a misdemeanor which was personal to his Majesty, and lay in the proper knowledge of his Majesty, and had no relation to Matters of Parliament.

Whereupon the House was put into a Committee; and being resumed,

The Lords Committees for Privileges, &c. were appointed to search for Presidents concerning the Commitment of a Peer of this Realm, during the time of Parliament; and the Lord Chief Justice, Mr. Justice *Doderidge*, and Mr. Justice *Telverton*, were appointed to attend their Lordships in that behalf.

The day following the Lord Treasurer delivered another Message from the King in *hec verba*.

Whereas upon a Motion made by one of your Lordships, the Lord Keeper did yesterday deliver a Message from his Majesty, that the Earl of *Arundel* was restrained for a misdemeanor which was personal to his Majesty, and lay in the proper knowledge of his Majesty, and had no relation to matters of Parliament: His Majesty hath now Comanded him to signify to your Lordships, that he doth avow the Message in sort as it was delivered, to have been done punctually according to his Majesties own direction, and he knoweth that he hath therein done justly, and not diminished the Privileges of that House.

The Kings Message to the Lords touching the Earl of Arundel.

And because the Committee appointed yesterday to search for Presidents, &c. had not yet made any Report to the House; therefore the directions for this business were suspended for that time.

Not long after the Earl of *Hertford* made report to the House, That the Lords Committees for Privileges met on Monday last; The first Question that arose amongst them was, whether those Proxies were of any validity which are deputed to any Peer, who sitteth not himself in Parliament? And it was conceived that those Votes were lost: Whereupon the Committee found this House to be deprived of five suffrages by the absence of the Earl of *Arundel*, unto whom they were intrusted: And the Committee finding by the Journal Book that the Sub-Committee which was appointed to search Presidents for Privileges concerning the Commitment of a Peer in the time of Parliament, had not yet made report to the House: and then considering together their Notes of Presidents whereof they had made search, found, That no one Peer had been committed, the Parliament sitting, without trial of Judgment of the Peers in Parliament; and that one only President of the Bishop of *Winchester* in the Book-Case, in the Third year of *Edw. 3.* which was here urged, cannot be proved to be in Parliament time; and this the Lords of the Grand Committee thought fit to offer to the consideration of the House.

Hereupon the House was moved to give power to the Lords Sub-Committees for Privileges, &c. to proceed in the search of Presidents of the Commitment of a Peer of this Realm during the time of Parliament; and that the King's Council might

The Lords resolved to maintain their privilege.

Anno might shew them such Presidents as they have of
1626. the said Commitment; and that the said Sub-Committee may make the Report unto the House at the next access.

All which was granted and agreed unto, and these Lords were called unto the said Sub-Committee; viz.

The Lord Treasurer.
Lord President.
Duke of Buckingham.
Earl of Dorset.
Earl of Devon.
Earl of Clare.
The Viscount Wallingford.
Viscount Mansfield.
Lord North.

And the King's Council were appointed to attend the Lords.

The Lord President reported the Proceedings of the said Sub-Committees for Priviledges, &c. upon Commitment of the Earl of Arundel, viz.

'That the King's Council had searched and acquainted the Lords Sub-Committees with all that they had found in Records, Chronicles and Stories, concerning this matter: Unto which the said Lords Sub-Committees had given full Answer, and also shewn such Presidents as did maintain their own Rights.

The Presidents being read, (which for the length we forbear to mention) it was resolved upon the Question by the whole House, *Nemine dissensiente*,

'That the Priviledge of this House is, That no Lord of Parliament, the Parliament sitting, or within the usual time of Priviledges of Parliament, is to be imprisoned or restrained without Sentence or Decree of the House, unless it be for Treason or Felony, or refusing to give surety of the Peace.

And it was thereupon ordered, That the said Lords Sub-Committees for Priviledges, &c. or any five of them, shall meet this Afternoon to consider of a Remonstrance and Petition of the Peers concerning the Claim of their Priviledges from Arrests and Imprisonments during the Parliament. Which was conceived by the Lords Sub-Committees for Priviledges, according to the order of the House, and was read openly, viz.

May it please your Majesty,

A Remonstrance and Petition of the Peers in behalf of the Earl of Arundel.

WE the Peers of this your Realm assembled in Parliament, finding the Earl of Arundel absent from his place, that sometimes in this Parliament late amongst us, his presence was therefore called for: But thereupon a Message was delivered unto us from your Majesty by the Lord Keeper, that the Earl of Arundel was restrained for a Misdemeanor which was personal to your Majesty, and had no relation to matters of Parliament. This Message occasioned us to enquire into the Acts of our Ancestors, and what in like cases they had done, that so we might not err in any dutiful respect to your Majesty, and yet preserve our right and priviledge of Parliament. And after diligent search both of all Stories, Statutes and Records that might inform us in this case, We

find it to be an undoubted right and constant priviledge of Parliament, That no Lord of Parliament, the Parliament sitting, or within the usual times of Priviledge of Parliament, is to be imprisoned or restrained, without sentence or order of the House, unless it be for Treason or Felony, or for refusing to give surety for the Peace. And to satisfy our selves the better, we have heard all that could be alledged by your Majesties Counsel learned at Law, that might any way weaken or infringe this claim of the Peers; and to all that can be shewed or alledged, so full satisfaction hath been given, as that all the Peers of Parliament, upon the Question made of this Priviledge, have, *una voce*, consented, That this is the undoubted Right of the Peers, and hath inviolably been enjoyed by them.

Wherefore we, your Majesties Loyal Subjects and humble Servants, the whole body of the Peers now in Parliament assembled, most humbly beseech your Majesty, that the Earl of Arundel, a Member of this Body, may presently be admitted with your Gracious Favor to come, sit, and serve your Majesty and the Commonwealth in the great Affairs of this Parliament. And we shall pray, &c.

This Remonstrance and Petition to his Majesty was approved by the whole House, who agreed, that it should be presented by the whole House to his Majesty; and it was further agreed, that the Lord President, the Lord Steward, the Earl of Cambridge, and the Lord Great Chamberlain should presently go to the King to know his Majesties pleasure when they shall attend him.

These Lords returning, the Lord President reported, that his Majesty had appointed that day, between two and three of the Clock, for the whole House to attend him with the said Remonstrance and Petition in the Chamber of Presence at Whitehall.

And it was agreed, That the Lord Keeper should then read the same to the King, and present it to his Majesty.

The twentieth of April, the Lord President reported the King's Answer unto the Remonstrance, and Petition of the Lords, to this effect:

'That their Lordships having spent some time about this business, and it being of some consequence, his Majesty should be thought rash if he should give a sudden Answer thereto; and therefore will advise of it, and give them a full Answer in convenient time.

The King first Answer to the Remonstrance and Petition.

The 21 of April, 1626. it was ordered, That the House should be called on Monday next, being the 24th of April.

Which was done accordingly, and the Earl of Arundel being called, the Lord Keeper signified unto the House, that his Majesty had taken into consideration the Petition exhibited by their Lordships the 19th of April concerning the Earl of Arundel, and will return an answer thereunto with all expedition.

The Second of May it was Ordered, That the Lord Keeper should move his Majesty from the House for a speedy and gracious Answer unto the Petition on the Earl of Arundel's behalf.

The Fourth of May, 1626. The Lord Keeper signified unto their Lordships, that according to the Order of the Second of May, he had moved his Majesty from the House on the behalf of

The King promised to answer the said Remonstrance. The Lords are urgent for an Answer. The King returns no other Answer to the Lords touching the Remonstrance.

the Earl of *Arundel*; Who answered,

Aug 1626. 'It is a Cause wherein he hath had a great deal of care, and is willing to give their Lordships satisfaction, and hath it in his consideration how to do it, and hath been interrupted by other business, wherein Mr. Attorney hath had occasion of much conference with him (as their Lordships are acquainted:) But will with all conveniency give their Lordships satisfaction, and return them an Answer.

The Ninth of *May*, 1626. the House being moved to petition the King touching the Earl of *Arundel*, certain Lords were appointed to set down the form of the said Petition; who reported the same in writing as followeth, viz.

May it please your Majesty,

Another Petition to the King touching the Earl of *Arundel*.

Whereas the whole Body of the Peers now assembled in Parliament, did the Nineteenth day of April exhibit to your Majesty an humble Remonstrance and Petition concerning the privilege of Peers in Parliament, and in particular touching the Earl of *Arundel*, whereupon we received a gracious Answer, That in convenient time, we should receive a fuller Answer, which we have long and dutifully attended: And now at this time so great a business being in handling in the House, we are pressed by that business to be humble suitors to your Majesty, for a gracious and present Answer.

Which being read, was approved of by the House, and the said Committee appointed to present the same unto his Majesty from the House, at such time as the Lord Chamberlain shall signify unto them, that his Majesty is pleased to admit them to his Presence.

The Eleventh of *May* the Lord President reported the King's Answer to the said Petition.

The King takes exception at the Petition.

'That he did little look for such a Message from the House; That himself had been of the House, and did never know such a Message from the one House unto the other: Therefore when he received a Message fit to come from them to their Sovereign, they shall receive an Answer.

The Lords desire to know of his Majesty, to what part of the Petition he takes exception.

The Lord President further Reported, That the Lords Committees appointed to deliver the Petition to the King, did thereupon withdraw, and require him humbly to desire his Majesty to be pleased to let them know unto what point of the said Petition he takes this Exception; and that his Majesty willed him to say this of himself; viz.

'The Exception the King taketh, is at the peremptoriness of the Term, To have a present Answer; and the King wonders at their impatience, since he hath promised them an Answer in convenient time.

The Petition presented again, and the word (present) left out.

Hereupon the House altered their former Petition, leaving out the word *Present*, and appointed the former Committee humbly to deliver the same to his Majesty.

The Thirteenth of *May*, the Lord President reported the King's Answer to the Petition; viz.

'It is true, the word (*Present*) was somewhat strange to his Majesty, because they did not use it from one House to another; but now, that his Majesty knows their meaning, they shall know this from him, that they shall have his Answer so soon as conveniently he can; And this his Majesty will assure them, it shall be such an Answer as they shall see will not trench upon the Privileges of the House.

Car. 2.

The King's answer to the Petition so ordered.

The Lords having agreed on another Petition to the King, wherein they acknowledge him to be a Prince of as much goodness as ever King was:

The Nineteenth of *May*, the Lord Chamberlain signified to their Lordships, that his Majesty being acquainted therewith, is pleased that this House attend him at two of the Clock this day in the Afternoon at *Whitehall*.

On which day the Lords delivered the Petition to his Majesty; who upon the 20th of *May* returned this Answer;

My Lords,

'I See that in your Petition you acknowledge me a King of as much goodness as ever King was; for which I thank you, and I will endeavour, by the Grace of God, never to deserve otherwise: But in this I observe that you contradict your selves; for if you believe me to be such, as you say I am, you have no reason to mistrust the sincerity of my promises: For, whereas upon often Petitions made by you unto me concerning this business, I have promised to give you a full Answer with all convenient speed; by this again importuning of me you seem to mistrust my former promises: But it may be said there is an Emergent cause, for that I have delivered a Member of the lower House.

The King's Answer to the Petition.

'In this, my Lords, by your favour you are mistaken, for the Causes do no way agree; for that he that was committed of the House of Commons was committed for words spoken before both Houses, which being such as I had just cause to commit him; yet because I found they might be words only misplaced, and not ill meant, and were so conceived by many honest men, I was content upon his Interpretation to release him, without any suit from the lower House; whereas as my Lord of *Arundel*'s fault was directly against my self, having no relation to the Parliament; yet because I see you are so impatient, I will make you a fuller Answer than yet I have done, not doubting but that you will rest contented therewith.

'It is true, I committed him for a cause which most of you know, and though it had been no more, I had reason to do it; yet my Lords, I assure you that I have things of far greater importance to lay to his Charge, which you must excuse me for, not to tell you at this time, because it is not yet ripe, and it would much prejudice my service to do it; and this, by the word of a King, I do not speak out of a desire to delay you, but as soon as it is possible, you shall know the cause, which is such as I know you will not judge to be any breach of your Privileges; for my Lords, by this I do not mean to shew the power of a King by diminishing your Privileges.

This

Anno
1626.
Another
Petition of
the Lord's
touching
the Earl of
Arundel.

This Answer being read, it was ordered, That the Committee for Priviledges should meet, and consider how farther to proceed with dutiful respect to his Majesty; and yet so, as it may be for the preservation of the Priviledges of the Peers of this Land, and the Liberties of the House of Parliament.

The 24th of May the Lord President reported the Petition agreed on by the Lords Committees for Priviledges, &c. to be presented to the King, which was *in hac verba*,

May it please your most excellent Majesty,

Whatever our care and desire is to preserve our right of Peers, yet it is far from our thoughts either to distrust, or to expels any thing that stands not with the affection and duty of most dutiful and loyal Subjects; and therefore in all humility we cast our selves before your Majesty, assuring our selves in the word of a King, that with all condieney possible, your Majesty will please either to restore the Peer to his place in Parliament, or expels such a cause as may not infringe our priviledges.

The Petition was generally approved, and ordered to be presented to his Majesty by the whole House; and the Earl of *Carlisle* and the Lord *Carlion* to go presently to know the King's pleasure when they shall attend his Majesty. Who being returned, reported, That his Majesty hath appointed that Afternoon at two of the Clock for the same.

The 25th of May, the Lord Keeper delivered the King's Answer unto the said Petition, to be read *in hac verba*, viz.

My Lords,

The Kings
Answer to
this Petition.

Your often coming to me, about this matter, made me somewhat doubt you did mistrust me; but now I see you rely wholly on me, I assure you it shall prevail more upon me than all importunities; And if you had done this at first, I should have given you content. And now I assure you, I will use all possible speed to give satisfaction, and at the furthest before the end of this Session of Parliament.

The Lords
adjourn in
disgust till
the morrow.

This being read, the House was moved the second time, That all business may be laid aside, and that Consideration might be had how their Priviledges may be preserved unto posterity. And the House was put into a Committee for the freer Debate thereof, and afterwards resumed: And it was ordered, That the House be Adjourned till to morrow, and all business to cease.

The 26th of May, the Lord Keeper delivered his Message from the King to the House of Lords, viz.

His Majesty's
Message to the
Lords.

That his Majesty hath willed him to signifie unto their Lordships, that he doth marvel his meaning in his last Answer should be mistaken: and for the better clearing of his intention, hath commanded him to signifie unto their Lordships his further Answer, which is, That their Lordships last Petition was so acceptable to his Majesty, that his intent was then, and is still, to satisfy their Lordships fully in what they then desired.

Whereupon it was ordered, That all business be Adjourned till that day seven-night.

At the same time the Duke of *Buckingham* signified unto their Lordships his desire to have the King's Counsel allowed him to plead his Cause: But the Lords would not hear him, because they would entertain no business: And so the House was Adjourned to the Second of June. At which time the House sitting again, the Lord Keeper delivered this Message from the King to the House of Lords, viz.

Car. 2.
Upon this
Message
the Lords
adjourn
for a seven-
night.

HIS Majesty hath Commanded me to deliver unto your Lordships a Message touching the Earl of *Arundel*; That his Majesty hath thought of that business, and hath advised of his great and pressing Affairs, which are such, as make him unwilling to enter into dispute of things doubtful: And therefore to give you clear satisfaction touching that Cause, whereby you may more cheerfully proceed in the business of the House, he hath endeavoured as much as may be to ripen it; but cannot yet effect it; but is resolved, that at the farthest by Wednesday seven-night, being the Fourteenth of June, he will either declare the Cause, or admit him to the House. And addeth further, upon the word of a King, That if it shall be sooner ripe, which he hath good cause to expect, he will declare it at the soonest. And further, That if the occasion doth enforce to stay to the time prefixed, yet he doth not purpose to set such a short end to the Parliament, but that there shall be an ample and good space between that, and the end of the Sessions, to dispatch Affairs.

The Lords
adjourn +
gain.

This Message being delivered, the House was Adjourned *ad libitum*, and put into a Committee; And being resumed, it was agreed, That all businesses should cease, but this of the Earl of *Arundel's* concerning the Priviledges of the House; and the House to meet thereon to morrow morning, and to be put into a Committee to consider thereof. And so the House was adjourned to the next day.

Then the Lord Keeper delivered this Message from the King, viz.

Another
Message
from the
King to
the Lords
concerning
the Earl of
Arundel.

That in the matter concerning the Earl of *Arundel*, his Majesty hath been very careful and desirous to avoid all jealousy of violating the Priviledges of this House; that he continueth still of the same mind, and doth much desire to find out some Expedient, which may satisfy their Lordships in point of Privilege, and yet not hinder his Majesties service in that particular. But because this will require some time, his Majesty, though his great Affairs are urgent and pressing, is unwilling to urge their Lordships to go on therewith, till his Majesty hath thought on the other: And therefore hath commanded him to signifie his pleasure, That his Majesty is contented their Lordships adjourn the House till Thursday next; and in the mean time his Majesty will take this particular business into further consideration.

Hereupon the Lords agreed, That the Lord Keeper do render unto his Majesty from the House, their humble thanks for his gracious respect unto their Priviledges.

Then the Lord Keeper demanded of the Lords, whether their Lordships would Adjourn the House

Anno 1626. House till Thursday next? Whereupon it was agreed by the Lords, and the House was so Adjourned.

On Thursday, June the 8th, the Lord Keeper delivered this Message to the Lords from his Majesty, viz.

‘**T**hat on Saturday last his Majesty sent word to the House, That by this day he would send them such an Answer concerning the Earl of Arundel, as should satisfie them in point of Priviledge. And therefore to take away all dispute, and that their Priviledges may be in the same estate as they were when the Parliament began, his Majesty hath taken off the restraint of the said Earl, whereby he hath liberty to come to the House.

The Earl of Arundel being returned to the House, did render his humble thanks unto his Majesty for his gracious favour towards him; and gave their Lordships also most hearty thanks for their often intercessions for him unto the King, and protested his loyalty and faithful service unto his Majesty.

Much about this time, Mr. Moor, a Member of the House of Commons, having spoken some words which seemed to reflect upon his Majesty, they were reported to the House, viz. That he said, *We were born free, and must continue free, if the King will keep his Kingdom*: Adding these words. *Thanks be to God, we have no occasion to fear, having a just and pious King*. The House for these words committed Mr. Moor to the Tower of London; And his Majesty shortly after sent a Message, That he had passed by his offence. Whereupon he was released.

While the Duke stood charged in the Parliament, the Chancellorship of Cambridge became void by the death of the Lord Howard Earl of Suffolk, who died on Whitsunday the 28th of May, 1626, The University having understood by several hands, that it was the King's express will and pleasure that the Duke should be chosen in his stead, were ambitious and forward to express their obedience to his Majesty in that behalf; well knowing, that in regard of their multitude, and worthy judgment and wisdom, that is esteemed and ought to be in those Electors, this was one of the most honourable Testimonies of worth and integrity that the Nation can afford: And that whereas all other the Dukes Honours did but help the rather to sink him with their weight, this would seem to shore and prop him up.

Letters were pretended to be sent from his Majesty, to the intent to discourage all opposers: But though the Pretence of Letters served mainly to effect their ends, yet the producing of them would have prejudiced the chief intentment of the Election, namely the honour of the Testimony in it; which chiefly lying in the freedom of the Votes, had by Letters been cut off. Many Heads of Houses bestir'd themselves according to their several power and interest in their respective Societies; and Trinity Colledge alone (the Master whereof was Dr. Maw, one of the King's Chaplains) supplied the Duke with Forty three Votes, the third part of those which served the turn, for he had in all One hundred and eight.

He was chosen the Thursday following the death of his Predecessor, namely the fourth day after the vacancy, notwithstanding fourteen days are allowed by the University Statute. His chief strength consisted in the Doctors (whereof seventeen were for him, and only one against him) and in the Non-Regents, who are Masters of Art of five years standing and upward: Among the Regents (who are Masters under five years) thirty more were against him than for him, and four whole Colledges were entire against the Duke. For notwithstanding all the industry that could be employed on his behalf, there was a Party so diligent and resolute, that the same morning the choice was made, they jointly pitched upon the Lord Thomas Howard, second Son to the late deceased Chancellor, and Earl of Berkshire; though they had no Head appearing for him, nor one man in the University that was known to have any reference to him, excepting one Mr. Granado Chester, who was either his Chaplain, or otherwise interested in him: And notwithstanding all disadvantages, they lost it for the said Earl but by five Voices; for the Duke had but One hundred and eight, and the Earl had One hundred and three, besides that two of the Dukes were void by Statute, as being given to the Vice-Chancellor by compromise, to dispose of as he shall think fit.

The Earl of Berkshire being afterwards acquainted with the intentions of the University towards him, wrote this Letter to Mr. Chester, a Divine, related to his Lordship.

Mr. Chester,

THE infinite obligation which I owe to the University of Cambridge, for the late most ample Testimony of their great love and affection towards me, imboldens me to borrow your help to make known unto them my unfeigned thankfulness: wherein I confess that the love and favour which they have expressed unto me, joyned with the fashion of it, doth far exceed the weak expression of so feeble a Style as mine is. For they have been pleased, out of their abundant affection, to name me to one of the greatest Honours of this Kingdom, without any suit or means of mine, which was the Chancellorship of the University: The Voting whereof in this noble fashion, I account it as much as could befall me; and do receive it with as much thankfulness, as if I were in full possession of the place.

I must therefore intreat you to disperse this my thankful Acknowledgment to all my worthy Friends there, who have so freely bestowed their Voices, and unsought for Favours upon me. And this labour I do the rather lay upon you, because you know I put you to no making means for me; which I should undoubtedly have done, if I had preconceived any intention of standing for this Dignity, so often wedded by men of high Places and Noble Families of this Realm; whereof my honoured Father deceased, enjoyed the last Testimony, and my Uncle before him; and not ceasing there, it was expressed to me by an hereditary affection. Thus much I pray you make known for me, with this further assurance, That as I had my first Breeding, to my great Honour, in Cambridge, so I will live and die

S. James, 2 Junij
1626.

The true Servant

of the University.

Berkshire.

Anno 1626. The Commons being informed of the afore-
1626. said Proceedings in Cambridge, directed a Letter to be
 written to that University to signify the Houses
 dislike thereof. Whereupon the King signifieth
 to the House his pleasure by Sir Richard Weston,
 that they forbear to send any such Letter, for that
 the Election had been made by the power of the
 Charters according to the Rules and Liberties of
 the University; and that if there have been any
 Error in the form of the Election, it belongeth
 unto his Majesty to examin and reform it, and not
 unto the House. To which Message the Commons
 return this Answer.

The Com-
 mons An-
 swer.

That they do acknowledge they were about to
 write to the University, because that the ve-
 ry Election it self, whereby the University is
 committed to the Government of one that is
 charged, and publickly complained of by the
 Commons in Parliament, whereof the Electors
 are a part, is, in it self, a very great Grievance,
 and prejudicial in example; whereof they have
 Reason to be the more sensible, because they are
 informed, that in the manner of the Election
 there were many passages likewise done in con-
 tempt of the House: And do humbly beseech
 his Majesty to believe, That neither in this, nor
 any other thing, this House did or shall intend to
 enlarge their own Power and Jurisdiction, to the
 Diminution of his Majesties Right or Preroga-
 tive.

Whereunto his Majesty replied by the said Sir
 Richard Weston.

His Maje-
 sties Re-
 ply.

His Majesty saith, That Cambridge, and all
 Corporations, derive their right and pri-
 viledge from him; and that he hath reason to e-
 steem the Universities above any other, and is
 resolved to defend them against any, which ei-
 ther wilfully, or by chance, shall go about to
 infringe their Liberties. Concerning the Electi-
 on it self, his Majesty is far from conceiving it a
 grievance; for he never heard that Crimes ob-
 jected, were to be taken as proved; or, that a man
 should lose his Fame or good Opinion in the
 World, upon an Accusation only.

But whereas you say in the manner of carriage
 of the Election, there were many passages done
 in it to the contempt of the House. His Majesty
 is well pleased, that you enquire and punish the
 Offenders, if there be any that have mis-beha-
 ved themselves in that respect. But for the Ele-
 ction it self, or the form of it, his Majesty doth
 avow his first Message.

The Duke returned this Acknowledgment to
 the University.

The Dukes
 Letter of
 Acknow-
 ledgment
 to the U-
 niversity
 of Cam-
 bridge.

Master Vice-Chancellor, and Gentlemen of the
 University of Cambridge, There is no one
 thing that concerneth me more near, than the good o-
 pinion of Good and Learned honest men: Amongst
 which number, as you have ever held the first rank in
 the estimation of the Commonwealth, and fame of the
 Christian World; so in conferring this honour of Chan-
 cellorship upon me, I must confess you have satisfied a
 great ambition of mine, which I hope will never for-
 sake me; and that is, To be thought well of by Men
 that deserve well, and Men of your Profession. Yet I
 cannot attribute this Honour to any desert in me, but to
 the respect you bear to the Sacred memory of my Master
 deceased, the King of Scholars, who loved you, and
 honoured you often with his Presence, and to my Gra-

cious Master now living; who inherits, with his blessed
 Fathers Vertues, the affection he bore to your Univer-
 sity.

I beseech you, as you have now made your choice
 with so many kind and noble Circumstances, as the man-
 ner is to me as acceptable and grateful as the Matter;
 so to assure your selves, That you have cast your Votes
 upon your Servant, who is as apprehensive of the time
 you have shewed your affection in, as of the Honour you
 have given him.

And I earnestly request you all, that you would be
 pleased, not to judge me comparatively by the success
 and happiness you have had in your former choice of
 Chancellors; who as they knew better perhaps by advan-
 tage of education in your University, how to value the
 deserts of men of your qualities and degrees, so could
 they not be more willing to cherish you than my self, who
 will make amends for my want of Scholarship, in my
 love to the Professors of it, and to the source from whence
 it cometh; having now most just cause more chiefly to
 employ my utmost endeavours, with what favour I enjoy
 from a Royal Master, to the maintaining of the Char-
 ters, Priviledges, and Immunities of your University
 in general, and to the advancing of the particular me-
 rits of the Students therein.

And since I am so far engaged to you, I will pre-
 sume upon a further courtesie, which is, That you will
 be pleased to supply me with your advice, and suggest
 a way unto me (as my self likewise shall not fail to think
 on some means) how we may make Posterity remember
 you had a thankful Chancellor, and that both really
 loved you and your University: Which is a reso-
 lution writ in an honest heart, by him that want-
 eth much to express his Affection to you, who will
 ever be

Your faithful Friend

and humble Servant,

George Buckingham.

Also the King was pleased to write to the Uni-
 versity of Cambridge, in approbation of the said E-
 lection.

Trusty and Well-beloved, We greet you well.

Whereas upon our Pleasure, intimated unto The King
 you by the Bishop of Durham, for the choice of the said
 of your Chancellor, you have with much duty, as We expected, highly satisfied Us
 in your Election; We cannot in our Princely Nature
 (who are much possessed with this Testimony of your
 ready and loyal Affections) but for ever let you know,
 how much you are therein made partakers of our Royal
 Approbation. And as we shall ever conceive, that an
 Honour done to a Person we favour, is out of a Loyal
 respect had unto Our self: And as we shall ever justifie
 Buckingham worthy of this your Election, so shall
 you find the fruits of it. For we that have found him a
 faithful Servant to Our dear Father of blessed Memo-
 ry, and Our self, cannot but undertake that he will
 prove such an one to you; and will assist him with a
 Gracious Willingness in anything that may concern the
 good of the University in general, or the particular
 Merits of any Students there.

Given under Our Signet at Our Pallace of West-
 minster the Sixth of June, in the Second
 year of Our Reign.

June

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June 8. Before the Duke gave in his Answer on that day unto the House of Peers, to the Impeachment of the House of Commons, he made this ensuing Speech;

My Lords,

The Duke
of Buck-
ingham's
Speech to
the Lords
House be-
fore he
gave in his
Answer.

IN a case of pressure considered by it self, I have a fair beginning, it is a due debt to your Lordships for this Honourable Favour in leaving it to my choice, whether I would answer to the particulars in the Aggravation, or not. I may, without lessening my Obligation, say, The Favour is greater at first, it may be yours, or your Posterities hereafter. I have in a manner tied myself to my Charge, hoping I gave your Lordships satisfaction in that, the Aggravations will fall of themselves. I could not well have followed the Aggravations, being composed of words, which I hope my actions have not deserved; and I am sure my Ears have not been made acquainted with, without some distraction of spirit; yet I have left nothing of them unanswered that is material. I have used as much speed to come to an answer, as conveniently I could without prejudice of my cause, having my reputation too long upon the stage; and had your Lordships called for it sooner, I had been as ready as now I was desirous, to detain your Lordships as little as may be (with the expectation of my particular) from weightier business.

I was also grieved that my business should be a cause of the loss of this year from Foreign Attempts, and the hindrance of those resolutions that would have comforted our Friends abroad, and secur'd our selves at home: But in this, my Lords, I am sure, you will easily acquit me in your thoughts. When I look upon my Charge in general (as they did) without searching into the integrity of my own heart and actions which are yet unknown to most of them, I wonder not so much at their proceedings, the particulars not being voted against me, nor unanimously: but had they taken the means to have been better and truly informed of the particulars, or have given me cause to have informed them, I assure my self they had not troubled your Lordships with this Charge: But I confess there hath been that contestation in the House of Commons concerning my Justification, that I cannot but acknowledge much favour there from many. And if the actions of some others in that House, do not conclude me of a worse disposition than I shall hereafter be found, there is none but may say with me, *I am at peace with all.*

I shall only for the present, apply my self to the clearing of my Reputation, and for the future, of those actions and endeavours which may repossess me of that I have counted one of my greatest losses, their good opinions. I would not speak nor profess this before your Lordships, if reason and my own disposition did not warrant the performance of it.

For first, Who accused me? Common Fame. Who gave me up to your Lordships? The House of Commons.

The one is too subtle a Body, if a Body: the other too great for me to contest with; and I am confident, when my cause shall be tried, neither the one or the other, or part of either, will be found to be my enemy.

But as Fame is subtle, so it is often and especially in accusations false; therefore the House of Commons have not wronged me: Yet I am confident it will at length be found, that Common Fame hath abused both them and me.

I presume the House of Commons have proceeded against me out of an hearty and zealous affection, to do their King and Country service, I hope out of Christian Charity to punish and amend my faults (if Fame could have proved them) and not to envy my Reputation, or destroy my Fortune. I shall never call such proceedings wrong, if seeking to cure my errors, give me opportunity to clear and publish my innocence: For the State it self, I have little to say, it is but a little, I will not abuse your Lordships patience. I was born and bred in it, I owe it my self; I have been raised to Honours and Fortunes in it (I freely confess) beyond my Merits; what I wanted in sufficiency and experience for the service of it, I have endeavoured to supply by care and industry.

And could there be the least alienation hereafter in my heart from the service of the State, for any thing that hath past, I should be the ungratefulest man living; should but such a thought stain my heart, I should be content it were let blood. If my Posterity should not inherit the same fidelity, I should desire an inversion in the course of Nature, and be glad to see them earthed before me. My Answer to the several points in Charge, I shall crave leave to deliver in brief, and in form of Law, but as naked as truth loves to be; and so I leave my self and my cause to your Lordships Justice.

*The humble Answer and Plea of
George Duke of Buckingham,
to the Declaration and Impeachment
made against him, before
your Lordships, by the Commons
House of Parliament.*

THE said Duke of Buckingham being accused, and sought to be impeached before your Lordships, of the many Misdemeanors, Misprisions, Offences, and Crimes wherewith he is charged by the Commons House of Parliament, and which are comprised in the Articles preferred against him, and were aggravated by those, whose service was used by that House in the delivery of them, doth find in himself an unexpressible pressure of deep and hearty sorrow, that so great and so worthy a Body should have him suspected of those things which are objected against him; whereas, had that Honourable House first known the very truth of those particulars, whereof they had not there the means to be rightly informed, he is well assured in their own true judgments, they would have forbore to have charged him therewith.

But the integrity of his own Heart and Conscience, being the most able and most impartial Witnesses, not accusing him of the least thought of disloyalty to his Sovereign, or to his Country, doth raise his spirits again to make his just defence before your Lordships, of whose Wisdom, Justice and Honour, he is so well assured, That he doth, with confidence, and yet with all humbleness, submit himself and his cause to your Examinations and Judgments, before whom he shall with all sincerity

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His Answer and Plea to the Impeachment of the House of Commons.

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rity and cleareness, unfold and lay open the secrets of his own actions, and of his heart; and in his Answer shall not affirm the least Substantial, and as near as he can, the least Circumstantial point, which he doth not believe he shall clearly prove before your Lordships.

The Charge consisteth of Thirteen several Articles, whereunto the Duke, saving to himself the benefit of not being prejudiced by any words or want of form in his Answer; but that he may be admitted to make further explanation and proof, as there shall be occasion, and saving to him all Priviledges and Rights belonging to him, as one of the Peers of the Realm, doth make these several and distinct Answers following, in the same order they are laid down unto him.

The Charge touching the Plurality of Offices.

His Charge
touching
Plurality
of Offices.

To the first, which concerneth the Plurality of Offices which he holdeth, he answereth thus, That it is true that he holdeth those several Places and Offices, which are enumerated in the preamble of his Charge, whereof only three are worthy the name of Offices, viz. the Admiralty, the Wardenship of the Cinque Ports, and Mastership of the Horse; the other are rather titular and additions of Honour. For these Offices he humbly and freely acknowledgeth the bounty and goodness of his most gracious Master, who is with God; who when he had cast an eye of Favour upon him, and had taken him into a more near place of service about his Royal Person, was more willing to multiply his Graces and Favours upon him, than the Duke was forward to ask them; and for the most part (as many honourable persons, and his now most excellent Majesty, above all others, can best testifie) did prevent the very desires of the Duke in asking: and all these particular places, he can and doth truly affirm, his late Majesty did bestow them of his own Royal Motion (except the Wardenship of the Cinque Ports only) and thereto also he gave his approbation and encouragement.

And the Duke denieth, that he obtained these places either to satisfie his exorbitant ambition, or his own profit or advantage, as is objected against him: And he hopeth he shall give good satisfaction to the contrary in his particular Answers ensuing, touching the manner of his obtaining the places of the Admiralty and the Wardenship of the Cinque Ports, whereunto he humbly desireth to refer himself. And for the Mastership of the Horse to his Majesty, he saith it is a meer Domestick Office of attendance upon the King's person, whereby he receiveth some profit; yet but as a conveniency to render him more fit for his continual attendance; and in that place, the times compared, he hath retrenched the King's annual charge to a considerable value, as shall be made apparent.

And for the number of places he holdeth, he saith, That if the Commonwealth doth not suffer thereby, he hopeth he may without blame, receive and retain that, which the liberal and bountiful hand of his Majesty hath freely conferred upon him: And it is not without many Presidents, both in Ancient and Modern times, That one man eminent in the esteem of his Sovereign, hath at one time held as great and as many Offices: But when it shall be discerned, That he shall falsely or corruptly execute those places, or any of them, or that the Publick shall suffer thereby; he is so thankful for what he hath freely received, that

whensoever his gracious Master shall require it, without disputing with his Sovereign, he will readily lay down at his Royal Feet, not only his Places and Offices, but his whole Fortunes and his Life, to do him service.

For the buying of the Admirals place, the said Duke maketh this clear and true Answer.

That it is true, that in January, in the Sixteenth year of his late Majesties Reign, his late Majesty did by his Letters Patents under the Great Seal of England, grant unto the Duke the Office of Admiralty for his life; which Grant, as he well knoweth it, was made freely and without any Contract or Bargain with the late Lord Admiral, or any other; and upon the voluntary Surrender of that Noble and well-deserving Lord, so he is advised it will appear to be free from any defect in Law, by reason of the Statute of 5 Edw. 6. mentioned in the Article of his Charge, or for any other cause whatsoever: For he saith the true manner of his obtaining this Office, and of all the passages thereof, which he is ready to make good by proof, was thus; That honourable Lord, the late Earl of Nottingham, the Lord Admiral, being grown much in years, and finding that he was not then so able to perform that which appertained to his place, as in former times he had done to his great Honour; and fearing lest his Majesties service, and the Commonwealth might suffer by his defect, became an humble and earnest Petitioner to his late Majesty, to admit him to surrender his Office. His late Majesty was at first unwilling unto it, out of his Royal Affection to his Person, and true Judgment of his worth: But the Earl renewed his Petitions, and in some of them nominated the Duke to be his Successor, without the Duke's privity or forethought of it. And about that time, a Gentleman of good place about the Navy, and of long experience, of himself came to the Duke, & earnestly moved him to undertake the place. The Duke apprehending the weight of the place, and considering his young years, and want of experience to manage so great a charge, gave no ear unto it; but excused it, not for form, but really and ingeniously out of the apprehension of his then unfitness for it. The Gentleman not thus satisfied, without the Duke applied himself to the late King, and moved his Majesty therein, and offered Reasons for it, That the Duke was the fittest man at that time, and as the state of the Navy then stood, for that place; for he said, it was then a time of peace. That the best service that could be done for the present, was to repair the Navy and Ships Royal, which then were much in decay, and to retrench the King's charge, and to employ it effectually, and that before there was like to be personal use of service, otherwise the Duke being young and active, might gain experience, & make himself as fit as any other; and that in the mean time, none was so fit as himself, having the opportunity of his Majesties Favour and Means to his Person, to procure a constant assignment and payment of Money for the Navy; the want whereof, was the greatest cause of the former defects.

These Reasons perswaded his late Majesty, and upon his Majesties own motion, perswaded the Duke to take the Charge upon him: And thereupon the Earl voluntarily, freely, willingly, and upon his own earnest and often suit, surrendered the Place without any President, Contract, or Promise whatsoever, which might render the Duke in the least degree subject to the danger of the

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His Charge
touching
his buying
the Admirals
place.

Anno 1626. the Law (which was not then so much as once thought upon) and upon that Surrender, the grant was made to the Duke. But it is true, That his Majesty out of his Royal Bounty, for recompence of the long and faithful service of the said Earl, and for an honourable memory of his deserts to him, and the Crown of England, did grant him a Pension of one thousand pounds *per annum*, for his life; which in all Ages hath been the Royal way of Princes, wherewith to reward antient and well-deserving Servants in their elder years; when without their own faults they are become less serviceable to the State: And the Duke also voluntarily and freely, and as an argument of his noble respect towards so honourable a Predecessor, whom to his death he called Father; whose Estate as he then understood, with his late Majesties Privy and approbation, did send him three thousand pounds in Money, which he hopeth no person of worth and honour will esteem to be an act worthy of blame in him. And when the Duke had thus obtained this place of great trust, he was so careful of his duty, that he would not rely upon his judgment or ability, but of himself humbly besought his then Majesty to settle a Commission of fit and able persons for the Affairs of the Navy; by whose Council and assistance, he might manage that weighty business with the best advantage for his Majesties Service; which Commission was granted, and yet continueth, and without the advice of those Commissioners, he hath never done any thing of moment; and by their advice and industry he hath thus husbanded the King's Money, and furthered the service, that where before the ordinary charge of the Navy was fifty four thousand pounds *per annum*, and yet the Ships were very much decayed, and their Provisions neglected, the charge was returned to thirty thousand pounds *per annum*, and with that charge, the Ships all repaired and made serviceable, and two new Ships builded yearly; and for the two last years, when there were no new Ships built, the ordinary charge was reduced to twenty one thousand six hundred pounds *per annum*. And now he dare boldly affirm, that his Majesties Navy is in better state by much, than ever it was in any precedent time whatsoever.

For his buying of the Wardship of the Cinque-Ports, he maketh this plain, ingenious and true Answer.

The Charge touching the buying of the Wardship of the Cinque-Ports.

That in December, in the two and twentieth year of his late Majesties Reign, he obtained the Office of Lord Warden of the Cinque-Ports and Constable of the Castle of Dover, (being one entire Office) upon the Surrender of the Lord Zouch, then Lord Warden;

The manner of obtaining whereof, was thus, The Lord Zouch being grown in years, and with his almost continual lameness being grown less fit for that place, he discovered a willingness to leave it, and made several offers thereof to the Duke of Richmond, and Richard Earl of Darby, deceased; but he was not willing to part with it, without recompence. Notice whereof coming to the Duke, by an offer made from the Lord Zouch, he finding by experience how much, & how many waies both the King's service might and many times did suffer; and how many inconveniences did arise to the King's Subjects in their Goods, Ships, and Lives, by the intermixture of the Jurisdictions of the Admiralty and Wardship of the Cinque-Ports, by the emulation, disaffection, and contention of their Officers, as clearly appear by

these particulars, amongst many others which may be instanced.

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1. Where the Admiral-Jurisdiction extends generally to all the Narrow Seas; the Warden of the Cinque-Ports hath and exerciseth Admiral-Jurisdiction on all the Sea-Coasts, from Show-Beacon in *Essex*, to the Red Noor in *Sussex*; and with those Limits there have been continual differences between the Lord Admiral, and the Lord Warden, whether the Lord Wardens Jurisdiction extends into the main Sea, or only as far as the low Water-mark, and so much farther into the Sea, as a man on Horse-back can reach with a Lance, which occasioneth Questions between those chief Officers themselves.

2. There are many and continual differences in executing of Warrants against offenders: the Officers of the one, refusing to obey or assist the Authority of the other; whereby the offenders protected or countenanced by either, easily escape.

3. Merchants and Owners of Goods questioned in the Admiralty, are often enforced to sue in both Courts, and often enforced, for their peace, to compound with both Officers.

4. The King's Service is much hindred; for the most usual and Ordinary Rendezvous of the King's Ships, being at the *Downs*, and that being within the Jurisdiction of the Lord Warden, the Lord Admiral or Captains of the King's Ships, have no power or warrant to press men from the Shore, if the King's Ships be in distress.

5. When the King's Ships, or others, be in danger in the *Goodwins*, and other places within the view of the Portsmen, they have refused to help with their Boats, lest the King's Ships should command them on board, whereby many Ships have perished, and much Goods have been lost.

6. When Warrants come to press a Ship at *Road* for the King's service, the Officers take occasion to disobey the Warrants, and prejudice the King's service. For if the Warrant come from the Lord Warden, they will pretend the Ship to be out of their Jurisdiction; if the Warrant come from the Lord Admiral, they will pretend it to be within the Jurisdiction of the Cinque-Ports; and so whilst the Officers Dispute, the opportunity of the service is lost.

7. When the King's Ships lie near the Ports, and the men come on Shore, the Officers refuse to assist the Captains to reduce them to the Ships without the Lord Warden's Warrant.

8. If the King's Ships, on the sudden, have any need of Pilots for the Sands, Coasts of *Flanders*, or the like, wherein the Ports-men are best experienced, they will not serve without the Lord Warden's, or his Lieutenants Warrant, who perhaps are not near the place.

9. When for great occasions for the Service of the State, the Lord Admiral and Lord Warden must both joyn their Authority; if the Officers for want of true understanding of their several Limits and Jurisdictions, mistake their Warrants, the service which many times can endure no delay, is lost or not so effectually performed.

For these and many other Reasons of the like kind, the Duke not being led, either with ambition or hope of profit as hath been objected (for it could be no increase of Honour to him, having been honoured before with a greater place, nor of profit, for it hath not yielded him in any matter any profit at all, nor is like to yield him above three

Anno 1626. three hundred pounds *per annum* at any time) but out of his desire to make himself the more able to do the King and Kingdoms service, and prevent all differences and difficulties which heretofore had, or hereafter might hinder the same. He did entertain that motion, and doth confess, that not knowing, or so much as thinking of the said Act of Parliament before mentioned, he did agree to give the said Lord one thousand pounds in Money, and five hundred pounds *per annum*, in respect of his Surrender, he not being willing to leave his Place without such consideration, nor the Duke willing to have it without his full satisfaction; and the occasion why the Duke of Buckingham gave that consideration to the Lord Zouch, was, because the Duke of Richmond in his life-time had first agreed to give the same consideration for it; and if he had lived, he had had that Place upon the same terms: And when the said Duke of Richmond was dead, his late Majesty directed the Duke of Buckingham to go through for that Place, and for the Reasons before-mentioned, to put both these Offices together, and to give the same consideration to the said Lord, which the Duke of Richmond should have given, and his late Majesty said, he would repay the Money. And how far this act of his, in acquiring this Office, accompanied with these Circumstances, may be within the danger of the Law, the King being Privy to all the passages of it, and encouraging and directing it, he humbly submitteth to your judgment; and he humbly leaves it to your Lordships judgments, in what third way an antient Servant to the Crown, by age or infirmity, disabled to perform his service, can in an honourable course relinquish his Place; for if the King himself give the Reward, it may be said it is a charge to the Crown; if the succeeding Officer gave the Recompence, it may thus be objected to be within the danger of the Law: And how soever it be, yet he hopeth it shall not be held in him a Crime, when his intentions were just and honourable, and for the furtherance of the King's service; neither is it without president, that in former times of great employment, both these Offices were put into one hand by several Grants.

The Charge touching the not guarding the Seas.

To this Article, whereby the not guarding of the Narrow Seas in these last two years by the Duke, according to the trust and duty of an Admiral, is laid to his charge; whereof the consequence, supposed to have been meerly through his default, are the ignominious infesting of the Coasts with Pirats and Enemies, are the endangering of the Dominion of these Seas, the extreme loss of the Merchants, and the decay of the Trade and Strength of the Kingdom.

The Duke maketh this Answer, That he doubteth not but he shall make it appear, to the good satisfaction of your Lordships, that albeit there hath happened much loss to the King's Subjects within the said time of two years, by Pirats and Enemies, yet that hath not happened by the neglect of the Duke, or want of care and diligence in his place: For whereas in former times, the ordinary Guard allowed for the Narrow Seas hath been but four Ships, the Duke hath, since Hostility begun, and before, procured their number to be much increased; for since June, 1624. there hath never been fewer than five of the King's Ships, and ordinarily six, besides Pinnaces, Merchants Ships, and Drumblers; and since open Hostility, eight of the King's Ships, besides Merchants of great number, and Pinnaces, and Drumblers; and all

these well furnished and manned, sufficiently instructed and authorized for the service. He saith, He hath from time to time, upon all occasions, acquainted his Majesty, and the Council-Boord therewith, and craved their advice, and used the assistance of the Commissioners for the Navy in this service: And for the *Dunkirkers*, who have of late infested these Coasts more than in former years, he saith, There was that providence used for the repression of them, that his Majesties Ships and the *Hollanders* joyning together, the Port of *Dunkirk* was blocked up, and so should have continued, had not a sudden Storm dispersed them, which being the immediate hand of God, could not by any policy of man be prevented; at which time, they took the opportunity to rove abroad, but it hath been so far from endangering the Dominion of the Narrow Seas thereby, as is suggested, that his Majesties Ships or Men of War, were never yet mastered, nor encountred by them, nor will they endure the sight of any of our Ships; and when the Duke himself was in person, the *Dunkirkers* run into their Harbours. But here is a necessity, that according to the Fortune of Wars, interchangeable losses will happen; yet hitherto notwithstanding their more than wonted insolency, the loss of the Enemies part hath been as much, if not more, than what hath happened to us; and that loss that hath fallen, hath chiefly come by this means, that the *Dunkirkers* Ships being of late years exercised in continual Hostility with the *Hollanders*, are built of a Mold as fit for flight as for fight; and so they pilfer upon our Coasts, and creep to the Shore, and escape from the King's Ships: but to prevent that inconvenience for the time to come, there is already order taken for the building some Ships, which shall be of the like Mold, light and quick of Sail, to meet with the adverse party in their own way. And for the Pirates of *Sallie*, and those parts, he saith, it is but very lately that they found the way unto our Coasts, where, by surprise, they might easily do hurt; but there hath been that provision taken by his Majesty, not without the care of the Duke, both by force and treaty to repress them for the time to come, as will give good satisfaction. All which he is assured will clearly appear upon proof.

To this Article the Duke maketh this Answer, That about September last, this Ship called the *St. Peter* (amongst divers others) was seized on as a lawful Prize by his Majesties Ships and brought into *Plimouth*, as Ships laden by the Subjects of the King of Spain; in the end of October, or beginning of November, they were all brought to the Tower of London, all of them were there unladen; but the *Peter*, and the bulk of her Goods was not stirred, because they were challenged by the Subjects of the French King; and there did not then appear so much proof against her, and the Goods in her, as against the rest. About the middle of November, Allegations were generally put in against them all in the Admiralty Court, to justify the seizure; and all the Pretendants were called in upon these proceedings, divers of the Ships and Goods were condemned, and divers were released in a legal course; and others of them were in suspence till full proof made. The eight and twentieth day of December, complaint was made on the behalf of some French-men at the Council-board, concerning this Ship and others, when the King, by advice of his Council (his Majesty being present in Person) did order, That

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That the Ship of *Newhaven*, called the *Peter*, and the Goods in her, and all such other Goods of the other Prizes, as should be found to appertain to his Majesties own Subjects, or to the Subjects of his good Brother the *French* King, or the States of the United Provinces, or any other Princes or States in Friendship or Alliance with his Majesty, should be delivered: But this was not absolute, as is supposed by the Charge, but was thus qualified, so as they were not fraudulently coloured; and it was referred to a judicial Proceeding.

According to this just and honourable Direction, the King's Advocate proceeded upon the general Allegations formerly put in the 26 of *Jan.* after there was a Sentence in the Admiralty, that the *Peter* should be discharged, and the King's Advocate not having then any knowledge of further proof, consented to it. But this was not a definitive Sentence, but a Sentence Interlocutory, as it is termed in that Court. Within few daies after, this Ship prepared her self to be gone, and was falling down the River: Then came new intelligence to the Lord Admiral, by the Lieutenant of the *Tower*, That all those Ships were laden by the Subjects of the King of *Spain*; that the *Ambascador* waisted them beyond the North Cape; that they were but coloured by *Frenchmen*; that there were Witnesses ready to make good this new Allegation: neither was it improbable to be so; for part of the Goods in that Ship have been confessed to be lawful Prize. This Ship being now fallen down the River, and being a Ship of the most value of all the rest, the Duke acquainted the King therewith, and by his Commandment made stay of the Ship, lest otherwise it would be too late; which the Duke, in the duty of his place of Admiral, as he believeth, ought to have done, without such command: And if he had not done so, he might worthily have been blamed for his negligence; and then instantly he sent for the Judge of the Admiralty, to be informed from him, how far the Sentence already past, did bind, and whether it might stand with Justice to make stay of her again, she being once discharged in such manner as before. The Judge answered, as he was advised, That it might justly be done, upon better proofs appearing: yet discreetly, in a matter of that moment, he took time to give a resolute Answer, that in the interim he might review the Acts which had passed. The next day, or very shortly after, the Judge came again to the Duke, and, upon advice, answered resolutely, That the Ship and Goods might justly be stayed, if the proofs fell out to be answerable to the Informations given; whereof, he said, he could not judge, till he had seen the Depositions. And according to this resolution of the Judge, did five other learned Advocates, besides the King's Advocate, concurr in opinion, being intreated by the Duke to advise thereof; so cautious was the Duke not to do any unjust Act. Then he acquainted the King again therewith, & his Majesty commanded him to re-seize this Ship, and to proceed judicially to the proofs; and the Duke often required the King's Advocate to hasten the Examination of the Witnesses; and many Witnesses were produced and examined, in pursuance of this new Information. But the *French* Merchants, impatient of any delay, complain'd again to the Council-board, where it was order'd, not barely, That the Ship and Goods should be presently, but should be delivered upon security; and upon security she had been then delivered, if it

had been given; and security was once offered, but afterwards retracted: And when all the Witnesses produced were examined, and published, the King's Advocate having duly considered of them, forthwith acquainted the Duke, that the Proofs came too short for the *Peter*; and thereupon the Duke instantly gave order for her final discharge, and she was discharged by order of the Court accordingly.

By which true Narration of the Fact, and all the proceedings, the Duke hopeth it will sufficiently appear, that he hath not done any thing herein, on his part, which was not justifiable, and grounded upon deliberate and well-advised Councils and Warrant. But for the doing of this to his own lucre and advantage, he utterly denieth it: for he saith, that there was nothing removed out of the Ship, but some Moneys, and some small Boxes of Stones of very mean value, and other small portable things lying above the Deck, easily to be imbezelled: And whatsoever was taken out of the Ship, was first publicly shewed to his Majesty himself, and thence committed to the custody of *Gabriel Marsh*, in the Article mentioned, by Inventory, then and still Marshal of the Admiralty, by him to be safely kept; whereof the Money was employed for the King's immediate service, and by his direction, and the rest was left in safe keeping, and are all since delivered, and re-imbursed to the Owners, or pretended Owners thereof; and not a penny profit thereof, or thereby, hath come to the Duke himself, as shall be made good by proof: And whereas the suggestion hath been made, That this accident was the cause of the Imbargo of the Ships and Goods of our Merchants trading in *France*, he saith, That it is utterly mistaken; for divers of their Goods were embargued before this happened; and if, in truth, the *French* had therein received that, as either they pretend, or is pretended from them; yet the embarguing of the Goods of the *English* upon that occasion, was utterly illegal and unwarrantable; for by the mutual Articles between the two Kings, they ought not to have righted themselves before Legal complaint, and a denial on our part, and then by way of Reprisal, and not by Imbargo. So that the Duke doth humbly leave it to the consideration of your Lordships, whether the harm which hath happened to your Merchants, hath not been more occasioned by the unseasonable justifying of the actions of the *French*, which animated them to increase their injuries, than by an act, either of the Duke, or any other.

To this Article, which consisteth of two main Points, the one of the extorting of ten thousand pounds unjustly, and without Right, from the *East-India* Company; the other, admitting the Duke had a Right, as Lord Admiral, the compassing it by undue waies, and abusing the Parliament, to work his private ends; the Duke giveth this Answer, wherein a plain Narration of the Fact, he hopeth, will clear the matters objected; and in this he shall lay down no more, than will fully appear upon proof.

About the end of *Michaelmas* Term, 1623. the Duke had Information given him, by a principal Member of their own Company, that the Company had made a great advantage to themselves in the Seas of *East-India*, and other parts of *Asia* and *Africa*, by rich Prizes gotten there forcibly from the *Portugals*, and others; and a large part thereof was due to his Majesty, and to the Duke as Admiral, by the Law; for which, nei-

Car. 2.

The Charge touching his Extortion of ten thousand pounds from the *East-India* Company, with the abuse of the Parliament.

Whether of them had any satisfaction. Whereupon
Anno directions were given for a legal prosecution in
 1626. the Court of Admiralty, and to proceed in such
 matters as should be held fittest by the advice of
 Council.

In the Months of *December* and *January*, in that
 year, divers Witnesses were examined in the Ad-
 miralty, according to the ordinary course of that
 Court, to instruct and furnish Informative Pro-
 cesses in this behalf. After the Tenth of *March*,
 1623. an Action was commenced in the Court
 in the joynt names of his Majesty and the Admiral,
 grounded upon the former proceeding; this was
 prosecuted by the King's Advocate, and the de-
 mand at first was fifteen thousand pounds. The
 Action being thus framed in both their names, by
 advice of Council, because it was doubted in the
 judgment of the Council, whether it did more
 properly belong to the one, or the other, or to
 both; and the form of Entering that Action being
 most usual in that Court, on the Eight and twen-
 tieth of *April*, 1624. the Judicial Agreement and
 Sentence passed thereupon in the Admiralty Court,
 wherein the Companies consent, and their own
 offer, plainly appeareth; so that for the second
 part of the Right, it were very hard to conclude,
 that the Duke had no right, contrary to the
 Companies own consent, and the Sentence of the
 Court, grounded on their Agreement; unless
 it shall fully appear, that the Company was by
 strong hand enforced thereto, and so the Money
 extorted.

Therefore to clear that scruple, That as the
 matter of the Suit was just, or at least so proba-
 ble, as the Company willingly desired it for their
 peace, so the manner was as just and honourable;
 your Lordships are humbly entreated to observe
 these few true Circumstances. The Suit in the Ad-
 miralty began divers Months before the first men-
 tion of it in Parliament; and some Months before
 the beginning of it in that Parliament, it was pro-
 secuted in a legal course, and upon such grounds
 as will yet be maintained to be just. The Com-
 position made by the Company, was not moved
 by the Duke, but his late Majesty, on the behalf
 of himself, and of the Duke, treated with divers
 Members of the Company about it, and the Duke
 himself treated not at all with them. The Com-
 pany, without any compulsion at all, agreed to
 the Composition; not that they were willing to
 give so much, if they might have escaped for no-
 thing, but that they were willing to give so much,
 rather than to hazard the success of the Suit: and
 upon this Composition, concluded by his Majesty,
 the Company desired and obtained a Pardon for
 all that was objected against them. The Motion
 in Parliament about the stay of the Companies
 Ships then ready prepared and furnished, was not
 out of any respect, to draw them the rather to
 give the Composition, but really out of an appre-
 hension, that there might be need of their strength
 for the defence of the Realm at home; and if so,
 then all private respects must give way to the pub-
 lick Interest. These Ships, upon the importu-
 nity of the Merchants, and reasons given by them,
 were suffered nevertheless to fall down to *Tilbury*,
 by his late Majesty's direction, to speed their Voyage
 the better, whilst they might be accommodated
 for this Voyage, without prejudice to the pub-
 lick safety, they were discharged when there was
 an Accommodation propounded and allowed,
 which was, That they should forthwith prepare
 other Ships for the home Service, whilst those
 went over with their Voyage; which they accord-

ingly did. That the Motion made in the Com-
 mons House, was without the Duke's knowledge
 or privity. That when there was a rumour, that
 the Duke had drawn on the Composition by stay-
 ing of the Ships which were then gone, the Duke
 was so much offended thereat, that he would have
 had the former communication to have broken off,
 and have proceeded in a legal course, and he sent
 to the Company to that purpose; but the Com-
 pany gave him satisfaction, that they had raised
 no such rumour, nor would, nor could avow any
 such thing, and entreated him to rest satisfied
 with such publick acts to the contrary. That af-
 ter this, their Ships being gone, themselves care-
 ful of their future security, solicited the dispatch
 of the Composition, consulted with Counsel about
 the Instruments which passed about it, and were
 at the charge thereof, and the Money was paid
 long after the Sentence, and the Sentence given
 after the Ships were gone, and no security given
 at all for the Money, but the Sentence; and
 when this Money was paid to the Duke, the whole
 sum (but two hundred pounds thereof only) was
 borrowed by the King, and employed by his own
 Officers, for the service of the Navy. If these
 things do, upon proof, appear to your Lordships,
 as is assured they will, he humbly submitteth it to
 your judgments, how far verbal Affirmations or In-
 formations extrajudicial, shall move your judg-
 ments when judicial acts, and those things which
 were acted and executed, prove the contrary.

To this Article, which is so mixt with Acti-
 ons of great Princes, as that he dareth not in his
 duty publish every passage thereof, he cannot for
 the present make so particular an Answer as he
 may, hath, and will do to the rest of his Charge.
 But he giveth this general Answer, the truth
 whereof he humbly prayeth may rather appear
 to your Lordships by the Proofs, than by any dis-
 course of his; which, in Reason of State, will
 happily be conceived fit to be more privately
 handled.

That these Ships were lent to the *French* King
 at first, without the Duke's privity: That when
 he knew it, he did that which belonged to an Ad-
 miral of *England*, and a true *English* man: And
 he doth deny, that by menace, or Compulsion,
 or by any other indirect or undue practise or
 means, he, by himself, or by any others, did de-
 liver those Ships, or any of them, into the hands
 of the *French*, as is objected against him: That
 the Error which did happen, by what direction
 soever it were, was not in the intention any waies
 injurious, or dishonourable, or dangerous to this
 State, or prejudicial to any private man, intere-
 sed in any of those Ships; nor could have given
 any such offence at all, if those Promises had been
 observed by others, which were professed and
 really performed by his Majesty and his Subjects on
 their parts.

which is objected against him by this Seventh Article, he hath been an
 earnest and humble Suitor to his Majesty, to give him leave in his Proof,
 to unfold the whole Truth and Secret of that great Action, and hath
 obtained his Majesty's gracious leave therein, and accordingly doth in-
 tend to make such open and clear Proof thereof, that he nothing doub-
 eth, but the same, when it shall appear, will not only clear him from
 blame, but be a Testimony of his care and faithfulness in serving the
 State.

To this Article wherewith he is taxed, to have
 practised for the employment of the Ships against
Rochel, he answereth,

That

Car. 2.

The Charge touching his putting the Ships into the hands of the *French*.

Since the Duke's Answer delivered into the House, he hath himself openly declared to their Lordships, That for the better clearing of his Honor and Fidelity to the State, in that part of his Charge

Anno 1626. *The Charge touching his practice of the employment of them against Ro-*
 That he was so far from practising or consenting, that the said Ships should so be employed, that he shall make it clearly to appear, that when it was discovered, that they would be employed against those of the Religion, the Protestation of the French King being otherwise, and their pretence being, That there was a Peace concluded with those of the Religion, and that the French King would use those Ships against *Genoa*; which had been an action of no ill consequence to the affairs of Christendom: The Duke did by all fit and honourable means endeavour to divert that course of their employment against *Rochel*. And he doth truly and boldly affirm, That his endeavours under the Royal care of his most Excellent Majesty, have been a great part of the means to preserve the Town of *Rochel*, as the Proofs, when they shall be produced, will make appear. And when his Majesty did find, that, beyond his intention, and contrary to the faithful promises of the French, they were so mis-employed, he found himself bound in honour to intercede with the most Christian King, his good Brother, for the Peace of that Town, and of the Religion, lest his Majesties Honour might otherwise suffer: Which intercession his Majesty did so sedulously, and so successfully pursue, that the Town, and the Religion there, do and will acknowledge the fruits thereof.

And whereas it is further objected against him, That when in so unfaithful a manner he had delivered those Ships into the power of a Foreign State, to the danger of the Religion, and scandal and dishonour of our Nation, which he utterly denieth to be so: That to mask his ill intentions, in cunning and cautelous manner, he abused the Parliament at *Oxford*, in affirming before the Committees of both Houses, That the said Ships were not, nor should be so used or employed; he saith, (under the favour of those who so understood his words) That he did not then use those words, which are expressed in the Charge to have been spoken by him; but there being then a jealousy of the mis-employing of those Ships, the Duke having no knowledge thereof, and knowing well what the promises of the French King were, but was not then seasonable to be published; he hoping they would not have varied from what was promised, did say, That the event would show it was no undertaking for them, but a Declaration of that in general terms which should really have been performed, and which his Majesty had just cause to expect from them.

The Charge touching the compelling the Lord R. to buy Ho-
 That the Duke did compel the Lord *R.* to buy his Title of Honour, he utterly denieth; and he is very confident, that the Lord *R.* himself will not affirm it, or any thing tending that way: Neither can he, nor any man else, truly say so. But the said Duke is able to prove, that the Lord *R.* was before willing to have given a much greater sum, but could not then obtain it; and he did now obtain it by sollicitation of his own Agents.

The Charge touching his selling of Places of Judica-
 For the selling of Places of Judicature by the Duke, which are specially instanced in the Charge, he answereth; That he received not, or had a penny of either of those sums to his own use; but the truth is, the Lord *M.* was made Lord Treasurer by his late Majesty, without contracting for any thing for it; and after that he had the Office conferred upon him, his late Majesty moved him to lend him Twenty thousand pounds;

upon promise of repayment at the end of a year; the Lord *M.* yielded it, so as he might have the Duke's word, that it should be repayed unto him accordingly: The Duke gave his word for it; the Lord *M.* relied upon it, and delivered the said sum to the hands of Mr. *Porter*, then attending upon the Duke, by the late King's appointment, to be disposed as his Majesty should direct. And according to the King's direction, that very money was fully paid out to others, and the Duke neither had, nor disposed of a penny thereof to his own use, as is suggested against him.

And afterwards when the Lord *M.* left that place; and his money was not repayed unto him, he urged the Duke upon his promise; whereupon the Duke being jealous of his Honour, and to keep his word, not having money to pay him, he assured Lands of his own to the Lord *M.* for his security. But when the Duke was in *Spain*, the Lord *M.* obtained a promise from his late Majesty of some Lands in Fee-farm, to such a value, as he accepted of the same in satisfaction of the said money, which were afterwards passed unto him; and at the Duke's return, the Lord *M.* delivered back unto him the security of the Duke's Lands, which had been given unto him as aforesaid.

As for the Six thousand pounds supposed to have been received by the Duke, for procuring to the Earl of *M.* the Mastership of the Wards, he utterly denieth it; but afterwards he heard, that the Earl of *M.* did disburse Six thousand pounds about that time; and his late Majesty bestowed the same upon Sir *Henry Mildway* his Servant, without the Duke's privity, and he had it, and enjoyed it, and no penny thereof came to the said Duke, or to his use.

To this Article the Duke answereth, That it is true, that his late Majesty, out of his Royal favour unto him, having honoured the Duke himself with many Titles and Dignities of his bounty; and as a greater argument of his Princely Grace, did also think fit to honour those, who were in equal degree of Blood with him, and also to enoble their Mother, who was the Stock that bare them.

The Title of Countess of *Buckingham*, bestowed upon the Mother, was not without president; and she hath nothing from the Crown but a Title of Honour, which dieth with her.

The Titles bestowed on the Viscount *P.* the Duke's elder Brother, were conferred upon him who was a Servant of the Bed-chamber to his now Majesty, then Prince, by his Highness's means; the Earl of *A.* was of his late Majesties Bed-chamber, and the Honours and Lands conferred on him, was done when the Duke was in *Spain*.

The Earl of *D.* hath the Honours mentioned in the Charge, but he hath not a foot of Land which came from the Crown, or the King's Grant.

But if it were true, that the Duke had procured Honours for those who are so near and dear unto him, the Law of Nature, and the King's Royal favour, he hopeth, will plead for his excuse; and he rather believeth he were worthy to be condemned in the opinion of all generous minds, if being in such favour with his Master, he had minded only his own advancement, and had neglected those who were nearest unto him.

Anno 1626. To this Article his Answer is, That he doth humbly, and with all thankfulness, acknowledge the bountiful hand of his late Majesty unto him; for which he oweth so much to the memory of that deceased King, his most excellent Majesty that now is, and their Posterity, that he shall willingly render back whatsoever he hath received, together with his life, to do them service. But for the immense Sums and Values which are suggested to have been given unto him, he saith, There are very great mistakings in the calculations which are in the Schedules in this Article mentioned; unto which the Duke will apply particular Answers in another Schedule, which shall express the truth of every particular, as near as he can collect the same, to which he referreth himself; whereby it shall appear, what a great disproportion there is between Conjectures and Certainities: And those gifts which he hath received, though he confesseth that they exceed his Merit, yet they exceed not Presidents of former times. But whatsoever it is he hath, or hath had, he utterly denieth that he obtained the same, or any part thereof, by any undue sollicitation or practise, or did unduly obtain any release of any sums of money he received; but he having, at several times, and upon several occasions, disposed of divers sums of the moneys of his late Majesty, and of his Majesty that now is, by their private directions, he hath Releases thereof for his discharge, which was honourable and gracious in their Majesties, who granted the same for their Servants indemnity; and he hopeth was not unfit for him to accept of, lest, in future times, he or his might be charged therewith, when he could not be able to give so clear an account thereof, as he hopeth he shall now well be able to do.

The Charge touching his transcendent presumption in giving Physick to the King.

To this Charge, which is set forth in such an expression of words as might argue an extraordinary guiltiness in the Duke, who by such infinite bounds of duty and thankfulness was obliged to be tender of the life and health of his most dread and dear Sovereign and Master, he maketh this clear and true Answer; That he did neither apply nor procure the Plaister or Posset-drink, in the Charge termed to be a Potion unto his late Majesty, nor was present when the same was first taken or applied: But the truth is this; That his Majesty being sick of an Ague, took notice of the Duke's recovery of an Ague not long before, and asked him how he had recovered, and what he found did him most good? The Duke gave him a particular Answer thereto, and that one who was the Earl of Warwick's Physician had ministred a plaister and posset-drink to him; and the chief thing that did him good was a Vomit, which he wished the King had taken in the beginning of his sickness. The King was very desirous to have that plaister and posset-drink sent for, but the Duke delayed it, whereupon the King impatiently asked, Whether it were sent for or not? and finding by the Duke's speeches he had not sent for it, his late Majesty sent for John Baker the Duke's servant, and with his own Mouth commanded him to go for it: Whereupon the Duke besought his Majesty not to make use of it but by the advice of his own Physicians, nor until it shall be tried of James Palmer of his Bed-chamber, who was then sick of an Ague, and upon two Children in the Town. Which the King said he would do: And in this resolution the Duke left his Majesty, and went to London, and in the mean time in his absence the plaister and posset drink was brought and applied by his late Majesties own command. At the Duke's

return, his Majesty was in taking of the posset-drink, and the King then commanded the Duke to give it him, which he did in the Presence of some of the King's Physicians, they then no ways seeming to dislike it, the same Drink being first tasted of by some of them, and divers others in the King's Bed-chamber. And he thinketh this was the second time the King took it. Afterwards when the King grew somewhat worse than before, the Duke heard a rumor as if his Physick had done the King hurt, and that the Duke had ministred that Physick to him without advice. The Duke acquainted the King therewith, to whom the King with much discontent answered thus, *They are worse than Devils that say it.* So far from the truth it was, which now notwithstanding (as it seemeth) is taken up again by some, and with much confidence affirmed. And here the Duke humbly prayeth all your Lordships, not only to consider the truth of this Answer, but also to commiserate the sad thought which this Article had revived in him.

This being the plain, clear and evident truth of all those things which are contained and particularly expressed in his Charge, (the rest being in general requiring no Answer) He being well assured that he hath herein affirmed nothing which he shall not make good by proof in such way as your Lordships shall direct;

He humbly referreth it to the judgment of your Lordships, how full of danger and prejudice it is to give too ready an ear and too easie a belief unto reports or testimony without Oath, which are not of weight enough, to condemn any. He humbly acknowledgeth how easie it was for him in his younger years and unexperienced, to fall into thousands of errors in those ten years wherein he had the honour to serve so great and open-hearted a Sovereign and Master: But the fear of Almighty God, his sincerity in the true Religion established in the Church of England, (though accompanied with many weaknesses and imperfections, which he is not ashamed humbly and heartily to confess) his awfulness not willing to offend so good and gracious a Master, and his love and duty to his Countrey hath restrained him and preserved him (he hopeth) from running into heinous and high misdemeanors and crimes. But whatsoever upon examination and mature deliberation they shall appear to be, least in any thing unwittingly within the compass of so many years he shall have offended, he humbly prayeth your Lordships not only in those, but as to all the said misdemeanors, misprisions, offences and crimes wherewith he standeth charged before your Lordships to allow unto him the benefit of the free and general Pardon granted by his late Majesty in Parliament in the 21 year of his reign, out of which he is not excepted; and of the gracious pardon of his now Majesty granted to the said Duke, and vouchsafed in like manner to all his Subjects at the time of his most happy Inauguration and Coronation: Which said pardon under the Great Seal of England granted the said Duke, beareth date the tenth day of February now last past, and here is shewn forth unto your Lordships, on which he doth most humbly rely: And yet he hopeth your Lordships in your Justice and Honour, upon which with confidence he puts himself, will acquit him of and from those misdemeanors, offences, misprisions and crimes wherewith he hath been charged; And he hopeth, and will daily pray, that for the future he shall by God's grace so watch over his actions, both publick and private, that he shall not give any just offence to any.

The

Anno 1626. The Duke, after he had put in this Answer, moved the Lords that the Commons might expedite their Reply; and the Commons desire a Copy of his Answer.

The day after his Majesty wrote this Letter to the Speaker of the Commons.

The King's Letter to the Speaker touching speedy supply to his Majesty.

TRusty and Welbeloved, We greet you well. Our House of Commons cannot forget how often and how earnestly We have called upon them for the speeding of that Aid which they intended Us for our great and weighty Affairs, concerning the safety and honour of Us and our Kingdoms: And now the time being so far spent, that unless it be presently concluded, it can neither bring us Money nor Credit by the time which themselves have fixed, which is the last of this Month, and being further deferred, would be of little use, we being daily advertised from all Parts of the great preparations of the Enemy ready to assail Us; We hold it necessary by these Our Letters to give them Our last and final admonition, and to let them know that We shall account all further delays and excuses to be express denials. And therefore We will and require you to signify unto them, that we do expect that they forthwith bring in their Bill of Subsidy to be passed without delay or condition, so as it may fully pass the House by the end of the next week at the furthest: Which if they do not, it will force Us to take other resolutions. But let them know, if they finish this according to our desire, that we are resolved to let them sit together for the dispatch of their other affairs so long as the season will permit, and after their recess to bring them together again the next Winter. And if by their denial or delay, any thing of ill consequence shall fall out either at home or abroad, We call God and Man to witness that we have done our part to prevent it, by calling our People together to advise with Us, by opening the weight of our occasions unto them, and by requiring their timely help and assistance in these Actions whereupon we stand engaged by their own Councils. And we will and command you that this Letter be read publicly in the House.

A great Storm hapned in and about London, about this time St. Andrew's Church-yard Wall fell down into the Street, and many Coffins were expos'd to open view, the lids whereof being opened by some of the Rabble, the Corps of persons dead of the Plague the last year before, were exposed to view. And there was an odd and strange appearance on the Thames; you may take it in the Collector's own words, which yet signify but little more than what that Author might fancy: But 'tis usual with that sort of men to say and fancy what they please.

At the same instant of time there was a terrible Storm and strange Spectacle upon Thames by the turbulency of the Waters, and a Mist that arose out of the same, which appeared in a round Circle of a good bigness above the waters. The fierceness of the Storm bent it self towards York-house, (the then habitation of the Duke of Buckingham) beating against the stairs and wall thereof: And at last this round Circle (thus elevated all this while above the water) dispersed it self by degrees like the smook issuing out of a Furnace, and ascended higher and higher, till it quite vanished away, to the great Admiration of the beholders. This occasioned the more discourse among the Vulgar, in that Dr. Lamb appeared then upon Thames, to whose Art of Conjuring they attributed that which had hapned. The Parliament was then sitting, and this Spectacle was seen

by many of the Members out of the Windows of the House. — *Risum teneatur?*

Car. 2.

The Commons Petition to the King concerning Recusants.

To the King's most excellent Majesty,

YOUR Majesty's most obedient and loyal Subjects, the Commons in this present Parliament assembled, do with great comfort remember the many Testimonies which your Majesty hath given of your sincerity and zeal of the true Religion, established in this Kingdom, and in particular your gracious Answer to both Houses of Parliament at Oxford, upon their Petition concerning the Causes and Remedies of the Increase of Popery; That your Majesty thought fit, & would give order to remove from all places of Authority and Government, all such persons as are either Popish Recusants, or according to direction of former Acts of State justly to be suspected; which was then presented as a great and principal cause of that mischief. But not having received so full redress herein as may conduce to the peace of this Church and safety of this Regal State, They hold it their duty once more to resort to your Sacred Majesty, humbly to inform you, that upon examination they find the persons under-written to be either Recusants, Papists, or justly suspected according to the former Acts of State, who now do, or since the sitting of the Parliament did remain in places of Government and Authority and Trust in your several Counties of this your Realm of England and Dominion of Wales.

The Persons named were, and their Circumstances by some thus aggravated.

The Right Honourable, Francis Earl of Rutland, Lieutenant of the County of Lincoln, Rutland, Northampton, Nottingham, and a Commissioner of the Peace, and of Oyer and Terminer in the County of York, and Justice of Oyer from Trent Northwards. His Lordship is presented to be a Popish Recusant, and to have affronted all the Commissioners of the Peace within the North-Riding of Yorkshire, by sending a Licence under his Hand and Seal unto his Tenant Thomas Fisher, dwelling in his Lordship's Mannor of Helmsley, in the said North-Riding of the said County of York, to keep an Alehouse; soon after he was, by an Order made at the Quarter-Sessions, discharged from keeping an Alehouse, because he was a Popish convict Recusant, and to have procured a Popish School-master, namely, Roger Conyers, to teach Scholars within the said Mannor of Helmsley, that formerly had his Licence to teach Scholars taken from him, for teaching Scholars that were the Children of Popish Recusants, and because he suffered these Children to be absent themselves from the Church whilst they were his Scholars; for which the said Conyers was formerly complained of in Parliament.

The Right Honourable Vicount Dunbar, Deputy-Justice in Oyer to the Earl of Rutland, from Trent Northward, and a Commissioner of Sewers, and a Deputy Lieutenant within the East-Riding of Yorkshire; his Lordship is presented to be a Popish Recusant, and his Indictment removed into the Kings Bench, and his Wife, Mother, and the greater part of his Family are Popish Recusants, and some of them convicted.

Anno 1626. *William Lord Evers*, in Commission for the Sewers in the East-Riding, a convict Popish Recusant; *Henry Lord Abergavenny*, *John Lord Tenham*, *Edward Lord Wotton*, in Commission for Sewers, justly suspected for Popery; *Henry Lord Adoxley*, Commissioner for Sewers in Com. Lanc. himself suspected, and his Wife a Recusant: *John Lord Mordant*, Commissioner of the Peace, Sewers, and Subsidy in Com. Northampton.

John Lord St. John of Basing, Captain of *Lidley Castle* in Com. Southampton, indicted for a Popish Recusant.

Em. Lord Scroop, Lord President of his Majesties Council in the North, Lord Lieutenant of the County and City of York, & Com. Eborac. & *Ville Kingston upon Hull*, presented the last time, and continuing still to give suspicion of his ill-affection in Religion.

1. By never coming to the Cathedral Church upon those days, wherein former Presidents have been accustomed.

2. By never receiving the Sacrament upon Common days, as other Presidents were accustomed, but publickly departing out of the Church, with his Servants, upon those days, when the rest of the Council, Lord Mayor and Aldermen do receive.

3. By never, or very seldom, repairing to the Fasts, but often publickly riding abroad with his Hawks on those days.

4. By causing such as are known to be firm on those days in the Religion established, to be left out of Commission, which is instanced in *Henry Alured Esq.* by his Lordships procurement put out of the Commission of Sewers, or else from keeping them from executing their Places, whis is instanced in *Dr. Hudson*, Doctor in Divinity, to whom his Lordship hath refused to give the Oath, being appointed.

5. By putting divers other ill-affected persons in Commission of the Council of Oyer and Terminer, and of the Sewers, and in other places of Trust, contrary to his Majesties gracious Answer to the late Parliament.

6. In October last 1625. being certified of divers Spanish ships of War upon the Coasts of *Scharborough*, his Lordship went thither, and took with him the Lord *Dunbar*, *Sir Thomas Metham*, and *William Alford*, and lay at the house of the Lord *Enry*, whom he knew to be a Convict Recusant, and did notwithstanding refuse to disarm him, although he had received Letters from the Lords of the Council to that effect: and did likewise refuse to shew the Commissioners, who were to be employ'd for disarming of Popish Recusants, the original Letters of the Privy Council, or to deliver them any Copies as they desired, and as his Predecessors in that place were wont to do.

7. By giving Order to the Lord *Dunbar*, *Sir William Weibham*, and *Sir William Alford*, to view the Forts and Store of Munition in the Town of *Kingsion upon Hull*, who made one *Kerton*, a convict Recusant, and suspected to be a Priest, their Clerk in that service.

8. By denying to accept a Plea tendered according to the Law by *Sir William Hilliard* Defendant, against *Isabel Simson* Plaintiff, in an Action of Trover, that she was a convict Popish Recusant, and forcing him to pay Costs.

9. By the great increase of Recusants since his Lordships coming to that Government in January 1619. It appearing by the Records of the Sessions, that there are in the East-Riding only, One thousand six hundred and seventy more convicted than were

before, which is conceived to be an effect of his favour and continuance towards them.

William Langdale Esq. convicted of Popish Recusancy; *Jordan Metham*, *Henry Holm*, *Michael Partington*, Esquires, *George Creswel*, *Thomas Danby*, Commissioners of the Sewers, and put in Commission by procurement of the Lord *Scroop*, Lord President of the North, and who have all Popish Recusants to their Wives; *Ralph Bridgman* a Non-Communicant.

Nicholas Girlington, whose Wife comes seldom to Church; *Sir Marmaduke Wycl Knight* and Baronet, presented the last Parliament, his Wife being a convict Popish Recusant, and still continuing so.

Sir Thomas Metham Knight, Deputy Lieutenant, made by the Lord *Scroop* in Commission of the Council of the North, and of Oyer and Terminer, and other Commissions of Trust; all by procurement of the said Lord President since the King's Answer; never known to have received the Communion; his two only Daughters brought up to be Popish, and one of them lately married to *Thomas Doleman Esquire*, a Popish Recusant.

Anthony Vicount Montague, in Commission of the Sewers in Com. Suffex his Lordship a Recusant Papist.

Sir William Wray Knight, Deputy Lieutenant, Colonel to a Regiment, his Wife a Recusant; *Sir Edward Musgrave*, *Sir Thomas Lampleigh*, Justices of Peace and Quorum; *Sir Thomas Savage* Deputy Lieutenant and Justice of Peace, his Wife and Children Recusants; *Sir Richard Egerton* a Non-Communicant.

Thomas Savage Esquire, a Deputy Lieutenant, a Recusant, and his Wife indicted and presented; *William Whitmore*, Commissioner of the Subsidy, his Wife and Children Recusants; *Sir Hugh Beeston* Commissioner of the Subsidy, his Daughter and many of his Servants Recusants; *Sir William Massie* Commissioner for the Subsidy, his Lady indicted for Recusancy, and his Children Papists; *Sir William Courtney Knight*, Vice-Warden of the *Stannery*, and Deputy Lieutenant, a Popish Recusant.

Sir Thomas Ridly Knight, Justice of Peace, his Wife a Popish Recusant, and eldest Son.

Sir Ralph Conyers Knight, Justice of Peace, his Wife a Popish Recusant.

James Lawson Esquire, a Justice of Peace, and one of the Captains of the Trained-band, his Children Popish Recusants, and Servants Non-Communicants.

Sir John Shelley Knight and Baronet, a Recusant. *William Scot Esq.* a Recusant. *John Finch Esq.* not convicted, but comes not to Church, in Commission of the Sewers.

These are all Convicted Recusants, or suspected of Popery.

Sir William Mullineux, Deputy Lieutenant, and Justice of Peace, his Wife a Recusant; *Sir Richard Houghton Knight*, Deputy Lieutenant, his Wife and some of his Daughters Recusants; *Sir William Norris* Captain of the General Forces, and Justice of Peace, a Recusant; *Sir Gilbert Ireland*, Justice of Peace, a Recusant; *James Anderton Esquire*, Justice of Peace, and one of his Majesties Receivers, his Wife a Non-Communicant, his Son and Heir a great Recusant, and himself suspected.

Edward Rigby Esquire, Clerk of the Crown, Justice of Peace, himself a good Communicant, but his Wife and Daughter Popish Recusants.

Edward Criswell Esquire, Justice of Peace, his Wife a Popish Recusant.

John

John Parker Gentleman, Muster-Master for the County, suspected for a Popish Recusant.

George Ireland Esquire, Justice of Peace, his Wife a Popish Recusant.

John Preston Esquire, Bow-bearer for his Majesty in *Westmoreland* Forest, a Recusant.

Thomas Corall Esquire, Jaylor, Justice of the Peace and *Quorum*, his Daughter a Recusant married.

Sir Cuthbert Halsal Justice of Peace, his Wife a Recusant.

Richard Shearburn Esquire, Justice of Peace, himself Non-resident, his Wife and Son Recusants.

Sir George Hennage Knight, *Sir Francis Morscalf* Knight, *Robert Thorold* Esquire, *Anthony Munson* Esquire, *William Dallison* Esquire, in Commission for the Sewers, and are justly suspected for Popish Recusants.

Sir Henry Spiller Knight, in Commission for *Middlesex* and *Westminster*, and Deputy Lieutenant; *Valentine Saunders* Esquire, one of the six Clerks, both which are justly suspected to be ill-affected in Religion according to the Acts of State.

Charles Jones Knight, Deputy Lieutenant, and Justice of Peace, *George Milburne* Esquire, Justice of Peace, *Edward Morgan* Esquire, their Wives are all Popish Recusants.

William Jones, Deputy Lieutenant, Justice of Peace, his Wife suspected to be a Popish Recusant.

John Kaughan, Captain of the Horse, suspected for Recusancy.

Benedit Hall, Receiver and Steward of the Duchy of *Lancaster*, he and his Wife are Popish Recusants.

Sir Thomas Brudenell Knight and Baronet, Deputy Lieutenant, a Popish Recusant.

Cuthbert Heron Esquire, now Sheriff of *Northumberland*, Justice of the Peace, his Wife a Recusant.

Sir William Selby junior, Knight, Justice of Peace, his Wife a Recusant.

Sir John Ganning Knight, Justice of Peace, his Wife a suspected Recusant.

Sir Ephraim Widdrington Knight, Justice of Peace, suspected to be a Recusant.

Sir Thomas Ridall Knight, Justice of Peace, his Wife and eldest Son are Recusants.

John Widdrington Esquire, who came out of the same County before his Majesties Proclamation was published, and is now at *London* attending the Council Table by Commandment, and yet not dismist.

Sir Robert Pierpoint, Justice of Peace, his Wife a Recusant.

Sir Anthony Brown Knight, Justice of Peace, thought to be a Recusant, but not convict.

Sir Henry Beddingfield Knight, Deputy Lieutenant, and Justice in Oyer and Terminer, and in Commission of Sewers, Justice of Peace, and Captain of a Foot Company, his Wife nor any of his Children, as is informed, come to the Church.

Thomas Sayer, Captain of the Horse, his Wife comes not to Church.

Sir William Tesherton Baronet, and Justice of Peace, not suspected himself, but his eldest Son and one of his Daughters are known Recusants.

Sir Henry Minne Knight, Justice of Peace and *Quorum*, neither he, his Wife or Daughters, can be known to have received the Communion, and have been presented at the Sessions for Non-conformity.

Robert Warren Clerk, a Justice of Peace, justly suspected, and that for these Reasons.

Car. 2.

1. He being in trust for one *Rauchiff* of *Bury*, deceased, for the education of his Son; he took him from the School at twelve years old, and sent him beyond the Seas to be brought up there in a Popish Seminary, where he hath remained six or seven years, as was generally reported.

2. One of his Parishioners doubted in some points of Religion, being sick and desired to be satisfied by him, who confirmed him in the Religion of the Church of *Rome*, which he told to his brothers before his death, who are ready to affirm the same, but this was divers years since.

3. There being Letters directed to four Knights of that County to call the Ministers and other Officers before them, and to cause them to present all such such as absented themselves from the Church, and were Popishly affected, he was desired to present those within his Parish Church of *Welford*, which he accordingly did, but left out at the left one half, and being asked, Why he did so? he answered, That he was no Informer: And being asked of some particulars, Whether they came to the Church or not? his Answer was, They did not: and, Why then did he not present them? he said, They might be Anabaptists or Brownists, and would not present them, and this certified by three Members of the House.

4. He having a brother dwelling in *Sudbury* that was presented for not coming to the Church, he came to one of the Ministers, and told him, That he took it ill they presented his Brother; who answered, He did it not: but, if he had known of it, he would, whereupon he replied, He was glad he had a Brother of any Religion.

5. One of his Parish, named *Fage*, having intelligence, that there was one of the said Parish, that could inform of a private place, where Arms were in the Recusants House in the Parish, came to some of the Deputy Lieutenants in Commission for a Warrant to bring the same in form before them, to be examined concerning the same, and the said *Fage* delivered the Warrant to the Constable, he carried him before the said *M. Warren*, who rated the said *Fage* for that he did not come to him first, telling him, that he was a factious Fellow, and laid him by the heels for two hours, which the said *Fage* is ready to affirm.

Sir Benjamin Trubburne Knight and Baronet, Justice of Oyer and Terminer, Justice of Peace, and Deputy Lieutenant, and in Commission for the Subsidy; his Wife, Children and Servants indicted for Popish Recusancy.

Sir Richard Tichburne Knight, Justice of the Peace, his Wife presented the last Sessions for having absented herself from the Church for the space of two Months.

Sir Henry Compton Knight, Deputy Lieutenant, Justice of Peace, and Commissioner for the Sewers. *Sir John Shelly* Knight and Baronet, himself and his Lady Recusants.

Sir John Gage Knight and Baronet, a Papist Recusant.

Sir John Gildesford, Knight, *Sir Edward Frances* Knight, both their Ladies come not to Church.

Sir Garret Kempe Knight, some of his Children come not to Church.

Edward Gage Esquire, Commissioner of the Sewers, a Recusant Papist.

Thomas Middlemore, Commissioner of the Sewers, comes not to Church.

James Rolfe, *William Scot*, Commissioners of Sewers, both Recusant Papists.

Robert

Anno
1626.

Robert Spiller comes not to Church.

Sir Henry Guildford in Commission for Piracies, and for the Sewers, and John Thacker Esquire, Commissioner for the Sewers, they are either persons convicted, or justly suspected.

Sir Richard Sandford Knight, Richard Brewthwaite Esq; Gaven Brewthwaite Esq; their Wives are Recusants.

Sir William Aubrey Knight, Justice of Peace, a Recusant.

Rees Williams, Justice of Peace, his Wife a convicted Recusant, and his Children Popishly bred, as is informed.

Sir John Coney Knight, a Justice of Peace, and Deputy Lieutenant, his Wife a Popish Recusant.

Morgan Voyle Esquire, Justice of Peace, his Wife presented for not coming to the Church, but whether she is a Popish Recusant is not known.

John Warren, Captain of the Trained-band, one of his Sons suspected to be Popishly affected.

Wherefore they humbly beseech your Majesty not to suffer your loving Subjects to continue any longer discouraged by the apparent sense of that increase both in number and power, which by the favour and countenance of such like ill-affected Governours accreth to the Popish party; but that according to your own wisdom, goodness, and piety (whereof they rest assured) you will be graciously pleased to command that Answer of your Majesties to be effectually observed, and the parties above named, and all such others to be put out of such Commissions and Places of Authority wherein they now are in your Majesties Realm of England, contrary to the Acts and Laws of States in that behalf.

The Commons Answer to the Kings Letter by Mr. Speaker, Sir Heneage Finch, as followeth;

Most gracious and dread Sovereign,

According to that liberty of access, and liberty of speech which your Majesty and your Royal Progenitors have ever vouchsafed to your House of Commons, your Majesties most humble and loyal Subjects, the Commons now assembled in Parliament, have been suitors for this access to your Royal Throne.

And out of their consideration of the nature, and of the weight and importance of the business, they have thought the attendance of the whole House, with their Speaker, not too solemn; and yet they have not thought fit barely to commit those words, which express their thoughts, to the trust of any man's speech, but are bold to present them in writing to your gracious hands, that they may not vanish, but be more lasting than the most powerful words of a more able Speaker like to be.

I have much to read, and shall therefore, as little as I can, weary your Majesty with Speeches.

This Parchment contains two things, the one by way of Declaration, to give your Majesty an account and humble satisfaction of their clear and sincere endeavours and intentions in your Majesties service; and the other, an humble Petition to your Majesty, for the removal of that great

Person, the Duke of Buckingham, from access to your Royal presence.

For the first, They beseech your most excellent Majesty to believe, that no earthly thing is so dear and precious to them, as that your Majesty should retain them in your grace and good opinion; and it is grief to them, beyond my expression, that any misinformation, or misinterpretation, should at any time render their words or proceedings offensive to your Majesty.

It is not proper for any one to hear the Echo of a Voice, that hears not the Voice; and if Echo's be sometimes heard to double and redouble, the Echo of the Echo is still fainter, and sounds not louder.

I need not make the application; words misreported, though by an Echo, or but an Echo of an Echo, at a third or fourth hand, have oft a louder sound than the Voice it self, and may sound disloyalty, though the Voice had nothing undutiful or illoyal in it.

Such misinformations, they fear, have begot those interruptions and diversions, which have delayed the ripening and expediting of those great Counsels, which concern your Majesties important service, and have enforced this Declaration.

I pass from that to the Petition, in which my purpose is not to urge those Reasons, which your Majesty may hear expressed in their own words in the language of the people.

I am only directed to offer to your great wisdom and deep judgment, that this Petition of theirs is such, as may stand with your Majesties honour and justice to grant.

Your Majesty hath been pleased to give many Royal Testimonies and Arguments to the world, how good and gracious a Master you are; and that which the Queen of Sheba once said to the wisest King, may without flattery be said to your Majesty,

Happy are those Servants which stand continually before you.

But the Relations by which your Majesty stands in a gracious aspect towards your People, do far transcend, and are more prevalent and binding, than any relation of a Master towards a Servant; and to hear and satisfy the just and necessary desires of your People, is more honourable, than any expression of grace to a Servant.

To be a Master of a Servant, is communicable to many of your Subjects; to be a King of People, is Regal, and incommunicable to Subjects.

Your Majesty is truly styled with that name, which the greatest Emperors, though they borrowed Names and Titles from those Countries, which they gained by Conquest, most delighted in, *Pater Patrie*. And desires of Children are preferred before those of Servants, and the Servant abideth not in the house for ever, but the Son abideth ever.

The Government of a King was truly termed by your Royal Father, A politick Marriage between him and his People; and I may safely say, There was never a better Union between a married Pair, than is between your Majesty and your People.

The Commons finding the King's intent to dissolve the Parliament, draw up a Remonstrance against

against the Duke, and against the King's Right to Tonnage and Poundage, and ordered every Member to take a Copy of it.

The Lords petition the King not to dissolve the Parliament.

May it please your Excellent Majesty,

WE your faithful and loyal Subjects, the Peers of this Kingdom, having received this morning a Message from your Majesty, intimating an intention to dissolve this Parliament; remembering that we are your Majesty's Hereditary great Council of the Kingdom, do conceive, that we cannot deserve your Majesty's gracious opinion expressed in this Message unto us, nor discharge our duty to God, your Majesty, and our Country, if after expression of our great and universal sorrow, we did not humbly offer our loyal and faithful advice to continue this Parliament, by which those great and apparent dangers at home and abroad, signified unto us by your Majesty's command, may be prevented, and your Majesty made happy in the duty and love of your people, which we hold the greatest safety and treasure of a King; for the effecting whereof, our humble and faithful endeavour shall never be wanting.

The Lords sent to present their Petition, were the Vicount Mandeville, Earl of Manchester, Lord President of his Majesty's Council, the Earl of Pembroke, the Earl of Carlisle, and the Earl of Holland. The King returned Answer, That his Resolution was to hear no motion for that purpose: And immediately caused a Commission to pass under the Great Seal to that purpose, *ut sequitur*.

CAROLUS, Dei gratia, Anglia, Scotia, Francie & Hibernia Rex, Fidei Defensor, &c. Reverendissimo in Christo Patri & fideli Consiliario nostro Georgio Archiepiscopo Cantuariensi, totius Angliae Primati & Metropolitano: Ac perdilecto & fideli Consiliario nostro Thoma Coventry Militi, Dom. Custod. Magni Sigilli nostri Angliae: Ac etiam Reverendissimo in Christo Patri Tobiae Archiepiscopo Eboracensi, Angliae Primati & Metropolitano: Nec non charissimis Consanguineis & Consiliariis nostris Jacobo Comiti Marlborough, Thesaurario nostro Angliae; Henrico Comiti Manchester, Dom. Presidenti Consilij nostri; Edwardo Comiti Wigorn. Custod. Privati Sigilli nostri; Georgio Duci Buckingham, Magno Admirallo nostro Angliae; Willielmo Comiti Pembroke, Camerario Hospitij nostri: Ac etiam charissimo Consanguineo nostro Edwardo, Comiti Dorset; nec non charissimo & Consiliario nostro Philippo Comiti Montgomery; charissimoque Consanguineo nostro Willielmo Comiti Northampton, Presidenti Consilij nostri infra Principalitatem & Marchias Walliae; ac charissimo Consanguineo & Consiliario nostro Jacobo Comiti Carleol. Nec non charissimis Consanguineis nostris Johanni Comiti de Clare, Thoma Comiti Cleveland, Edmundo Comiti de Mudgegrave: nec non charissimo Consanguineo & Consiliario nostro Georgio Comiti de Toynes; charissimoque Consanguineo nostro Henrico Vicecomiti Rochford: Ac etiam reverendis in Christo Patribus Georgio Episcopo London. Richardo Episcopo Dunelm. Reverendoque in Christo Patri & fideli Consiliario nostro Lanceloto Episcopo Winton. Nec non Reverendis in Christo Patribus, Samueli Episcopo Norwiche. Willielmo Episcopo Meneven. Ac perdilecto &

fideli Consiliario nostro Edwardo Dom. Conway, uni primorum Secretariorum nostrorum, Ac etiam perdilecto & fideli nostro Samueli Dom. Scroop Presidenti Consilij nostri in partibus Borealibus, perdilectoque & fideli Consiliario nostro Fulconi Dom. Brook, Salustem.

Cum nuper pro quibusdam arduis & urgentibus negotiis, nos statum & defensionem Regni nostri Angliae & Ecclesiae Anglicanae, concernentibus, praesens hoc Parliamentum nostrum apud Civitatem nostram Westmonasterij sexto die Februarii. Anno Regni nostri primo inchoari & teneri ordinaverimus, a quo die idem Parliamentum nostrum usque ad & instantem decimum quintum diem Junij continuatum fuerat: Sciatis quod nos pro certis urgentibus causis & considerationibus nos specialiter moventibus, idem Parliamentum nostrum hoc instanti decimo quinto die Junij duximus dissolvendum. De fidelitate igitur, prudentia & circumspectione vestris plurimum confidentes, de aversamento & assensu Consilij nostri assignavimus vos Commissionarios nostros, dantes vobis & aliquibus vestris vel pluribus vestrum tenore praesentium, plenam potestatem & auctoritatem hoc instanti decimo quinto die Junij ad dictum Parliamentum nostrum nomine nostro plenarie dissolvendum; & ideo vobis mandamus quod vos, vel aliqui tres vel plures vestrum, idem Parliamentum nostrum hoc instante, decimo quinto die Junij, virtute harum Literarum nostrarum patent. plenarie dissolvatis & determinetis. Et ideo vobis mandamus quod praemissa diligenter intendatis, ac ea in forma praedicta effectualiter expleatis & exequamini. Damus autem universis & singulis Archiepiscopis, Ducibus, Marchionibus, Comitibus, Vicecomitibus, Episcopis, Baronibus, Militibus, Civibus & Burgensibus, ac omnibus aliis quorum interest ad dictum Parliamentum nostrum conveniendum, tenore praesentium firmiter in mandat. quod vobis in praemissis faciend. agend. & exequend. pariant, obediant, & intendant in omnibus prout decet. In cujus rei testimonium has literas nostras fieri fecimus patentes. Teste meipso apud Westm. decimo quinto die Junij, Anno Regni nostri secundo.

EDMONDS.

And the Parliament was dissolved accordingly.

The intended Remonstrance of the Commons was as followeth.

Most gracious Sovereign,

WE your loyal and faithful Subjects, the Commons assembled by your Majesty's most Royal Authority in this present Parliament, having with all dutiful affection, from the time of our first meeting, earnestly endeavoured to proceed speedily in those Affairs, that might best and soonest conduce to our dispatch of the intended supply of your Majesty's great designs, to the enlargement of your support, and to the enabling of our selves, and them whom we represent, to the full and timely performance of the same; have notwithstanding, by reason of divers informations, interruptions, and other preventions, been hitherto so retarded in the prosecution of these Affairs, that we now thought it a necessary part of our most humble duties thus to declare, both those interruptions and preventions, with the true original and continual cause of them; as also our most earnest devotion of the Parliamentary service of your most excellent Majesty, and of the

Anno the careful safety and defence of your Dom-
1626. nions, Crown and Dignity: And we most
 humbly therefore beseech your most excellent
 Majesty, to be graciously pleased here to cast
 your eye on some particulars, that have re-
 lation, as well to your first Parliament, as to
 this; out of which we cannot doubt, but that
 your great goodness may receive an ample
 satisfaction touching our most loyal and faith-
 ful intentions.

In the first Parliament of the first year of
 your Majesties most happy Reign over us,
 the Commons then assembled, after they had
 cheerfully presented to your Majesty, as the
 first-fruits of their affections, two entire
 Subsidies, were exceedingly pressed by the
 means of the Duke of Buckingham, and for
 his own ends, as we conceive, to enlarge
 that Supply: which when he conceived would
 not be there effected, he procured, for the same
 ends, from your Majesty, an Adjournment
 of the Parliament to the City of Oxford;
 where the Commons then taking into just
 consideration the great mischiefs which this
 Kingdom variously hath suffered, and that
 chiefly by reason of the exorbitant power, and
 frequent misdoings of the said Duke, were
 entering into a Parliamentary course of ex-
 aminations of those mischiefs, power, and
 misdoings: But no sooner was there any
 mention made of his name to this purpose,
 but that he, fearing lest his actions might so
 have been too much laid open to the view of
 your most excellent Majesty, and to the just
 Censure that might then have followed, pre-
 sently, through his misinformations to your
 Majesty, of the intentions of your said Com-
 mons (as we have just cause to believe) pro-
 cured a dissolution of the said Parliament:
 And afterwards also in the same year, through
 divers misreports made to your Majesty in
 his behalf, touching some Members of the
 said Commons, who had more particularly
 drawn his name into just question, and just-
 ly professed themselves averse to his ends
 there, procured (as we cannot but conceive)
 the said Members to be made the Sheriffs
 of several Counties for this year that follow-
 ed, to the end that they might have all been
 precluded from being chosen Members of the
 present Parliament, lest they should again
 have there questioned him; and by the like
 practice also (as we are persuaded) he pro-
 cured, soon after the said dissolution, another
 Member of the said House, because he had
 justly professed himself against his ends, to be
 sent as a Secretary of your Majesties last
 Fleet, hereby indeed to punish him, by such
 drawing him from his practice of the Law,
 which was his profession, under colour of an
 honourable Employment.

It pleased your Majesty afterwards, in
 February last, to call this present Parliament,
 wherein though none of those whom the said
 Duke had so procured to be made high She-
 riffs, have late as Members; yet we finding
 in our selves the like affection, first to the
 Service of your Majesty, and next to the
 good of the Commonwealth, we took into se-
 rious consideration several Propositions, how
 for the safety and happiness of your Maje-
 sties Kingdoms and Allies, we might en-
 large your Supports, and add to the mili-
 tary Strength without charge to the poorer

sort of your Subjects, and give a larger Sup-
 ply to your Majesty for your instant and pre-
 sent occasions, than hath ever yet but once
 been given in Parliament: Whereupon for
 the enabling of our selves, and those whom
 we represent, we conceive it first necessary to
 search into the Causes of those mischiefs,
 which this your Kingdom suffereth, and di-
 vers of the Grievances that over-burden your
 Subjects; without doing of which, we could
 neither be faithful to your Majesty, nor to the
 Countrey that doth trust and employ us, as
 your Royal Father also, of blessed memory,
 admonished the House of Commons in the
 fourth Session of his first Parliament. In
 this consideration we found, that the most
 pressing and comprehensive mischief and Gri-
 evance that he suffered, was fundamentally
 settled in the vast power and enormous actions
 of the said Duke, being such, that by reason
 of his plurality of Offices, all gotten by am-
 bition, and some for money, expressly against
 the Laws of your Realm; his breach of
 Trust, in not guarding the Seas; his high
 injustice in the Admiralty; his Extortion;
 his delibering over the Ships of this King-
 dom into the hands of a Foreign Prince; his
 procuring of the compulsory buying of Ho-
 nour for his own gain; his unexampled ex-
 hausting of the Treasures and Revenues of
 the Kingdom; his transcendent presumption
 of that unhappy applying of Physick to your
 Royal Father of blessed memory, few days
 before his death, and some other his Offen-
 ces carefully and maturely examined by us,
 we made a Parliamentary Charge of the
 same matters and offences against him, to the
 Lords, by your Majesty assembled in Parlia-
 ment, there expecting some Remedy by a
 speedy proceeding against him: But, may it
 please your most excellent Majesty, not only
 during the time of our examination of the
 matters and offences of the same Charge, we
 were diversly interrupted and diverted by
 Messages procured through misinformation
 from your Majesty, which with most humble
 duty & reverence we did ever receive; whence
 it first fell out, that so not only much time
 was spent amongst us, before the same
 Charge was perfected, but also within two
 days next after the same Charge was trans-
 mitted by us to the Lords: Upon untrue and
 malicious misinformations, privately and a-
 gainst the privilege of Parliaments, given
 to your Majesty of certain words supposed to
 have been spoken by Sir Dudley Diggs and Sir
 John Elliot Knights, two of the Members of
 our House, in their service of transmitting of
 the said Charge, both of them having been spe-
 cially employed in the Chairs of Committees
 with us, about the examination of the said
 matters and offences, they were both by your
 Majesties command committed to close im-
 prisonment in the Tower of London, and their
 Lodgings presently searched, and their Pa-
 pers there found, presently taken away; by
 reason whereof not only our known privileg-
 es of Parliament were infringed, but we our
 selves, that upon full hope of speedy course of
 Justice against the said Duke, were prepa-
 ring with all dutiful affection to proceed to
 the dispatch of the Supply, and other Ser-
 vices to your Majesty, were wholly, as the
 course and privilege of Parliament binds
 us,

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us, diverted for divers days, to the taking only into consideration some courses for the ratifying and preservation of the Priviledges so infringed; and we think it our duties, most gracious Sovereign, most rightly to inform hereby your most excellent Majesty, of the course held in the Commitment of the Members: For whereas by your Majesties Warrant to your Messengers for the arresting of them, you were pleased to command, that they should repair to their Lodgings, and there take them; your Majesties principal Secretary, the Lord Conway, gave the said Messengers (as they affirmed) an express command, contrary to the said Warrant, that they should not go to their Lodgings, but to the House of Commons, and there take them; and if they found them not there, they should stay until they were come into the House, and apprehend them wheresoever else they should find them. Which, besides that it is contrary to your Majesties command, as an apparent Testimony of some mischievous intention there had against the whole House of Commons, and against the service intended to your Majesty. All which, with the several interruptions that preceded it, and the misinformation that hath caused all of them, we cannot doubt but that they were wrought and procured by the Duke, to his own behoof, and for his advantage, especially because the said interruptions have, through misinformation, come amongst us, only at such times wherein we have had the matters and offences charged against him in agitation; but your Majesty, out of your great goodness and justice, being afterwards informed truly of our Priviledge; and the demerit of the Cause that concerned our said two Members, graciously commanded the delivery of them out of the Tower, for which we render unto your Majesty most humble thanks; and were then again, by reason of our hopes of the dispatch of proceedings with the Lords, upon our Charge against him the said Duke, in a cheerful purpose to go on with the matter of Supply, and other Services to your Majesty, when again these hopes failed in us, by reason of some new exorbitances now lately shewed in the exercise of his so great power and ambition; for by such his power and ambition, notwithstanding our Declaration against him for his so great plurality of Offices, he also procured to himself, by the solicitation of his Agents, and of such as depended upon him, the Office of Chancellor of the University of Cambridge; whereas the same University having two Burgesses in Parliament, did, by the same Burgesses, a few weeks before, consent with us in the Charge against him for his ambition for procuring such a plurality of Offices; such was his ambition to live for it, such was his power to make them give it him, contrary to what themselves had agreed in Parliament with all the Commons of England. And he procured also the same Office, by the special labours and endeavours (as we are informed) of a Factionary party, who adhereth to that dangerous Innovation of Religion, published in the seditious Writings of one Richard Mountague Clerk; of whom it is thence also, and heretofore, upon other reasons, it hath been conceived, that the said Duke is, and long hath been, an Abettor and Protector.

Car. 2.

These actions of the said Duke have thus amongst us hindered the service of your Majesty, by reason both of the interruptions that have so necessarily accompanied them, and of the prevention of our cheerfulness, which otherwise had long since been most effectually shewed in us, that having nothing else in our cares, next to our duty to God, but the loyal service of your Majesty, the safety of your Kingdom, and the subsistence of our selves and those whom we represent, for the continuance of that service and safety, which we cannot hope for: and we beseech your most excellent Majesty, graciously to receive this our humble and free protestation, That we cannot hope for it, so long as we thus suffer under the pressures of the power and ambition of the said Duke, and the divers and false Informations so given to your Majesty on his behalf, and for his advantage; especially when we observe also, that in such his greatness, he preventeth the giving of true Information to your Majesty, in all things that may any ways reflect to his own misdoings, to shew unto your Majesty the true state of your Subjects and Kingdoms, otherwise than as it may be represented for his own ends. And to that purpose also hath he procured so many persons depending on him, either by alliance or advancement, to places of eminency near your Sacred Person. Through his misinformations of that kind also, and power, we have seen, to our great grief, both in the time of your Majesties Royal Father of blessed memory, and of your Majesty, divers Officers of the Kingdom, so often by him displaced and altered, that within these few years past, since the beginning of his greatness, more such displacings and alterations have, by his means, happened, than in many years before them: Neither was there in the time of your Royal Father of blessed memory, any such course held, before it was by the practice of the said Duke thus induced. And since that time, divers Officers of the Crown, not only in this your Kingdom of England, but also in Ireland, as they have been made friends or adverse to the said Duke, have been either so commended; or misrepresented by him to his Sovereign; and by his procurement so placed, or displaced, that he hath always herein, as much as in him lay, made his own ends and advantage the measure of the good or ill of your Majesties Kingdoms.

But now at length, may it please your most excellent Majesty, we have received from the Lords a Copy of the said Duke's Answer to our Charge transmitted against him; whereunto we shall presently in such sort reply, according to the Laws of Parliament; that unless his power and practice again undermine our proceedings, we do not doubt but we shall upon the same have Judgment against him.

In the times also (most gracious Sovereign) of these interruptions which came amongst us; by reason of the procurement of two of our Members committed, a gracious Message was formerly received from your Majesty; wherein you had been pleased to let us know, That if you had not a timely Supply, your Majesty would betake your self to new Counsels; which we cannot doubt were intended by your most excellent Majesty

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to be such as stood with Justice and the Laws of this Realm. But these words, New Counsels, were remembred in a Speech made amongst us by one of your Majesties Privy Council, and lately a Member of us, who in the same Speech told us, He had often thought of those words, New Counsels; That in his consideration of them, he remembred that there were such kinds of Parliaments anciently among other Nations, as are now in England; That in England he saw the Countrey people live in happyness and plenty, but in those other Nations he saw them poor both in persons and habit, or to that effect: which state and condition happened (as he said) to them, where such New Counsels were taken, as that the use of their Parliaments ended.

This intimation, may it please your Majesty, was such, as also gave us just cause to fear there were some ill Ministers near your Majesty, that in behalf of the said Duke, and together with him, who is so strangely powerful, were so much against the Parliamentary course of this Kingdom, as they might perhaps advise your most excellent Majesty such New Counsels as these, that fell under the memory and consideration of that Privy Counsellor. And one especial reason among others hath increased that fear among us, for that whereas the Subsidies of Tonnage and Poundage, which determined upon the death of your most Royal Father, our late Sovereign, and were never payable to any of your Majesties Ancestors, but only by a special Act of Parliament, and ought not to be levied without such an Act; yet ever since the beginning of your Majesties happy Reign over us, the said Subsidies have been levied by some of your Majesties Ministers, as if they were still due; although also one Parliament hath been since then begun, and dissolved by procurement of the said Duke, as is before shewed, wherein no Act passed for the same Subsidies. Which example is so much against the constant use of former times, and the known Right and Liberty of your Subjects, that it is an apparent effect of some new Counsels given against the ancient settled course of Government of this your Majesties Kingdom, and chiefly against the Right of your Commons, as if there might be any Subsidy, Tax, or Aid levied upon them, without their consent in Parliament, or contrary to the settled Laws of this Kingdom. But if any such do so ill an office, as by the misrepresentation of the state and right of your Majesties loyal Subjects, advise any such new Counsels as the levying any Aid, Tax, or Subsidy among your People, contrary to the settled Laws of your Kingdom, we cannot, most gracious Sovereign, but esteem them that shall so advise, not only as Dividers, but Pests to their King and Commonwealth, (as all such were to both Houses of Parliament expressly styled by your most Royal Father) but also Capital Enemies, as well to your Crown and Dignity, as to the Commonwealth. And we shall for our parts in Parliament shew as occasion shall require, and be ready to declare their offences of this kind, such as that may be rewarded with the highest punishment, as your Laws inflict on any offenders.

These, and some of these things, amongst many other, (most gracious Sovereign) are those which have so much prevented a right understanding between your Majesty and us, and which have possessed the hearts of your People and Loyal Commons with unspeakable sorrow and grief, finding apparently all humble and hearty endeavours misinterpreted, hindered, and now at last almost frustrated utterly, by the interposition of the excessive and abusive power of one man; against whom we have just cause to protest, not only in regard of the particulars wherewith he hath been charged, which Parliamentary way we are enforced to insist upon, as matters which lie in our notice and proof, but also because we apprehend him of so unbridled Ambition, and so averse to the good and tranquillity of the Church and State, that we verily believe him to be an Enemy to both: And therefore, unless we would betray our own duties to your Majesty, and those from whom we are trusted, we cannot but express our infinite grief, that he should have so great power and interest in your Princely affections, and under your Majesty wholly, in a manner, to engross to himself the Administration of your Affairs of the Kingdom, which by that means is drawn into a condition most miserable and hazardous.

Give us then leave, most dear Sovereign, in the name of all the Commons of this your Kingdom, prostrate at the feet of your Sacred Majesty, most humbly to beseech you, even for the Honour of Almighty God, whose Religion is directly undermined by the practice of that Party whom this Duke supports; for your Honour, which will be much advanced in relieving of your People in this their great and general grievance; for the honour, safety, and welfare of your Kingdom, which by this means is threatened with almost unavoidable dangers; And for the love which your Majesty, as a good and loving Father, bears unto your good people, to whom we profess, in the presence of Almighty God (the searcher of all hearts) you are as highly esteemed and beloved, as ever any of your Predecessors were, that you would be graciously pleased to remove this Person from access to your Sacred Presence, and that you would not ballance this one man with all these things, and with the Affairs of the Christian World, which do all suffer so far, as they have relation to this Kingdom, chiefly by his means. For we protest to your Majesty, and to the whole World, That until this great person be removed from intermeddling with the great Affairs of State, we are out of hope of any good success; and do fear, that any money we shall or can give, will, through his mis-employment, be turned rather to the hurt and prejudice of this your Kingdom, than otherwise, as by lamentable experience we have found, in those large Supplies we have formerly and lately given.

But no sooner shall we receive redress and relief in this, (which, of all others, is our most insupportable grievance) but we shall forthwith proceed to accomplish your Majesties own desire, for Supply, and likewise with all cheerfulness apply our selves to the perfecting of divers other great things, such as we think no one Parliament in one Age

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1626. Age can parallel, tending to the stability, wealth, and strength; and honour of this your Kingdom, and the support of your friends and Allies abroad: And we doubt not but, through God's blessing, as you are the best, so shall you ever be the best beloved, and greatest Monarch that ever sat on the Royal Throne of this famous Kingdom.

The King's Declaration of the causes of assembling and dissolving the two last Parliaments.

The King's most excellent Majesty, since his happy access to the Imperial Crown of this Realm, having by his Royal Authority summoned and assembled two several Parliaments; the first whereof was in August last, by Adjournment held at Oxford, and there dissolved; and the other begun in February last, and continued until the fifteenth day of this present Month of June, and then, to the unspeakable grief of himself, and (as he believeth) of all his good and well-affecting Subjects, dissolved also: Although he well knoweth, that the Calling, Adjourning, Proroguing, and Dissolving of Parliaments, being his great Council of the Kingdom, do peculiarly belong unto himself by an undoubted Prerogative inseparably united to his Imperial Crown; of which, as of his other Royal Actions, he is not bound to give an account to any but to God only, whose immediate Lieutenant and Vicegerent he is in these Realms and Dominions, by the Divine Providence committed to his charge and government: Yet forasmuch as by the assistance of the Almighty, his purpose is so to order himself, and all his actions, especially in the great and publick Actions of State, concerning the weal of his Kingdoms, as may justifie themselves, not only to his own Conscience, and to his own People, but to the whole World; his Majesty hath thought it fit and necessary, as the affairs now stand both at home and abroad, to make a true, plain, and clear Declaration of the Causes which moved his Majesty to assemble, and after enforced him to dissolve these Parliaments; that so the mouth of malice it self may be stopped, and the doubts and fears of his own good Subjects at home, and of his friends and Allies abroad, may be satisfied, and the deserved blame of so unhappy accidents may justly light upon the Authors thereof.

When his Majesty, by the death of his dear and Royal Father of ever blessed memory, first came to the Crown, he found himself engaged in a War with a potent Enemy; not undertaken rashly, nor without just and honourable grounds, but enforced for the necessary defence of himself and his Dominions, for the support of his friends and Allies, for the redeeming of the ancient Honour of this Nation, for the recovering of the Patrimony of his dear Sister, her Consort, and their Children, injuriously, and under colour of Treaties and Friendship, taken from them, and for the maintenance of the true Religion, and invited thereunto, and encouraged therein by the humble advice of both the Houses of Parliament, and by their large promises and protestations to his late Majesty, to give him

full and real assistance in those Enterprises, which were of so great importance to this Realm, and to the general peace and safety of all his friends and Allies: But when his Majesty entered into a view of his Treasure, he found how ill provided he was to proceed effectually with so great an Action, unless he might be assured to receive such Supplies from his loving Subjects, as might enable him to manage the same.

Hereupon his Majesty, being willing to tread in the steps of his Royal Progenitors, for the making of good and wholesome Laws for the better government of his People, for the right understanding of their true Grievances, and for the supply of moneys to be employed for those publick services, he did resolve to summon a Parliament with all convenient speed he might; and finding a former Parliament already called in the life of his Father, he was desirous, for the speedier dispatch of his weighty affairs, and gaining of time, to have continued the same, without any alteration of the Members thereof, had he not been advised to the contrary by his Judges and Council at Law; for that it had been subject to question in Law, which he desired to avoid. But as soon as possible he could, he summoned a new Parliament, which he did with much confidence and assurance of the love of his People, that those (who had, not long before, with some importunity, won his Father to break off his former Treaties with Spain, and to effect it, had used the mediation of his now Majesty, being then Prince, and a Member of the Parliament, and had promised in Parliament their utmost assistance, for the enabling of his late Majesty to undergo the War, which they then foresaw might follow) would assuredly have performed it to his now Majesty, and would not have suffered him, in his first Enterprise of so great an expectation, to have run the least hazard through their defaults.

This Parliament (after some Adjournment, by reason of his Majesty's unavoidable occasions interposing) being assembled on the eighteenth day of June, it is true, that his Commons in Parliament taking into their due and serious consideration the manifold occasions, which, at his first entry, did press his Majesty, and his most important affairs, which, both at home and abroad, were then in action, did, with great readiness and alacrity, as a pledge of their most bounden duty and thankfulness, and as the first fruits of the most dutiful affections of his loving and loyal Subjects, devoted to his service, present his Majesty with the free and cheerful gift of two entire Subsidies: which their gift, and much more the freeness and heartiness expressed in the giving thereof, his Majesty did thankfully and lovingly accept: But when he had more narrowly entered into the consideration of his great affairs, wherein he was embarked, and from which he could not, without much dishonour and disadvantage withdraw his hand, he found that this sum of money was much short of that, which of necessity must be presently expended, for the setting forward of those great Actions, which, by advice of his Council, he had undertaken, and were that Summer to be pursued. This his Majesty imparted to his Commons House

of Parliament; but before the same could receive that debate and due consideration which was fit, the fearful Visitation of the Plague in and about the Cities of London and Westminster, where the Lords and the principal Gentlemen of his whole Kingdom were, for the time of this their service, lodged and abiding, did so much increase, that his Majesty, without extream peril to the lives of his good Subjects, which were dear unto him, could not continue the Parliament any longer in that place.

His Majesty therefore, on the eleventh day of July then following, Adjourned the Parliament from Westminster, until the first day of August then following, at the City of Oxford. And his Highness was so careful to accommodate his Lords and Commons there, that as he made choice of that place, being then the least of all others from the danger of that grievous Sickness, so he there fitted the Parliament men with all things convenient for their entertainment: And his Majesty himself, being in his own heart sincere and free from all ends upon his people, which the Searcher of hearts best knoweth, he little expected, that any misconstruction of his actions would have been made, as he there found. But when the Parliament had been a while assembled, and his Majesties affairs opened unto them, and a further Supply desired, as necessity required, he found them so slow, and so full of delays and diversions in their Resolutions, that before any thing could be determined, the fearful Contagion daily increased, and was dispersed into all parts of this Kingdom, and came home even to their doors where they assembled. His Majesty therefore rather preferred the safety of his people from that present and visible danger, than the providing for that which was more remote, but no less dangerous to the State of this Kingdom, and of the affairs of that part of Christendom which then were, and yet are in friendship and alliance with his Majesty. And thereupon his Majesty, not being then able to discern when it might please God to stay his hand of Visitation, nor what place might be more secure than other, at a time convenient for their re-assembling, his Majesty dissolved that Parliament.

That Parliament being now ended, his Majesty did not therewith cast off his Royal care of his great and important affairs; but by the advice of his Privy Council, and of his Council of War, he continued his preparations, and former resolutions; and therein not only expended those moneys, which by the two Subsidies aforesaid were given unto him for his own private use, whereof he had too much occasion, as he found the state of his Exchequer at his first entrance, but added much more of his own, as by his credit, and the credit of some of his Servants, he was able to compass the same. At last, by much disadvantage, by the retarding of provisions and uncertainty of the means, his Navy was prepared and set to Sea, and the Designs unto which they were sent and specially directed, were so probable, and so well advised, that had they not miscarried in the execution, his Majesty is well assured they would have given good satisfaction, not only to his own people, but to all the world, that they were

not lightly or unadvisedly undertaken and pursued. But it pleased God, who is the Lord of Hosts, and unto whose providence and good pleasure his Majesty doth, and shall submit himself, and all his endeavours, not to give that success which was desired: And yet were those attempts not altogether so fruitless as the envy of the times hath apprehended, the Enemy receiving thereby no small loss, nor our party no little advantage. And 'twould much avail to further his Majesties great affairs, and the peace of Christendom, which ought to be the true end of all hostility, were these first beginnings, which are most subject to miscarry, well seconded and pursued, as his Majesty intended, and as, in the judgment of all men, conseruant in his actions of this nature, were fit not to have been neglected.

These things being thus acted, and God of his infinite goodness, beyond expectation, asswaging the rage of the Pestilence, and, in a manner, of a sudden restoring health and safety to the Cities of London and Westminster, which are the fittest places for the resort of his Majesty, his Lords and Commons to meet in Parliament; his Majesty in the depth of Winter, no sooner desisted the probability of a safe assembling of his people, and in his Princely wisdom and providence foresaw, that if the opportunity of Seasons should be omitted, preparations both defensive and offensive could not be made in such sort as was requisite for their common safety, but he advised and resolved of the summoning of a new Parliament, where he might freely communicate the necessities of the State, and the counsel and advice of the Lords and Commons in Parliament, who were the representative Body of the whole Kingdom, and the great Counsel of the Realm, might proceed in these enterprises, and be enabled thereunto, which concern the common good, safety and honour both of Prince and People; and accordingly the sixth of February last, a new Parliament was begun. At the first meeting, his Majesty did forbear to press them with any thing which might have the least appearance of his own interest, but recommended unto them the care of making good Laws, which are the ordinary subject for a Parliament.

His Majesty believing that they could not have suffered many days, much less many weeks, to have passed by, before the apprehension and care of the common safety of this Kingdom, and the true Religion, professed and maintained therein, and of our Friends and Allies, who must prosper, or suffer with us, would have led them to a due and timely consideration of all the means which might best conduce to those ends; which the Lords of the Higher House, by a Committee of that House, did timely and seasonably consider of, and invited the Commons to a Conference concerning that great business. At which Conference there were opened unto them, the great occasions which pressed his Majesty; which making no impression with them, his Majesty did, first, by Message, and after by Letters, put the House of Commons in mind of that which was most necessary, the defence of the Kingdom, and due and timely preparations for the same.

The

Anno 1626. The Commons House after this, upon the 27th of March last, with one unanimous consent at first, agreed to give unto his Majesty the entire Subsidies, and the Fifteens, for a present Supply unto him; and upon the 26 of April after, upon second cogitations, they added a fourth Subsidy, and ordered the days of payment for them all, whereof the first should have been on the last day of this present June. Upon this, the King of Denmark, and other Princes and States, being engaged with his Majesty in this common Cause, his Majesty fitted his occasions according to the times which were appointed for the payment of those Subsidies and Fifteens, and halted on the Lords Committee, and his Council of War, to perfect their resolutions for the ordering and settling of his designs; which they accordingly did, and brought them to that maturity, that they found no impediment to a final conclusion of their Counsels, but want of money to put things into action. His Majesty hereupon, who had with much patience expected the real performance of that which the Commons had promised, finding the time of the year passing away, and having intelligence not only from his own Ministers and Subjects in foreign parts, but from all parts of Christendom, and of the great and powerful preparations of the King of Spain, and that his design was upon this Kingdom, or the Kingdom of Ireland, or both, (and it is hard to determine which of them would be of worst consequence) he acquainted the House of Commons therewith, and laid open unto them truly and clearly, how the state of things then stood, and yet stand, and at several times, and upon several occasions reiterated the same: But that House being abused by the violent and ill advised passions of a few Members of the House, for private and personal ends, ill beseming publick persons, trusted by their Countrey, as then they were, not only neglected, but wilfully refused to hearken to all the gentle admonitions which his Majesty could give them, and neither did nor would intend any thing, but the prosecution of one of the Peers of this Realm, and that in such a disordered manner, as being set at their own instance into a legal way, wherein the proofs on either part would have ruled the cause, which his Majesty allowed, they were not therewith contented, but in their intemperate passions, and desires to seek for Errors in another, fell into a greater Error themselves, and not only neglected to give satisfaction to his Majesty in several cases which happened concerning his Regality, but wholly forgot their engagements to his Majesty for the publick defence of the Realm: Whereupon his Majesty wrote the forementioned Letter to the Speaker, dated the Ninth day of June, 1626.

Notwithstanding which Letter read in the House, being a clear and gracious Manifest of his Majesties Resolutions, they never so much as admitted one Reading to the Bill of Subsidies, but instead thereof, they prepared and voted a Remonstrance or Declaration, which they intended to present to his Majesty, containing (though palliated with glossing terms) as well many dishonourable aspersions upon his Majesty, and upon the sacred

memory of his deceased Father, as also dilatory excuses for their not proceeding with the Subsidies, adding thereto also coloured conditions, crossing thereby his Majesties direction; which his Majesty understanding and esteeming (as he had cause) to be a denial of the promised Supply, and finding that no admonitions could move, no reasons or persuasions could prevail, when the time was so far spent, that they had put an impossibility upon themselves to perform their promises, which they esteemed all gracious Messages unto them to be but interruptions: His Majesty, upon mature advisement, discerning that all further patience would prove fruitless, on the fifteenth day of this present Month he hath dissolved this unhappy Parliament: the acting whereof, as it was to his Majesty an unexpressible grief, so the memory thereof doth renew the hearty sorrow, which all his good and well-affected Subjects will compassionate with him.

These passages his Majesty hath at the more length, and with the true circumstances thereof, expressed and published to the world, lest that which hath been unfortunate in it self, through the malice of the Author of so great a mischief, and the malevolent report of such as are ill-affected to this State, or the true Religion here professed, or the fears or jealousies of friends and dutiful Subjects, might be made more unfortunate in the consequences of it, which may be of worse effect than at the first can be well apprehended; and his Majesty, being best privy to the integrity of his own heart, for the constant maintaining of the sincerity and unity of the true Religion professed in the Church of England, and to free it from the open Contagion of Popery, and secret infection of Schism, of both which, by his publick Acts and Actions, he hath given good testimony; and with a single heart, as in the presence of God, who can best judge thereof, purposeth resolutely and constantly to proceed in the due execution of either; and observing the subtilty of the adverse party, he cannot but believe that the hand of Joab hath been in this disaster, that the common Incendiaries of Christendom have subtilly and secretly insinuated those things, which unhappily (and, as his Majesty hopeth, beyond the intentions of the Actors) have caused these diversions and distractions: and notwithstanding, his most excellent Majesty, for the comfort of his good and well-affected Subjects, in whose loves he doth repose himself with confidence, and esteemeth it as his greatest riches; for the assuring of his friends and Allies, with whom, by Gods assistance, he will not break in the substance of what he hath undertaken; for the discouraging of his Adversaries, and the Adversaries of his Cause, and of his Dominions, and Religion, hath put on this resolution, which he doth hereby publish to all the World, That as God hath made him King of this great People, and large Dominions, famous in former Ages both by Land and Sea, and trusted him to be a Father and Protector both of their Persons and Fortunes, and a Defender of the Faith, and true Religion; so he will go on cheerfully and constantly in the defence thereof (and notwithstanding so many difficulties and discouragements) will take his

Scripter

Anno 1626. *Recepter and Sword into his hand, and not*
 expose the Persons of the People committed
 to his charge to the unsatiable desires of the
 King of Spain, who hath long thirsted after
 the Universal Monarchy, nor their Conscien-
 ces to the poke of the Pope of Rome: And
 that at home he will take that care to redress
 the just grievances of his good Subjects, as
 shall be every way fit for a good King.

And in the mean time his Majesty doth
 publish this to all his loving Subjects, that
 they may know what to think with truth,
 and speak with duty, of his Majesties ac-
 tions and proceedings in these two last dissolved
 Parliaments.

Given at his Majesties Palace at *Whitehall* this
 Thirteenth day of *June*, in the second
 year of his Majesties Reign of *Great Bri-*
tain, France and Ireland.

Presently after the King takes notice of the
 Commons intended Remonstrance by Proclama-
 tion; in which Remonstrance are many passages
 and unhandsome reflections on their Prince's Ho-
 nour, and of the Honour of his Father King *James*;
 but the main end of it was to inodiate the Duke of
Buckingham with the People, if not to detract from
 their Prince, who commands all Copies and Notes
 thereof to be burnt upon pain of his Majesties in-
 dignation, &c. Together with this there was put
 out another Proclamation, forbidding the preach-
 ing or disputing of any the *Arminian* Controver-
 sies *Pro* or *Con*; for both Parties made the Pulpit
 the *Campus Martius* wherein these Prizes were
 played, each upbraiding and stigmatizing the o-
 ther with odious names of Heresies long since ex-
 tinct, though the Collector is pleased to infer,
 That the Effects of this Proclamation, how equal-
 ly soever intended, became only the stopping of
 the *Puritans* mouths, and an uncontrolled liberty
 to the Tongues and Pens of the *Arminian* Party;
 which yet is not so, for that several of that Party
 were censured in the University of *Oxon* there-
 fore.

Afterwards an Information was preferr'd in the
Star-chamber against the Duke for applying the
 Plaister to King *James*, as is mentioned in the last
 Article of his Charge, but it came not to a hear-
 ing; and his Majesty having a regard to his Reve-
 nue, prohibits all Suits to be made to him for any
 thing prohibited in the Book of *Bounty*, and cau-
 seth by order of the Privy Council, all Customs
 as formerly to be paid, they being in all times a
 principal branch of the Revenue of the Crown:
 Moreover that all Forfeitures arising from Recu-
 sancy, be also taken to support the growing Charge
 of the King, and a Commission was hereupon
 granted to the most Reverend Father in God, *Toby*
Archbishop of York, *Sir John Savile* Knight, *Sir*
George Manners, *Sir Henry Slingsby*, *Sir William*
Ellis Knights, and to divers other Knights and
 Gentlemen, and therein recites,

That his Majesty hath received credible
 Information of the great loss and dam-
 mages which the King's Subjects, living in
 Maritime Towns, especially in the Northern
 parts, do suffer by depredations, attempts
 and assaults at Sea from foreign Enemies,
 whereby Trade from those parts is inter-
 rupted, and the City of *London* much en-
 damaged for want of Coals and other Com-
 modities, unusually transported thither from

Newcastle upon Tyne: For redress of which
 evil, his Majesty doth think fit to appropria-
 te and convert all such Debts, sums of Mo-
 ney, Fines, Penalties, and Forfeitures of
 all Recusants inhabiting in the Counties of
York, *Durham*, *Northumberland*, *Cumberland*,
Westmorland, *Lancaster*, *Nottingham*, *Derby*,
Stafford, and *Chester*, which at any time have
 grown due since the Tenth year of King *James*,
 and are not yet satisfied, or which hereafter
 shall grow due by reason of any Law or Sta-
 tute against Recusants, to be employed for
 the maintenance, provision, arming, manning,
 victualling, and furnishing of six able Ships
 of War for guarding and defending the Coast
 of this Realm, from the furthest North-East
 point of the Sea, unto the mouth of the Ri-
 ver of *Thames*. His Majesty further expres-
 sing in the said Commission, That his Sub-
 jects who are Owners of Coal-pits, the
 Oast-men of *Newcastle upon Tyne*, owners of
 Ships, and Merchants, Burers and Sellers
 of *Newcastle Coals*, have been and are willing
 to contribute and pay for every Chaldron for
 the uses aforesaid. Wherefore his Majesty
 upon the considerations beforementioned, doth
 by his said Commission give power unto the
 said Commissioners, or any four or more of
 them, to treat and make Composition and A-
 greement with the said Recusants, inhabiting
 within the said Counties, for Leases of all
 their Mannors, Lands, Tenements, &c.
 within those Counties for any term of years,
 not exceeding One and forty years; and for
 all Forfeitures due since the Tenth year of
 King *James* for their Recusancy, in not going
 to Church to hear Divine Service, according
 to the Laws and Statutes of this Realm,
 under such Condition and Immunities, as
 they or any four of them shall see meet and
 convenient, according to such Instructions
 as his Majesty hath or shall give to that pur-
 pose; his Majesty rather desiring their Con-
 version than Destruction. And such Leases his
 Majesty doth declare, made to the said Recu-
 sants themselves, or to any persons for their
 use, shall be good and effectual, any Law
 or Statute to the contrary notwithstanding.

By the said Commission *Sir John Savile* was ap-
 pointed Receiver of all such sums of Money as
 shall be paid upon these Leases; and *Mr. Alex-*
ander Davison of the Town of *Newcastle upon*
Tyne, Merchant-Adventurer, was appointed to
 receive out of the voluntary and freewill Con-
 tribution of the Owners, Buyers, and Sellers of
 Coals, the Six pence per Chaldron of Coals. In
 pursuance of this Commission, the Recusants are
 thought to have made their Composition upon ve-
 ry easie terms, which was afterwards complained
 of in Parliament.

A Proclamation also was issued forth for the
 Fee-farming of his Majesties Tenants; and the
 Nobility wrote to lend his Majesty liberally and
 cheerfully for the Defence of the Realm and con-
 servation of the Peace thereof. And of the City
 of *London* was demanded 100000*l.* by way of
 Loan: they excuse themselves as being not able to
 do it, though the Times and Trading was then
 very good. And further, for the preservation of
 the Seas and Trading, according to former Prece-
 dents, a certain number of Ships were imposed
 upon the Port Towns, as *Twenty upon London*,
 and

Anno 1626. and upon other places accordingly, which they endeavour but in vain (for former Precedents were produced) to excuse. And likewise a Benevolence was proposed, by way of Privy Seal, for his Majesties supply: And that Gods blessing might attend him, a Fast was likewise commanded to be observed through the Kingdom for the diverting of Gods Judgments threatening the Kingdom and Government. And for prevention of any Invasion, there were granted Commissions of Array to the Lieutenants of the several Counties, for the disciplining and arraying the Subjects, that they might be able and fit to serve their Prince and Countrey upon occasion, as well as to repress all Insurrections at home, if any happened. And a Command was issued to all Inhabitants of the Sea-Port Towns, who had withdrawn themselves with their Families into the Inland places, to return. And divers of the King's Men of War were sent into the *Elbe* to prevent the furnishing of *Spain* or *Flanders* from thence with any Naval preparations; and afterwards the *Sound* also was blocked up.

The King of Denmark's Declaration why he takes up Arms against the Emperor.

At this time the King of *Denmark* declares against the Emperour for the *Palsgrave*, as followeth;

INASMUCH as the Elector Palatine, by the procurement of the King of Great Britain, and him the King of Denmark, had offered the Submission to his Imperial Majesty, and to crave pardon; and thereupon was in hopes to have his Patrimony, with the Dignities of his Ancestors, restored: Yet notwithstanding, the Emperour did still commit great spoils and acts of Hostility in his Countrey, giving no regard to the said Submission, and had much damnified the Lower Saxony, by the forces which he had brought thither under Tilly.

Whereupon (he says) the Princes of the Lower Saxony have desired the aid and assistance of him the King of Denmark, to settle the Peace and Liberty of Germany, who was resolved to take up Arms, and with whom he was resolved to join, having the like assurance from the King of Great Britain, who had deeply engaged to assist in this War, for the restitution of the Elector Palatine.

Therefore the King of Denmark declares, That seeing all Prayers, Mediations, and Accessions cannot prevail with his Imperial Majesty, he will endeavour to procure a Peace and Settlement by force, which he should have been glad would have been obtained unto him upon fair terms of Treaty.

Divers Towns were taken in the beginning by that King; but the fatal 27th of August at *Lutzen* determines the Controversie, where Tilly gains the Victory, having pursued the *Dane* in his Retreat, takes his Train of Artillery, 22 pieces of Canon, most of his great Commanders being slain or taken.

The overthrow of his Uncle of *Denmark* puts our King upon consultation (for that he had engaged mostly on the account of the *Palsgrave*) how to assist him with men and money: at last a Commission for Loan was pitch'd upon, being the most speedy, easie, and convenient means for raising the moneys according to the Rates fixed by the last Parliament, his promising in the word of a

Prince, the repayment of every penny without any charge; and that all the moneys should be expended upon the Publick Service, that Posterity might reap the benefit of it. The Instructions given to the Commissioners were,

First, That they should themselves, for a good example to others, lend unto his Majesty the several sums of money required of them, testifying it by their names, with their own hands, That when they shall in his Majesties name require others to lend, they may discern the said Commissioners forwardness.

Secondly, To take for their guide those Rates, at which men were assessed in the Book of the last Subsidy, and to require the Loan of so much money, as the entire rate and value comes to, at which they are rated and set; as (namely) he that is set an hundred pounds in Goods, to lend a hundred Marks; and he that is set an hundred pounds in Land, to lend a hundred pounds in money; and so *per rata* for a greater or lesser sum.

Thirdly, To use all possible endeavours to cause every man willingly and chearfully to lend, opening unto them the necessity and unavoidableness of this course, the Honour and Reputation of the Nation, the true Religion and common safety of Prince and People, of our Friends and Allies engaged in the common Cause; that there is no time now of disputing, but of acting.

Fourthly, That they appoint the days of payment to be within fourteen days, and perswade such as shall be able, to pay it at one entire payment, the better to accommodate his Majesties occasion; otherwise to accept of the one half at fourteen days, and the other to be paid before the Twentieth of December now next coming.

Fifthly, That they treat apart with every one of those that are to lend, and not in the presence or hearing of any other, unless they see cause to the contrary. And if any shall refuse to lend, and shall make delays or excuses, and persist in their obstinacy, that they examine such persons upon Oath, whether they have been dealt withal to deny or refuse to lend, or make an excuse for not lending? Who hath dealt so with him, and what speeches or perswasions he or they have used to him, tending to that purpose? And that they shall also charge every such person in his Majesties name, upon his Allegiance, not to disclose to any other what his Answer was.

Sixthly, That they shew their discretion and affections, by making choice of such to begin with, who are likely to give the best examples; and when they have a competent number of Hands to the Roll or List of the Leaders, that they shew the same to others to lead them in like manner.

Seventhly, That they endeavour to discover, whether any publickly, or underhand, be workers or perswaders of others to dissent from, or dislike of this course, or hinder the good disposition of others. And that, as much as they may, they hinder all discourse about it, and certify to the Privy Council in writing the names, qualities, and dwelling places of all such refractory persons with all speed, and especially if they shall discover any Combination or Confederacy against these proceedings.

Eighthly, That they let all men know whom it may concern, that his Majesty is well pleased, upon lending these Sums required, to remit all that which by Letters, in his name, was desired upon the late Benevolence for Free-grant; and whatever hath been already paid upon that account, shall be accepted for part of this Loan; and

Car. 2.

Private Instructions to the Commissioners for the general Loan.

and if it exceed the Sum desired, that the overplus shall be repaid without Fee or Charge; so likewise for Privy Seals, if any have been already paid: But if not, that the agreeing of the Loan of the Sum requiring, be excused of the payment of the Privy Seal,

Ninthly, That they admit of no Suit to be made, or Reasons to be given for the abating of any Sum, the time and instant occasion not admitting any such dispute, which would but disturb and protract the Sheriff.

Lastly, The Commissioners were required and commanded, upon their Faith and Allegiance to his Majesty, to keep secret to themselves, and not impart or disclose these Instructions to others.

And in regard that some Soldiers were returned from *Cadiz*, and their pay not ready, they were quartered in the Countreys till money were raised to discharge them; and they committing (as is usual) some outrages in the Countreys, they were tried by Martial Law. Of these disorders great complaints are made by some persons, reputed Patriots in subsequent Parliaments.

The Lords to advance the Loan are commanded to repair into the Countrey, with a List of the Names of the Nobility, Judges, &c. who had subscribed; but Sir *Randolph Crew*, Lord Chief Justice, shewing no good disposition thereto, lost his place, and into it was put *Nicholas Hide*. About this time a Complaint was made against the Bishop of *Lincoln*, *Dr. Williams*, for favouring the Nonconformists. The Informations were as followeth:

That *Dr. Sibthorp* being desired to stay at *Leicester* this year, as Commissary for the High Commission there, the Countrey being much overspread with *Puritanism*, (so Nonconformity was then called) Sir *John Lamb* and the said Doctor did inform the Bishop of *Lincoln*, then at *Bugden*, what factious *Puritans* or *Nonconformists* there were in the County, who would not come up to the Table to receive the Communion kneeling; and that there were unlawful Fasts and Meetings kept in the County; and one Fast that held from Nine in the Forenoon till Eight at Night; and that Collections for Moneys were made without Authority, upon pretence for the *Palatinate*: And therefore they desired leave from the Bishop to proceed against those *Puritans*, *ex officio*. The said Bishop replied, He would not meddle against the *Puritans*, for his part he expected not another Bishoprick; they might complain of them, if they would, to the Council Table; for he was under a Cloud already, and he had the Duke of *Buckingham* for his Enemy; and he would not draw the *Puritans* upon him, for he was sure they would carry all things at last: Besides, he said, the King in the first year of his Reign had given Answer to a Petition of the Lower House, in favour of the *Puritans*.

Meaning the Petition against Recusants at Oxford.

Puritans described by Sir *John Lamb*.

It appeared also, by the Information of others who were present at the Conference at *Bugden*, That Sir *John Lamb* and *Dr. Sibthorp* did, notwithstanding the Bishops averiness, again press the Bishop to proceed against the *Puritans* in *Leicestershire*: the Bishop asked them then what manner of people they were, and of what condition? For his part, he knew of none. To which Sir *John Lamb* replied (*Dr. Sibthorp* being present) That they seem to the World to be such as would not swear, Whore, nor Drink; but yet would Lie, Cozen, and Deceive: That they would frequently hear two Sermons a day, and repeat the same again too; and afterwards pray, and sometimes

fast all day long. Then the Bishop asked, Whether those places, where those *Puritans* were, did lend money freely upon the Collection of the Loan? To which Sir *John Lamb* and *Dr. Sibthorp* replied, That they did generally resolve to lend freely: Then said the Bishop, No man of discretion can say, that that place is a place of *Puritans*: For my part (said the Bishop) I am not satisfied to give way to proceedings against them. At which *Dr. Sibthorp* was much discontented, and said, He was troubled to see that the Church is no better regarded.

These Informations being transmitted to the Council Table, were ordered to be sealed up, and committed to the Custody of Mr. *Trumbal*, one of the Clerks of the Council; nevertheless, the Bishop of *Lincoln* used such means, as he got a Copy of them.

The King had now 6000 Foot in the Service of the *United Netherlands* (under the Command of Sir *Charles Morgan* an experienced Soldier) against the growing power of *Spinola*: These Forces, together with 1300 Foot to be embarked from *Hull*, are ordered for the King of *Denmark's* assistance, and to be landed at *Stode* in *Germany*: But Money, the Sinews of War, came slowly in, and the Loan found the People generally very hidebound, some refusing to subscribe, though others offered to lay down the Money for them; others pleaded poverty; some whereof of the better Rank were called to appear before the Council; others of meaner Abilities were enrolled for Soldiers to serve the King in his Wars. About this time there was great offence taken at *Dr. Sibthorp's* Sermon about the Loan, Licensed by the Bishop of *London*.

His Text was, *Rom. 13. 7. Render therefore to all their dues.* Among other passages he had this, *And seriously consider, how as Jeroboam took the opportunity and breach betwixt Rehoboam and his Subjects, to bring Idolatry into Israel; so the Papists lie at wait, if they could find a Rent between our Sovereign and his Subjects (which the Lord forbid) to reduce Superstition in England. I speak no more than what I have heard from themselves, whilst I have observed their forwardness to offer double, according to an Act of Parliament so providing; yea, to profess that they would depart with the half of their Goods. And how, or why can this forwardness be in them, but in hope to cast the imputation of backwardness upon us? And so to them (that which the Jesuite will not suffer them to be) loving and loyal Subjects.*

In the said Sermon he saith, That the Prince, who is the Head, and makes his Court and Council, it is his duty to direct and make Laws. *Ecclef. 8. 3 and 4. He doth whatsoever pleases him. Where the word of the King is, there is power, and who may say unto him, What doest thou?*

And in another place, *If Princes command any thing which Subjects may not perform, because it is against the Laws of God, or of Nature, or impossible: Yet Subjects are bound to undergo the punishment, without either resisting, or railing, or reviling, and so to yield a Passive Obedience where they cannot exhibit an Active one.*

I know no other case, saith he, but one of those three, wherein a Subject may excuse himself with Passive Obedience; but in all other he is bound to Active Obedience.

But *Dr. Manwaring* was very extravagant in his Sermon, wherein he delivered,

‘That the King is not bound to observe the Laws of the Realm concerning the Subjects Rights

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Dr. Manwaring in two Sermons promotes the

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Rights and Liberties, but that his Royal Will and Command in imposing Loans and Taxes, without common consent in Parliament, doth oblige the Subjects Conscience upon pain of eternal damnation. That those who refused to pay this Loan, offended against the Law of God, and the King's Supream Authority, and became guilty of Impiety, Disloyalty, and Rebellion. And that the Authority of Parliament is not necessary for the raising of Aids and Subsidies; and that the slow proceedings of such great Assemblies, were not fitted for the Supply of the States urgent necessities, but would rather produce sundry impediments to the just designs of Princes.

The Papists, to gain themselves favour, were forward in the Loan, and the Nonconformists every whit as backward and as peevish. At last there hapned some distasts at Court in relation to the Queens family; for 'twas pretended that all her Servants, as well Ecclesiastick as others, were solely to be ordered by her self; and hereupon the Bishop and Ecclesiasticks order her Majesty for Penance, to go to Tiburn in devotion to pray there where some Romish Priests had been lately executed, which his Majesty (as he had good reason) very ill resented, and hereof certified his Brother of France, concerning some abuses of his patience, as well as abuses to his person, offered by Madam Sr. George, which he plainly told him he would no longer endure: Hereupon the French are dismissed, but all their wages payed them off, which the Ambassadour *Carlston* at that Court acquaints the King; but they took it in evil part, and the matter came to a breach, and the King was engaged against two mighty Princes at one time, and his Subjects complaining of imagined grievances, deny him their necessary assistance for the honour and safety of the Kingdom and its Allies.

The Duke of *Orleanse* being disoblged by the Cardinal *Richlieu*, who now had the administration of Affairs in France, was said to influence this breach, and that the Duke of *Rhoan* was to have joyned our King's Forces upon their landing, with 4000 Foot and 200 Horse. *Sobiez* and Monsieur *St. Blanchard* also do here implore the King's aid for the Protestants in France, &c.

The King
of Great
Britains
Declarati-
on con-
cerning a
War with
France.

The King declares the Reasons of the War, That the House of *Austria* (conspiring the ruin of all those of the Reformed Religion throughout Christendom, as (he said) plainly appeared in the affairs of *Germany*) had such an influence upon the Council of France, as to prevail with them to obstruct the landing of Count *Mansfield's* Army, contrary to promise, with whom the French should have joyned Forces, for the relief of the *Palatinate* and the *German* Princes; which failure of performance in them, proved the ruin of that Army, the greatest part whereof perished, and was, by consequence, the loss of the whole Protestant Party in *Germany*.

His Majesty further declared, That having by his Mediation prevailed for a Peace between the French King and his Protestant Subjects, and engaged his word, That the Protestants should observe the Articles of Agreement: Nevertheless, the King of France, contrary to the said Articles blocked up their Towns, Garrisons, and Forts, and had committed many spoils upon them, when they had done nothing in violation of the Edict of Peace. And that the King of France had committed an example of great injustice in full Peace, to seize upon One hundred and twenty English Ships, with all their Merchandise and Artillery: For which Reasons, the King was resolved to send

a powerful Army and Navy, to require satisfaction.

The Duke of *Buckingham* was made Admiral of this Fleet, and Commander in Chief of the Land Forces, and had a Commission, the purport whereof was;

That his Majesty hath taken into his Princely consideration, the distressed estate of his dear Brother in law, and only Sister, the Prince and Princess Elector *Palatine*, and their Children, and finding himself in Nature and Honour nearly bound unto them, at their request, and for their just relief, in recovering their rightful Patrimony taken from them, by the advice of his Privy Council, did, the last year, prepare and set out to Sea a Royal Fleet for Sea-service, for performance of such Services, as on his Brother in Law's and Sister's Behalf, his Majesty had designed. And for the doing of those designs, and for the honour and safety of his people, his Majesty hath now prepared a new Fleet, which he intends with all convenient expedition to set out, to be employed, as well by way of offence as defence, as shall be most behoveful for his said Brother in law, his Service; and therefore doth, by the said Commission, appoint the Duke of *Buckingham* to be Admiral, Captain General, and Governour of his said Royal Fleet, with such Soldiers and Land-forces as shall be conveyed therein, for the accomplishment of such execution and employment as they shall be design'd unto, according to such private Instructions as his Majesty shall give unto the said Duke. His Majesty, by the said Commission, giving to the Duke power to lead and conduct the said Navy and Army, and with them to fight against his said Brother in law and Sister's Enemies, or the Enemies of the Crown of *England*; and to advance to the Order of Knighthood such Persons employed in the Fleet, Forces, and Supplies, as by their valour, desert, and good service in this Expedition, shall be thought fit in his the said Duke's discretion to merit the same, and as to the Office of Captain General doth appertain.

On the Seven and twentieth of June, the Duke set sail from *Portsmouth* (in order to the relief of the *Palatinate*) with the Fleet, consisting of One hundred Sail of Ships, whereof Ten were of the King's Royal Navy, having aboard about Six or Seven thousand Land-soldiers; and towards the latter end of July he appeared with his Fleet before *Rochel*, who once much longed for their coming, but now shut their Gates at their appearance for their relief and succour upon their own intreaty.

Sobiez and Sir *William Beecher* landing, go to *Rochel*, and are at last admitted into the Town, and an Assembly was called, were they were acquainted from our King, That he had in compassion to their sufferings, and at their desire, sent them succours under his Admiral the Duke of *Buckingham*, and expected their conjunction with his Forces, else protested his Master, the King of *Great Britain*, was acquit of all Engagements to them. This prevails but little, they only thanking the King of *Great Britain* for his care of them; alledging they could do nothing without the consent of the rest of the Protestants with whom they were in Union, but indeed fearing the King of France his Army, then upon their March towards them; and he had a party in Town, who opposed the other of the Duke of *Sobiez*, who tarrying in *Rochel*, the Duke of *Buckingham* lands the Army, not as at the first they two agreed, on the life

Car. 3.

The Duke
of Buck-
ingham
Admiral
and Gene-
ral.His Com-
mission.The Duke
sets sail
with the
Fleet and
Army.The Ro-
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are fearful
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lish.

Anno 1627. of Oleron, where the Forts and Forces were but few and weak, but on the Isle of Rhee, which had a good Governour, *Toras*, and good strength in it, which at first endeavoured to hinder the Duke's landing, but in vain; for Sir *John Burroughs* with 1200 lands, and had the rest followed, and not stayed, but taken in the Fort *La Prit*, which they neglected, giving time thereby to *Toras* to victual the Cittadel of *St. Martins*, and to hearten his men, who, as well as the Court of *France* on the main Land, were astonished at the landing of the English; and therefore the King being at that time sick, they send to the Protestants, proffering them honourable terms, and to the Duke of *Roban* Offers of money, &c. The Duke of *Buckingham* marches up to the Cittadel, and publisheth his *Manifesto*, justifying his Master and Quarrel, declaring the main cause to be the Employing of the English Ships against the King of *France* his promise against *Rochel*; he approacheth to the Town of *St. Martins*, and takes it, but neglects to take in all Wells of fresh water, which *Toras* fortifies, and wherewith he subsisteth during the Siege. The Cittadel blocked up, the Duke being Master at Sea, hoped by Famine to win the place, which he had easily done, if upon landing he had immediately marched up to the Fort, and not suffered the Governor *Toras* in the interval to have got in Provisions.

Whilst these things were transacted in the Isle of Rhee, several Gentlemen were imprisoned in *England* for refusing the Loan out of the Countreys, of which such were,

Sir *Thomas Wentworth*, afterwards Earl of *Stratford*, and *George Ratcliff* Esq; afterwards Sir *George*, *Yorkshire* Gentlemen, were sent for by Messengers, and removed out of the County of *York* into the County of *Kent*, and there secured by Confinement.

Sir *Walter Earl*, and Sir *John Strangeways*, who were *Dorsetshire* men, were secured in the County of *Bedford*.

Sir *Thomas Grantham*, and some others in the County of *Lincoln*, were removed and secured in the County of *Dorset*.

Sir *John Hevingham*, and others, of the County of *Suffolk*, were secured in the County of *Somerset*.

Richard Knightly Esq; and others, of the County of *Northampton*, were secured in the County of *Southampton* and *Wiltshire*.

Sir *Nathaniel Barnardiston*, of the County of *Suffolk*, and *William Corston* Esq; of the County of *Cornwall*, were secured in the County of *Sussex*.

Sir *Harbottle Brimstone*, in the County of *Essex*, and Sir *Robert Points*, were secured in *Northamptonshire*.

John Hampden Esq; and others, of the County of *Bucks*, were secured in *Hampshire*; and the like course was taken with the Gentry of other Counties, who refused the Loan.

And those who refused to submit to their Commitments, were to be made close Prisoners in other places; as the *Fleet*, *Marshalsea*, *Gate-house*, from the last whereof Sir *John Elliot* sends the following Petition to his Majesty.

To the King's most Excellent Majesty.

The humble Petition of Sir *John Elliot* Knight, Prisoner in the *Gate-house*, concerning the Loan,

Sheweth,

That your poor Suppliant, affected with sorrow and unhappiness, through the long sense of your Majesty's displeasure, willing in every act of Duty and Obedience to satisfy your Majesty of the loyalty of his heart, than which, he hath nothing more desired, that there may not remain a jealousy in your Royal Breast, that stubbornness and will have been the motives of his forbearing to condescend to the said Loan, low at your Highnesses foot, with a sad, yet a faithful heart, for an Apology to your Clemency and Grace, he now presumes to offer up the Reasons that induced him, which he conceiveth necessity of his Duty to Religion, Justice, and your Majesty, did enforce.

The Rule of Justice he takes to be the Law, impartial Arbitrator of Government and Obedience, the support and strength of Majesty, the observation of that Justice by which Subjection is commanded. This and Religion (added to this Power not to be resisted) binds up the Conscience in an Obligation to that Rule, which (without open prejudice, and violence of these Duties) may not be impeached.

In this particular therefore of the Loan, being desirous to be satisfied how far the Obligation might extend, and resolving where he was left Master of his own, to become Servant to your Will, he had recourse unto the Laws, to be informed by them; which, in all humility, he submitteth to your most Sacred view, in the Collections following;

In the time of Edward the First, he finding that the Commons of that Age were so tender of their Liberties, as they feared even their own free Aids and Gifts might turn them to a Bondage and their Heirs. Wherefore it was desired and granted,

That for no business, such manner of Aids, Taxes, nor Prizes, should be taken, but by common assent of the Realm, and for the common profit thereof.

The like was in force by the same King, and by two other Laws again Enacted,

That no Tallage or Aid should be taken or levied, without the good will and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other Freemen of the Land.

And that prudent and magnanimous Prince, Edward the Third, led by the same wisdom, having granted,

That the greatest gift given in Parliament, for the Aid and Speed of his matchless undertaking against *France*, should not be had in example, nor fall to the prejudice of the Subject in time to come; did likewise add, in confirmation of that Right, That they should not from thenceforth be grieved to sustain any Charge or Aid, but by the common Assent, and that in Parliament.

And more particular upon this point, upon a Petition of the Commons afterwards

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wards in Parliament; it was established,

That the Loans which were granted to the King by divers persons be released; and that none henceforth be compelled to make such Loans against their Wills, because it is against Reason, and the Franchises of the Land, and Restitution be made to such as made such Loans.

And by another Act upon a new occasion, in the time of Richard the Third, it was ordained,

That the Subject in no wise be charged with any such Charge, Exaction, or Imposition called a Benevolence, nor such like Charge; and that such like Exactions be damned and annulled for ever.

Such were the opinions of these times, for all these Aids, Benevolences, Loans, and such like Charges, exacted from the Subject not in Parliament, which they held to be Grievances contrary to their Liberties, and illegal; and so pious were their Princes in Confirmation of their Liberties, as having secured them for the present by such frequent Laws and Statutes, they did likewise by them provide for their Posterity; and in some so strictly, that they bound the Observation with a Curse, as in that of 33 Edw. 1. As also under pain of Excommunication; as by the other of the five and twentieth of the same King, which was to be denounced against all those that violate or break them: which Act extends to us.

And these Reasons he presents to your Majesty, as the first Motive taken from the Law.

There are others also, which in his humble apprehension he conceived from the Action it self, which he likewise tenders to your most excellent Wisdom.

First, That the Carriage and Instructions, accompanied with the Authority of the Great Seal, imported a Constraint, such Requests to Subjects being tacite and implied Commands, and so preventing that readiness and love, which, in a free way, would have far exceeded those demands; whereas the wonted Aids given to your happy Ancestors were Ex spontanea voluntate, & charitate populi, whereby they made that conjunction of their Hearts at home, which wrought such power and reputation to their Acts abroad.

Whereas the firmest Obligation of that readiness and love, is the benignity of Princes, giving and preserving to their People just and decent Liberties, which, to this Kingdom, are derived from the Clemency and Wisdom of your Progenitors, to whom there is owing a Sacred Memory for them: he could not, as he feared, without pressure to these immunities, become an Actor in this Loan, which by imprisonment and restraint was urged, contrary to the Grants of the Great Charter, by so many glorious and victorious Kings so many times confirmed, being therein most confident of your Majesty, that never King that reigned over us, had, of his own benignity and goodness, a more pious disposition to preserve the just Liberties of his Subjects, than your Sacred Self.

Though we were well assured by your Majesties Royal Promise, whose words he holds as Oracles of Truth, that it should not become a President, during the happiness of your Reign (the long continuance whereof,

is the daily subject of his Prayers) yet he conceived from thence a fear, that succeeding Ages might thereby take occasion for Posterity to strike at the propriety of their Goods, contrary to the piety and intention of your Majesty so graciously express.

And these being the true grounds and motives of his forbearance to the said Loan, shewing such inconveniences in Reason, and representing it an Act contradicting so many of your Laws, and most of them by the most prudent and happiest of our Princes granted, which could not, without presumption beyond pardon in your Suppliant, in taking to himself the Dispensation of those Laws, so piously Enacted by him, be violated or impeached.

In the fulness of all Submission and Obedience, as the Apology of his Loyalty and Duty, he lowly offers to your most Sacred Wisdom, for the satisfaction of your Majesty, most humbly praying your Majesty will be graciously pleased to take them into your Princely consideration, where when it shall appear (as he doubts not, but from hence it will to your day judgment) that no factious humour, nor disaffection led on by stubbornness & will, hath herein stirred or moved him, but the just Obligation of his Conscience, which binds him to the service of your Majesty, in the observance of your Laws; he is hopeful (presuming upon the piety and justice of your Majesty) that your Majesty, according to your innate Clemency and Goodness, will be pleased to bestow him to your favour, and his Liberty, and to afford him the benefit of those Laws, which, in all humility, he craves.

Notwithstanding he is still detained in that Prison, and Sir Peter Hayman is commanded into his Majesties Service in the Palatinate, which he performed, and afterwards returned safe into England.

Archbishop Abbot was in disfavour at Court for his refusal to license Dr. Sibthorp's Sermon; and a Commission was granted to the Bishops of London, Durham, Oxford, Rochester, and Bath and Wells, to execute Archiepiscopal Jurisdiction, as followeth;

CHARLES, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, &c. To the Right Reverend Father in God, George, Bishop of London; and to the Right Reverend Father in God, Our Trusty and Welbeloved Counsellor, Richard, Lord Bishop of Durham; and to the Right Reverend Father in God, John, Lord Bishop of Rochester; and John, Lord Bishop of Oxford; to the Right Reverend Father in God, Our Right Trusty and Welbeloved Counsellor, William Lord Bishop of Bath and Wells, Greeting.

Whereas George, now Archbishop of Canterbury, in the right of the Archbishoprick, hath several and distinct Archiepiscopal, Episcopal, and other Spiritual and Ecclesiastical Powers and Jurisdictions, to be exercised in the Government and Discipline of the Church within the Province of Canterbury, and in the Administration of Justice in Causes Ecclesiastical within that Province, which are partly executed by himself in his own Person, and partly, and more generally, by several persons nominated and

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authorised by him, being learned in the Ecclesiastical Lawes of this Realm, in those several Places whereunto they are deputed and appointed by the said Archbishop: Which several Places, as we are informed, they severally hold by several Grants for their several Lives; as namely, Sir Henry Martin Knight, hath and holdeth by the Grants of the said Archbishop, the Offices and Places of the Dean of the Arches, and Judge or Master of the Prerogative Court, for the natural Life of the said Sir Henry Martin.

Sir Charles Caesar Knight, hath and holdeth by Grants of the said Archbishop, the Places or Offices of the Judge of the Audience, and Master of the Faculties, for the term of the natural Life of the said Sir Charles Caesar.

Sir Thomas Ridley Knight, hath and holdeth by the Grant of the said Archbishop, the Place or Office of Vicar-General to the said Archbishop.

And Nathaniel Brent, Doctor of the Lawes, hath and holdeth by Grant of the said Archbishop, the Office or Place of Commissary to the said Archbishop, as of his proper and peculiar Diocess of Canterbury.

And likewise the several Registers of the Arches, Prerogative, Audience, Faculties, and of the Vicar-General, and Commissary of Canterbury, hold their Places by Grants from the said Archbishop respectively.

Whereas the said Archbishop, in some or all of these several Places and Jurisdictions, doth or may sometimes assume unto his personal and proper Judicature, Order, or Direction, some particular Causes, Actions, or Cases at his pleasure. And so much as the said Archbishop cannot at this present, in his own person, attend the Services which are otherwise proper for his Cognisance and Jurisdiction, and which, as Archbishop of Canterbury, he might and ought in his own person to have performed and executed in Causes and Matters Ecclesiastical, in the proper Function of Archbishop of that Province: We therefore, of our Regal Power, and of our Princely Care and Providence, that nothing shall be defective in the Order, Discipline, Government, or Right of the Church, have thought fit by the Service of some other Learned and Reverend Bishops, to be named by Us, to supply those things which the said Archbishop ought or might in the Cases aforesaid to have done, but for this present cannot perform the same.

Know ye therefore, That we reposing special trust and confidence in your approved Wisdoms, Learning, and Integrity, have nominated, authorised, and appointed, and do, by these presents, nominate, authorise, and appoint you the said George, Lord Bishop of London, Richard Lord Bishop of Durham, John Lord Bishop of Rochester, John Lord Bishop of Oxford, and William Lord Bishop of Bath and Wells, or any four, three, or two of you, to do, execute, and perform all and every those Acts, Matters, and Things, any way touching or concerning the Power, Jurisdiction, or Authority of the Archbishop of Canterbury, in Causes or Matters Ecclesiastical, as amply, fully, effectually, to all intents and purposes, as the said Archbishop himself might have done.

And we do hereby command you and every of you, to attend, perform, and execute this our Royal Pleasure, in, and touching the premises, until we shall declare our Will and Pleasure to the contrary.

And we do further hereby will and command the said Archbishop of Canterbury, quietly, and without interruption, to permit and suffer you the said George, Bishop of London, Richard Bishop of Durham, John Bishop of Rochester, John Bishop of Oxford, and William Bishop of Bath and Wells, any four, three, or two of you, to execute and perform this our Commission, according to our Royal Pleasure thereby signified.

And we do further will and command all and every other person and persons, whom it may any way concern, in their several Places or Offices, to be attendant, obedient, and obedient to you, and every of you, in the execution and performance of this our Royal Will and Command, as they and every of them will answer the contrary at their utmost perils.

Nevertheless, we do hereby declare our Royal Pleasure to be, That they the said Sir Henry Martin, Sir Charles Caesar, Sir Thomas Ridley, and Nathaniel Brent, in their several Offices and Places aforesaid, and all other Registers, Officers, and Ministers, in the several Courts, Offices, and Jurisdictions, appertaining to the said Archbishop, shall quietly, and without interruption, hold, use, occupy, and enjoy their said Offices and Places, which they now hold by the Grant of the said Archbishop, or of any other former Archbishop of Canterbury, in such manner and form, and with those Benefits, Privileges, Powers, and Authorities, which they now have, hold, and enjoy therein, or thereout, severally and respectively, they, and every of them, in their several Places, being attendant and obedient unto you the said George Bishop of London, Richard Bishop of Durham, John Bishop of Rochester, John Bishop of Oxford, and William Bishop of Bath and Wells, or to any four, three, or two of you, in all things according to the Tenor of this our Commission, as they should or ought to have been to the said Archbishop himself, if this Commission had not been had or made.

In witness whereof, We have caused these our Letters to be made Patent. Witness our self at Westminster, the ninth day of October, in the third year of our Reign.

Per ipsum Regem.

Edmonds.

The Archbishop for his own justification, penned his own Narrative, of which there are many Copies extant, the most correct is this which is here subjoined; by which the Reader will easily perceive the Archbishop a little exasperated, too much espousing the interest of a party at that time in disfavour, to the advantage of another at Court too hard for him.

Arch-

Anno
1627.

Archbishop Abbot his Narrative.

Pars Prima.

The Arch-
bishop's
Narrative
concern-
ing his dis-
grace at
Court.

IT is an Example, so without Example, that in the Sunshine of the Gospel, in the midst of profession of the true Religion, under a gracious King, whom all the World must acknowledge to be blemished with no Vice; a man of my Place and Years, who have done some service in the Church and Commonwealth, so deeply laden with some furious infirmities of Body, should be removed from his ordinary Habitation, and by a kind of deportation should be thrust into one end of the Island (although, I must confess, into his own Diocese) that I hold it fit, that the reason of it should be truly understood, lest it may someways turn to the scandal of my Person and Calling.

Which Declaration notwithstanding, I intend not to communicate to any, but to let it lie by me privately, that it being set down impartially, whilst all things are fresh in memory, I may have recourse to it hereafter, if questions shall be made of any thing contained in this Relation.

His Age
when this
befell him.

And this I hold necessary to be done, by reason of the strangeness of that, which by way of Censure was inflicted upon me, being then of the Age of Sixty five years, incumber'd with the Gout, and afflicted with the Stone, having lived so many years in a place of great Service, and, for ought I know, untainted in any of my Actions, although my Master King James, who resteth with God, had both a searching Wit of his own, to discover his Servants whom he put in trust, whether they took any sinister courses, or no; and wanted not some suggesters about him to make the worst of all mens actions whom they could misreport: Yet this Innocency and good Fame to be over-turned in a month, and a Christian Bishop suddenly to be made *Fabula Vulgi*, to be tossed upon the Tongues of Friends and Foes, of Protestants and Papists, of Court and Countrey, of English and Forreigners, must needs, in common opinion, presuppose some Crime, open or secret: Which being discovered by the King, albeit not fully appearing to the World, must draw on indignation in so high a measure.

His indis-
position
kept him
from
Court.

I cannot deny, that the indisposition of my Body kept me from Court, and thereby gave occasion to Maligners to traduce me, as withdrawing my self from publick Services, and therefore milking some courses that were taken; which abstaining perhaps neither pleased the King, nor the Great Man that set them on foot.

It is true, that in the turbulancy of some things; I had no great invitations to draw me abroad, but to possess my Soul in patience, till God sent fairer weather: But the true ground of my abstaining from solemn and publick places, was the weakness of my Feet, proceeding from the Gout; which Disease being hereditary unto me, and having possessed me now Nine years, had debilitated me more and more: So that I could not stand at all, neither could I go up or down a pair of Stairs, but besides my Staff, I must have the service of one, at least, of my Men, which was not fit to be admitted in every place where I was to come.

And although I was oft remembered by the wisest of my Friends, that I might be carried as the old Lord Treasurer *Burleigh* was, yet I did not think my service so necessary for the Commonwealth, as his Lordships, by long experience, was found to

be. I did not value my self at so high a rate, but remembred, that it was not the least cause of overthrow to *Robert Earl of Essex*, that he prized himself so, as if Queen *Elizabeth* and the Kingdom could not well have stood, if he had not supported both the one and the other.

Car. 3.

Now for me, thus enfeebled, not with the Gout only, but with the Stone also and Gravel, to wait on the King, or the Council-Table, was by me held a matter most inconvenient. In the Courts of Princes, there is little feeling of the infirmities belonging to old age, they like them that be young and gallant in their actions, and in their cloaths, they love not that men should stick too long in any room of Greatness, Change and Alteration bringing somewhat with it. What have they to do with Kerchieves and Staves, with lame or sick men? It is certainly true, there is little compassion upon the bodily defects of any. The Scripture speaketh of men standing before Kings, it were an uncouth sight to see the Subject sit the day before the Coronation, when on the morrow I had work enough for the strongest man in England, being weak in my feet, and coming into *Whitehall* to see things in a readiness against the next day; yet notwithstanding the Stone and Gout, I was not altogether an inutile Servant in the King's Affairs; but did all things in my House that were to be done, as in keeping the High-Commission Court, doing all inferiour actions conducing thereunto, and dispatching References from his Majesty that came thick upon me.

These Relations which are made concerning me, be of certain truth, but reach not to the reason whereof I was discarded.

To understand therefore the verity, so it is, That the Duke of *Buckingham* being still great in the favour of the King, could endure no man that would not depend upon him; among other men, had me in his eye, for not stooping unto him so as to become his Vassal. I that had learned a Lesson, which I constantly hold, to be no man's servant but the King's (for mine own Royal Master, which is with God, and mine own Reason, did teach me so) went on mine own ways, although I could not but observe, That so many as walked in that path, did suffer for it upon all occasions, and so did I, nothing wherein I moved my Master taking place: Which finding so clearly, as if the Duke had set some ill character upon me, I had no way but to rest in patience, leaving all to God, and looking to my self as warily as I might. But this did not serve the turn, his undertaking was so extraordinary, that every one that was not with him, was presently against him; and if a hard opinion were once entertained, there was no place left for satisfaction or reconciliation.

The Duke
offended
with the
Archbi-
shop for
not stoop-
ing to him.

What befell the Earl of *Arundel*, and Sir *Randal Crew*, and divers others, I need not to report; and no man can make doubt but he blew the Coals.

For my self, there is a Gentleman called Sir *H. S.* who gave the first light what should befall me: This Knight being of more livelyhood than wisdom, had married the Lady *D.* Sister to the now Earl of *E.* and had so treated her, that both for safeguard of her Honour, blemished by him scandalously, and for her Alimony or Maintenance (being glad to get from him) she was enforced to endure a Suit in the High-Commission Court: So to strengthen his party, he was made known to the Duke, and by means of a dependant on his Grace, he got a Letter from the King. That the

The Arch-
bishop is
forerold of
the Dukes
displea-
sure.

Com-

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1627. Commissioners should proceed no further in hearing of that Cause, by reason that it being a difference between a Gentleman and his Wife, the King's Majesty would hear it himself. The Solicitor for the Lady, finding that the course of Justice was stopped, did so earnestly, by Petition, move the King, that by another Letter, there was a relaxation of the former restraint, and the Commissioners Ecclesiastical went on: But now, in the new proceeding, finding himself by Justice, like enough to be pinched, he did publickly in the Court refuse to speak by any Counsel, but would plead his Cause himself; wherein he did bear the whole business so disorderly, tumultuously, and unrespectfully, that after divers reproofs, I was enforced for the Honour of the Court, and Reputation of the High Commission, to tell him openly, That if he did not carry himself in a better fashion, I would commit him to Prison.

This so troubled the young Gallant, that within few days after, being at Dinner or Supper, where some wished me well, he bolted it out, That as for the Archbishop, the Duke had a purpose to turn him out of his place, and that he did but wait the occasion to effect it. Which being brought unto me constantly by more ways than one, I was now in expectation what must be the issue of this great man's indignation, which fell out to be as followeth.

Sibthorpe's
Sermon
for Loan
money.

There was one *Sibthorpe*, who not being so much as a Batchelor of Arts, as it hath been credibly reported unto me, by means of Doctor *Pierce*, Dean of *Peterborough*, being Vice-Chancellor of *Oxford*, did get to be conferred upon him the Title of Doctor.

This man is Vicar of *Brackley* in *Northamptonshire*, and hath another Benefice not far from it in *Buckinghamshire*. But the lustre of his Honour did arise from the being the Son in Law of Sir *John Lamb*, Chancellor of *Peterborough*, whose Daughter he married, and was put into the Commission of Peace.

When the Lent Assizes were in *February* last at *Northampton*, the man that preached before the Judges there, was this worthy Doctor; where magnifying the Authority of Kings, (which is so strong in the Scripture, that it needs no flattery any ways to extol it) he let fall divers Speeches which were distasteful to the Auditors; and namely, That they had power to put Poll-money upon their Subjects heads, when against those Challenges men did frequently mourn.

The Duke's
design in
having
this Ser-
mon sent
to the
Archbi-
shop to li-
cense it.

He being a man of a low Fortune, conceived, that putting his Sermon in print, might gain favour at Court, and raise his Fortune higher, on he goeth with the Transcribing of his Sermon, and got a Bishop or two to prefer this great Service to the Duke; and it being brought unto the Duke, it cometh in his head, or was suggested unto him by some malicious Body, that thereby the Archbishop might be put to some remarkable strait. For if the King should send the Sermon unto him, and command him to allow it to the Press, one of these two things would follow, that either he should authorize it, and so all men that were indifferent, should discover him for a base and unworthy Beast; or he should refuse it, and so should fall into the King's indignation, who might pursue it at his pleasure, as against a man that was contrary to his service.

Out of this Fountain flowed all the Water that afterwards so wet: in rehearsing whereof, I must set down divers particulars, which some men may

wonder how they should be discovered unto me. But let it suffice once for all, that in the word of an honest man, and of a Bishop, I recount nothing, but whereof I had good warrant, God himself working means.

The matters were revealed unto me, although it be not convenient that in this Paper I name the manner how they came unto me, lest such as did by well doing further me, should receive blame for their labour. Well! resolved it is, that I must be put to it, and that with speed; and therefore Mr. *William Murrey*, Nephew (as I think) unto Mr. *Thomas Murrey*, sometimes Tutor unto Prince *Charles*, and the young man now of the King's Bed-chamber, is sent unto me with the written Sermon; of whom I must say, That albeit he did the King his Master's business, yet he did use himself civilly and temperately unto me. For avoiding of *inquit* and *inquam* (as *Tully* saith) I said this, and he said that, I will make it by way of Dialogue, not setting down every days conference exactly by it self, but mentioning all things of importance in the whole, yet distinguishing of times, where, for the truth of the Relation, it cannot be avoided.

Mr. Murrey
sent from
the King
with the
Sermon to
the Arch-
bishop to
have it li-
censed by
himself.

Murrey. My Lord, I am sent unto you by the King, to let you know, that his pleasure is, That whereas there is brought unto him a Sermon to be printed, you should allow this Sermon to the Press.

Archb. I was never he that authorized Books to be printed; for it is the work of my Chaplains to read over other men's Writings; and what is fit, to let it go, and what is unfit, to expunge it.

The dis-
course by
way of Di-
alogue, be-
tween the
Archbi-
shop and
Mr. Murrey
on that
occasion.

Murrey. But the King will have you yourself to do this, because he is minded, that no Books shall be allowed, but by you and the Bishop of *London*: And my Lord of *London* authorized one the other day (*Consens* his Book) and he will have you do this.

Archb. This is an occupation that my old Master King *James* did never put me to, and yet I was then young, and had more abilities of body than now I have; so that I see I must now learn a new lesson: but leave it with me, and when I have read it, I shall know what to say unto it; a day or two hence you shall understand my mind. When I had once or twice perused it, I found some words which seemed unto me to cross that which the King intended, and in a sort to destroy it; and therefore upon his return, a day or two after, I expressed myself thus.

Mr. *Murrey*, I conceive, that the King intendeth, that this Sermon shall promote the service now in hand about the *Loan of Money*, but in my opinion it much crosseth it; for he layeth it down for a rule, and because it shall not be forgotten, he repeateth it again,

That Christians are bound in duty one to another, especially all Subjects to their Princes, according to the Laws and Customs of the Kingdom, wherein they live.

The Arch-
bishop's
Reasons
why he
could not
license it.

Out of this will men except this *Loan*, because that there is neither Law nor Custom for it in the Kingdom of *England*.

Secondly, In my judgment, there followeth a dangerous Speech, *Habemus necessitatem vindicande libertatis*. For this was all that was then quoted out of *Calvin*, no mention being made of any the other words which are now in the printed Copy: for when by the former Rule he hath set men at liberty, whether they will pay or no, he imposeth upon

Anno 1627. upon them a necessity to vindicate this liberty, and *Vindicare* may be extended to challenge with violence *cum vi*. But for my part, I would be most unwilling to give occasion to Sedition and Mutiny in the Kingdom.

Again, here is mention made of Poll-money, which, as I have heard, hath already caused much distaste where the Sermon was preached.

Moreover, what a speech is this, *That he observes the forwardness of the Papists to offer double*, according to an Act of Parliament so providing, yea, to profess, that they would part with the half of their Goods, where he quoteth in the Margent, *Anno 1. Caroli*; the Act for the Subsidy of the Laity, whereby Popish Recusants were to pay double; when indeed there is no such Act.

And in the fifth place, it is said in this Sermon, That the Princes of *Bohemia* have power to depose their Kings, as not being Hereditary, which is a great question. Such a one as hath cost much blood, and must not in a word be absolutely defined here, as if it were without controversy. I pray you make his Majesty acquainted with these things, and take the Book with you, (where it is to be noted, that all this time we had but one single Copy, which was sometime at the Court, and sometime left with me.)

Murrey. I will faithfully deliver these things to the King, and then you shall hear further from me.

His Majesty returns answer by Mr. Murrey to those reasons of the Archbishop.

Some two or three days after he returned again unto me, and telleth me, That he had particularly acquainted the King with my Objections; and his Majesty made this Answer: First, for the Laws and Customs of the Kingdom, he did not stand upon that, he had a President for that which he did, and thereon he would insist.

Archb. I think that to be a mistaking, for I fear there will be found no such President. King *Henry* the Eighth, as the Chronicle sheweth, desired but the Sixth part of mens Estates, Ten groats in the pound; our King desireth the whole six parts full out, so much as men are set at in the Subsidy Book: And in the time of King *Henry*, although he were a powerful King, yet, for that Taxation, there began against him little less than a Rebellion; so that he held it wisdom to desist, and laying the blame upon Cardinal *Wolsey*, professed, that he knew nothing of the matter.

Murrey. Secondly, the King saith, for the words *Habemus necessitatem vindicanda libertatis*, he taketh them to be for him; and he will stand on his Liberty.

Thirdly, For Poll-money, he thinketh it lawful.

Fourthly, It is true, there was no such Act passed, and therefore it must be amended (and yet in the printed Book it is suffered still to stand. Such slight, and, I may say, slovenly care was had by them that published this Sermon.)

And fifthly, for that of *Bohemia*, he hath crossed it out of the Book.

Some other matters there were, against which I took exception, but Mr. *Murrey* being a young Gentleman, although witty, and full of good behaviour, I doubted, that being not deeply seen in Divinity, he could not so well conceive me, nor make report of my words to his Majesty: And therefore I being lame, and so disabled to wait on the King, did move him, That he would, in my name, humbly beseech his Majesty to send the Bishop of *Bath* and *Wells* unto me, and I would, by

his means, make known my Scruples: And so I dismissed Mr. *Murrey*, observing with my self, that the Answer to my Five Objections, especially to two or three, were somewhat strange: As if the King were resolved, were it to his good or to his harm, to have the Book go forth.

After one or two days more, the young Gentleman cometh to me again, and telleth me, That the King did not think it fit to send the Bishop of *Bath* unto me; but he expected I should pass the Book. In the mean time, had gone over one High-Commission day, and this Bishop, who used (otherwise) very few days to fail, was not there; which being joyned to his Majesties Message, made me in some measure to smell, that this whole business might have that Bishop's hand in it, especially I knowing in general the disposition of the man.

The minds of those that were Actors for the publishing of the Book, were not quiet at the Court, that the thing was not dispatched; and therefore one day the Duke said to the King, Do you see how this business is deferred? If more expedition be not used, it will not be printed before the end of the Term; at which time it is fit that it be sent down into the Countreys.

So eager he was, that either by my credit his undertakings might be strengthened, or, at least, I might be contemned and derided as an unworthy fellow.

This so quickned the King, that the next Message which was sent by Mr. *Murrey* was, in some degree, minatory, That if I did not dispatch it, the King would take some other course with me.

When I found how far the Duke had prevailed, I thought it my best way to set down in writing many Objections, wherefore the Book was not fit to be published: which I did modestly, and sent them to the King. The words were these, which I culled out of the written Sermon.

The Archbishop sends his Objections to the Court in writing against the Sermon.

1. Page 2. Those words deserve to be well weighed, *And whereas the Prince pleads not the power of Prerogative.*

2. Page 8. *The King's duty is first to direct and make Laws.* There is no Law made till the King assent unto it; but if it be put simply to make Laws, it will make much startling at it.

3. Page 10. *If nothing may excuse from active obedience, but what is against the Law of God, or of Nature, or impossible.* How doth this agree with the first fundamental Position? page 5. *That all Subjects are bound to all their Princes according to the Laws and Customs of the Kingdom wherein they live.*

This is a Fourth Case of Exception.

4. Page 11. *The Poll-money*, mentioned by him in *St. Matthew*, was imposed by the Emperor as a Conqueror over the *Jews*, and the execution of it in *England*, although it was by a Law, produced a terrible effect in King *Richard* the Second's time, when only it was used, for ought that appeareth.

5. Page 12. It is in the bottom, view the Reign of *Henry* the Third, and whether it be fit to give such allowance to the Book, being surreptitiously put out?

6. In the same Page, let the largeness of those words be well considered, *Yea all Antiquity to be absolutely for absolute Obedience to Princes in all Civil and Temporal things.* For such Cases as *Naboth's Vineyard* may fall within this.

The Archbishop desires Bishop Laud may be sent to him to treat of that Sermon.

7. Page 14. *Sextus Quintus* was dead before the year One thousand five hundred and eighty.

8. In the same Page, weigh it well, How this *Loan* may be called a *Tribute*; and when it is said, *We are promised, it shall not be immoderately imposed*: How that agreeth with his Majesties Commission and Proclamation, which are quoted in the Margent?

Bishop
Land is
employed
ed to an-
swer these
Objecti-
ons.

It should seem, that this Paper did prick to the quick, and no satisfaction being thereby accepted, Bishop *Land* is called, and he must go to answer to it in writing: This man is the only inward Counsellor with *Buckingham*, sitting with him sometimes privately whole hours, and feeding his humour with malice and spight.

His life in *Oxford* was to pick quarrels in the Lectures of the Publick Readers, and to advertise them to the then Bishop of *Durham*, that he might fill the ears of King *James* with discontents against the honest men that took pains in their Places, and settled the truth (which he called *Puritanism*) in their Auditors.

He made it his work to see what Books were in the Press, and to look over Epistles Dedicatory, and Prefaces to the Reader, to see what faults might be found.

K. James
was a long
time of-
fended
with Bi-
shop Land.

It was an observation what a sweet man this was like to be, that the first observable act that he did, was the marrying of the Earl of *D.* to the Lady *R.* when it was notorious to the World, that she had another Husband, and the same a Nobleman, who had divers Children then living by her. King *James* did for many years take this so ill, that he would never hear of any great preferment of him; insomuch that the Bishop of *Lincoln*, Doctor *Williams*, who taketh upon him to be the first promoter of him, hath many times said, That when he made mention of *Land* to the King, his Majesty was so averse from it, that he was constrained oftentimes to say, That he would never desire to serve that Master, which could not remit one fault unto his Servant. Well, in the end he did conquer it, to get him to the Bishoprick of *St. Davids*; which he had not long enjoyed, but he began to undermine his Benefactor, as at this day it appeareth. The Countess of *Buckingham* told *Lincoln*, that *St. David's* was the man that undermined him with her Son: And verily, such is his aspiring nature, that he will underwork any man in the World, so that he may gain by it.

He was ad-
vanced by
Bishop
Williams.

This man, who believeth so well of himself, framed an Answer to my Exceptions. But to give some countenance to it, he must call in three other Bishops, that is to say, *Durham*, *Rocheſter*, and *Oxford*, tried men for such a purpose; and the whole style of the Speech runneth, *We and We*.

Bishops of
Durham &
Bath sworn
of the Pri-
vy Coun-
cil.

This seemed so strong a confutation, that for reward of their Service, as well as for hope that they would do more, Doctor *Neal*, Bishop of *Durham*, and the Bishop of *Bath*, were sworn of the Privy Council.

The very day, being *Sunday*, Mr. *Murrey* was sent unto me with a Writing; but finding me all in a sweat by a fit of the Stone, which was then upon me, he forbore for that time to trouble me, and said, That on the morrow he would repair to me again. I got me to Bed, and lying all that night in pain, I held it not convenient to rise the next day: And on the *Munday*, Mr. *Murrey* came unto me, which was the Eighth time that he had been with me, so uncessantly was I plyed with this noble Work.

Mr. Murrey
brings the
Answer to
the Arch-
bishop's
Objections

I had shewed it before to a friend or two, where-

of the one was a learned Doctor of Divinity, and the other had served many times in Parliament with great commendation. We all agreed, That it was an idle work of a man that understood not Logick, that evidently crossed himself, that sometimes spake plausibly, and in the end of his Sermon fell so poor and flat, that it was not worth the reading.

Mr. *Murrey* coming to my Bed-side, said, That he was sent again by the King, and had a Paper to be shewed unto me.

Archb. You see in what case I am, having slept little as this last night, but nevertheless since you come from the King, I will take my Spectacles and read it.

Murrey. No, my Lord, you may not read it, neither handle it; for I have charge not to suffer it to go out of my hands.

Archb. How then shall I know what it is?

Murrey. Yes, I have order to read it unto you, but I may not part with it.

Archb. I must conceive, that if I do not assent to it, his Majesty will give me leave to reply upon it; which I cannot do, but in my Study, for there are my Books.

Murrey. I must go with you into your Study, and sit by you till you have done.

Archb. It is not so hasty a work, it will require time, and I have not been used to study, one sitting by me: but first read it, I pray you.

The young Gentleman read it from one end to the other, being two or three sheets of Paper.

Archb. This Answer is very bitter, but giveth me no satisfaction. I pray you leave the Writing with me, and I shall batter it to pieces.

Murrey. No my Lord, I am forbidden to leave it with you, or to suffer you to touch it.

Archb. How cometh this about? are the Authors of it affraid of it, or ashamed of it? I pray you tell his Majesty, that I am dealt with neither Manly nor Scholar-like. Not Manly, because I must fight with Adversaries that I know not; nor Scholar-like, because I must not see what it is that must confute me. It is now Eight and forty years ago that I came to the University, and since that time I have ever loved a Learned man; I have disputed and written divers Books, and know very well what appertaineth to the Schools. This is a new kind of Learning unto me. I have formerly found fault, that the Author of this Sermon quoteth not the places whereupon he grounds his Doctrine; and when I have oft called for them, it is replied unto me, That I must take them upon the credit of the Writer, which I dare not do; for I have searched but one place, which he quoted in general, but sets down neither the Words nor the Treatise, nor the Chapter, and I find nothing to the purpose for which it is quoted; and therefore I have reason to suspect all the rest. I pray you therefore, in the humblest manner, to commend my Service to the King my Master, and let him know, that unless I may have all the Quotations set down, that I may examine them, and may have that Writing, wherein I am so ill used, I cannot allow the Book.

The Arch-
bishop is
not suffer-
ed to see
the Writ-
ings, but
Mr. Murrey
reads it.

Before I go further, it shall not be amiss to touch some Particulars of that which I sent in writing to the King.

The first was Page 2. Those words deserve to be well weighed, *And whereas the Prince pleads not the power of Prerogative*.

To this Mr. *Murrey* said, The King doth not plead

Anno 1627. plead it: But my reply was, By what then doth he coerce those Refractories? for I have not heard of any Law whereby they are imprisoned, and therefore I must take it to be by the King's Prerogative.

To the second, Page 8. *The King's duty is first to direct and make Laws.* There is no Law made till the King assent unto it; but if it be but simply to make Laws, it will cause much startling at it.

To this I remember not any material thing answered, neither to the third.

Page 10. *If nothing may excuse from active obedience, but what is against the Law of God, or of Nature, or impossible:* How doth this agree with the first fundamental Position, Page 5. *That all Subjects are bound to all their Princes, according to the Laws and Customs of the Kingdom wherein they live?*

This is a fourth Case of Exception.

And here before I go to the rest, the Doctor did truly hit upon a good point, in looking to the Laws and Customs, if he could have kept him to it; for in my memory, and in the remembrance of many Lords, and others that now live, Doctor Harsenet, the then Bishop of Chichester, and now of Norwich, in Parliament time preached a Sermon at Whitehall, (which was afterwards burned) upon the Text, *Give unto Cæsar the things that be Cæsar's.* Wherein he insisted, That Goods and Money were Cæsar's, and therefore they were not to be denied unto him.

At this time, when the whole Parliament took main offence thereat, King James was constrain'd to call the Lords and Commons into the Banqueting-house at Whitehall, and there his Majesty calmed all, by saying, *The Bishop only failed in this, when he said, The Goods were Cæsar's;* he did not add, They were his according to the Laws and Customs of the Countrey wherein they did live.

So moderate was our Cæsar then, as I my self saw, and heard, being then an eye and ear witness; for I was then Bishop of London.

To the Fourth, the Poll-money, in St. Matthew, was imposed by the Emperor, as a Conqueror of the Jews; and the execution of it in England, although it was by a Law, produced a terrible effect in King Richard the Second's time, when only it was used, for ought that appeareth.

Here the Bishop in the Paper excepted divers things, as, That sometimes among us by Act of Parliament, Strangers are appointed to pay by the Poll, which agreeth not with the case; and that it was not well to bring Examples out of weak times, whereas we live in better; but that it was a marvellous fault, the blame was not laid upon the Rebels of that Age.

Those are such poor things, that they are not worth the answering.

But my Objection in truth prevailed so far, that in the Printed Book it was qualified thus [Poll-money, other persons, and upon some occasions] where *obiter* I may observe, That my refusing to sign the Sermon, is not to be judged by the Printed Book, for many things are altered in one, which were in the other.

To the Fifth, Page 12. it is in the bottom, view the Reign of Henry the Third, whether it be fit to give such allowance to the Book, being surreptitiously put out.

To this it was said, That being a good passage out of a blame-worthy Book, there was no harm in it.

But before the Question of Sibthorp's Treatise, the Bishop of Bath himself being with me, found much fault with that Treatise, as being put out for a scandalous Parallel of those times.

To the sixth in the same Page, Let the largeness of those words be well considered, *Yea, all Antiquity to be absolutely for absolute Obedience to Princes, in all Civil or Temporal things:* For such Cases (as Naboth's Vineyard) may fall within this.

Here the Bishop was a man in a rage, and said, That it was an odious comparison; for it must suppose, that there must be an *Ahab*, and there must be a *Jezebel*, and I cannot tell what: but I am sure my Exception standeth true; and reviling and railing doth not satisfy my Argument, *All Antiquity* taketh the Scripture into it; and if I had allowed that proportion for good, I had been justly beaten with my own Rod.

If the King, the next day, had commanded me to send him all the Money and Goods I had, I must, by my own Rule, have obeyed him; and if he had commanded the like to all the Clergy-men in England, by Doctor Sibthorp's proportion, and my Lord of Canterbury's allowing of the same, they must have sent in all, and left their Wives and Children in a miserable case. Yea, the words extend so far, and are so absolutely delivered, that by this Divinity, if the King should send to the City of London, and the Inhabitants thereof, commanding them to give unto him all the wealth which they have, they were bound to do it: I know our King is so gracious, that he will attempt no such matter; but if he do it not, the defect is not in their flattering Divines, who, if they were called to question for such Doctrine, they would scarce be able to abide it. There is a *Meum* and *Tuum* in Christian Commonwealths, and according to Laws and Customs, Princes may dispose of it, that saying being true, *Ad Reges Potestas omnium pertinet, ad singulos Inoprietas.*

To the seventh, Page 14. *Pius Quintus* was dead before the year One thousand five hundred and eighty,

They make no Reply, but mend it in the printed Book, changing it into *Gregory the Thirteenth.*

To the last, in the same Page, weigh it well, How this Loan may be called a *Tribute*; and when it is said, *We are promised shall not be immoderately imposed.*

How that agreeth with his Majesties Commission and Proclamation, which are quoted in the Margent, they make no Answer; but in the published Sermon, distinguish a Tribute from a Loan or Aid, whereby they acknowledged it was not well before; and indeed it was improper and absurd, worthy of none but Dr. Sibthorp.

I have now delivered the grounds whereupon I refused to authorise this Book, being sorry at my heart, that the King, my gracious Master, should rest so great a building upon so weak a foundation, the Treatise being so slender, and without substance, but that it proceeded from a hungry man.

If I had been in Council, when the Project for this Loan was first handled, I would have used my best Reasons to have had it well grounded; but I was absent, and knew not whereupon they proceeded, only I saw it was followed with much vehemency: And since it was put in execution,

Anno 1627. cution, I did not interpose my self to know the grounds of one, nor of the other.

It seemeth therefore strange unto me, that in the upshot of the business, I was called in to make that good by Divinity, which others had done; and must have no other inducements to it, but Doctor *Sibthorp's* contemptible Treatise. I imagined this for the manner of the carriage of it, to be somewhat like unto the Earl of *Somerset's* Case, who abused the Wife of the Earl of *Essex*, must have her divorced from her Husband, and must himself marry her: And this must not be done, but that the Archbishop of *Canterbury* must ratifie all judicially. I know the Cases are different, but I only compare the manner of the carriage.

Sibthorp's Sermon licenced by the Bp. of London. When the Approbation of the Sermon was by me refused, it was carried to the Bishop of *London*, who gave a great and stately allowance of it; the good man being not willing that any thing should stick which was sent unto him from the Court, as appeareth by the Book, which is commonly called, *The Seven Sacraments*, which was allowed by his Lordship, with all the Errors; which since that time have been expunged, and taken out of it.

But before this passed the Bishop's File, there is one accident which fitly cometh in to be recounted in this place. My Lord of *London* hath a Chaplain, Doctor *Worral* by name, who is Scholar good enough, but a kind of free Fellow-like man, and of no very tender Conscience. Doctor *Sibthorp's* Sermon was brought unto him, and, hand over head, (as the Proverb is) he approved it, and subscribed his name unto it. But afterwards, being better advised, he sent it to a learned Gentleman of the *Inner Temple*, and writing some few lines unto him, craveth his opinion of that which he had done; the Gentleman read it: but although he had promised to return his judgment by Letter, yet he refused so to do, but desired that Doctor *Worral* would come himself; which being done, he spake to this purpose: 'What have you done? You have allowed a strange Book yonder; which, if it be true, there is no *Muum* or *Tuum*, no man in *England* hath any thing of his own: If ever the Tide turn, and matters be called to a reckoning, you will be hanged for publishing such a Book. To which the Doctor answered, Yea, but my hand is to it; what shall I do? For that, the other replied, you must scrape out your name, and do not so much as suffer the sign of any letter to remain in the Paper. Which accordingly he did, and withdrew his finger from the Pye.

But what the Chaplain well advised would not do, his Lord, without sticking, accomplished; and so being insensibly hatched, it came flying into the World: But in my opinion, the Book hath perswaded very few understanding men, and hath not gained the King six pence.

Pars Secunda.

Hitherto I have declared at length all passages concerning the Sermon, and, to my remembrance, I have not quitted any thing that was worthy the knowing. I am now in the second place to shew what was the issue of this not allowing the worthy and learned Treatise. In the height of this Question, I privately understood, from a Friend in the Court, that for a punishment upon me, it was resolved, that I should be sent away to *Canterbury*, and confined there. I kept this silently, and expected God's pleasure; yet

laying it up still in my mind, esteeming the Duke to be of the number of them, touching whom *Tacitus* observeth, *That such as are false in their love, are true in their hate.* But whatsoever the event must be, I made that use of the Report, that *Jacula praevisa minus feriunt.* The Duke, at the first, was earnest with the King, that I must be presently sent avay before his going to Sea: For, saith he, if I were gone, he would be every day at *Whitehall*, and at the Council Table, and there will cross all things that I have intended. To meet with his Objection, I got me avay to *Croyden* a Month sooner than in ordinary years I have used to do; but the Term was ended early, and my main fit of the Stone did call upon me to get me to the Countrey, that there on Horse-back I might ride upon the Downs; which I afterwards performed, and, I thank God, found great use of it, in recovering of my stomach, which was almost utterly gone.

The Duke hastned his preparations for the Fleet; but still that cometh in for one Memorandum, That if he were once absent, there should no day pass over, but that the Archbishop would be with the King, and infuse things that would be contrary to his proceedings. What a miserable and restless thing Ambition is, when one Talented, but as a common person, yet by the favour of his Prince, hath gotten that interest, that in a fort, all the Keys of *England* hang at his Girdle, (which the wise Queen *Elizabeth* would never endure in any Subject) yet standeth in his own heart in such tickle terms, as that he feared every shadow, and thinketh, that the lending of the King's ear unto any grave and well-seasoned Report, may blow him out of all; which, in his estimation, he thinketh is settled upon no good foundation, but the affection of the Prince, which may be mutable, as it is in all men more or less: If a man would wish harm unto his Enemy, could he wish him a greater torment, than to be wrested and wringed with ambitious thoughts? Well, at first it went current, that with all haste I must be doffed, but upon latter consideration, it must be staid till the Duke be at Sea, and then put in execution by the King himself, that, as it seemeth, *Buckingham* might be free from blame, if any should be laid upon any person. Hence it was, that after his going, there was new prosecution of the *Torke-shire* men, and the refusing *Londoners* were pursued more fervently than before; and it is very likely, that the Arrow came out of the same Quiver; that the Bishop coming to the Election at *Westminster*, was driven back so suddenly to *Bugden*. Take heed of these things, Noble Duke, you put your King to the worst parts, whereof you may hear one day: So when your Sovereign in the Parliament time had spoken sharply to both Houses, commanding them to go together again, and to give more money, and commanding them to meddle no more with the Duke of *Buckingham*; you came the next day, and thought to smooth all, taking the glory of qualifying disturbances to your self; whereas if you had read Books of true State Government, wherewithal you are not acquainted, sweet things are personally to be acted by Kings and Princes, as giving of Honours, and bestowing of noted Benefits; and those things that are sour and distasting, are to be performed by their Ministers; you go the contrary way.

But as before the whole House falleth on fire, some sparks do flie out; so, before the Message of the King was brought me by the Secretary, there were some inklings that such a thing would follow.

And

Anno And upon the naming of me (by occasion) it was
1627: said by a Creature of the Duke's, That it would
not be long, before the Archbishop should be se-
questred (that was the word.) So well acquaint-
ed are the Duke's followers with great actions
that are ready to fall out in State.

Accordingly on *Tuesday* the Fifth of July, One
thousand six hundred twenty and seven, the Lord
Conway came unto me to *Croydon*, before Din-
ner time, having travelled, as he said, a long
journey that morning, even from *Oatlands* thi-
ther; he would say nothing till he had dined:
then, because he was to return to *Oatlands* that
night, I took him into the Gallery, and when
we were both sat down, we fell to it in this man-
ner.

M^T Lord, I know you, coming from Court,
have somewhat to say to me.

Secretary. It is true; my Lord, and I am the
most unwilling man in the World to bring un-
pleasing News to any Person of Quality, to whom
I wish well, and especially to such a one, as of
whose Meat I have eaten, and been merry at his
House: But I come from the King, and must deli-
ver his pleasure; I know who you are: and much
more, with very civil language.

Archb. I doubt not, my Lord, but you have
somewhat to say; and therefore I pray you in plain
terms let me have it.

The Arch-
bishop
command-
ed to
withdraw.

Secret. It is then his Majesties pleasure, that
you should withdraw your self unto *Canterbury*;
for which he will afford you some convenient
time.

Archb. Is that it? then I must use the words of
the *Psalmist*, *He shall not be afraid of any evil ri-
dings, for his heart standeth fast, and believeth in
the Lord.* But, I pray you, what is my fault that
bringeth this upon me?

Secret. The King saith, you know.

Archb. Truly, I know none, unless it be that
I am lame, which I cannot help; it is against my
will, and I am not proud of it.

Secret. The King bad me tell you, That if any
expostulation were used—

Archb. No, I will not use any expostulation; if
it be his pleasure, I will obey. I know my self to
be an honest man, and therefore fear nothing. But,
my Lord, do you think it is for the King's service
in this sort to send me away?

Secret. No, by God! I do not think it, and so
yesterday I told the King with an Oath; but he
will have it so.

Archb. I must say as before, *He shall not be a-
fraid of any evil tidings, for his heart standeth fast,
and he believeth in the Lord.* But I pray you,
my Lord, is the King precisely set upon my go-
ing to *Canterbury*? There are questions in Law be-
tween me and that Town, about the Liberty of
my Archbishoprick, which I, by my Oath, am
bound to maintain; and if I should be among
them, I have many Adversaries of the Citizens;
I have there some Tenants, and the Dean and
Chapter are interested in the Question; I would
be unwilling that my Servants and their People
should fall together by the ears, while I am in
the Town: His Majesty knows this difference to
be between us, by the token that a Suit which
I lately brought against them, by a *Quo Warranto*
in the King's Bench, was stopped, Justice being
denied me, which is not usual to be denied to
any Subject; and the King well knoweth by whose
means it was stayed. I have therefore another
House, called *Foord*, five miles beyond *Canterbury*,

and more out of the way; his Majesty may be plea-
sed to let me go thither.

Secret. I can say nothing to that, but I will ac-
quaint the King with it; and I conceive nothing to
the contrary, but that his Majesty will yield so
much unto you. I have a second charge to deli-
ver unto you, and that is, That his Majesty will
not have you from henceforth to meddle with the
High Commission; he will take care that it shall
be done otherwise.

Archb. I do not doubt but it shall be better man-
aged, than it hath been by me: And yet, my Lord,
I tell you, that for these many years that I have
had the direction of that Court, the time is to
come, that ever honest man did find fault, that he
had not there Justice done.

Secret. It is now Vacation time, and so conse-
quently little to do; and by *Michaelmas* his Maje-
sty may set all in order.

Archb. I am sorry that the King proceedeth thus
with me, and letteth me not know the cause.

Secret. Although I have no Commission to tell
you so, it is for a Book which you would not al-
low, which concerned the King's Service.

Archb. If that be it, when I am questioned for
it, I doubt not but to give an honest Answer.

Secret. You will never be questioned for it.

Archb. Then am I the more hardly dealt withal,
to be censured, and not called to my Answer.

Secret. Well, my Lord, I will remember that
of *Foord*; and will your Grace command me any
more service?

Archb. No, my Lord, but God be with you;
only I end where I began, with the words of the
Prophet, *He shall not be afraid of any evil ri-
dings, for his heart standeth fast, and believeth in the
Lord.*

It comforted me not a little, that the word
was now out: My confining must be for not al-
lowing of a Book! I had much ado to forbear smi-
ling when I heard it, because now it was clear, it
was not for Felony or Treason that was laid to my
charge, nor for intelligence with the *Spaniards* or
French, nor for correspondence with Jesuits or
Seminary Priests, or any other grievous crime, I
thank God for that. I had almost forgotten, that
among many other memorable Speeches that pas-
sed between us, I used this one, That peradven-
ture the King might be offended at me, because I
was no more present at the matter of the Loan;
but, said I, my lameness hindered me therein,
and I hoped thereby to do my Master better ser-
vice, because if ever course be taken to reconcile
the King and his People, (which if it be not, this
Kingdom will rue it in the end) I would hope a-
mong many other, to be a good Instrument there-
in, since my hand hath not been in those bitter-
nesses which have of late fallen out.

Your Grace saith well, saith the *Secretary*: Would
you that I should tell the King so much? Yea, said
I, if you please; I hold it not unfit that his Majesty
should know it.

What he reported therein, I do not know;
but matters proceeded in the former course,
as if there were no regard had of any such
thing.

The Lord *Conway* being gone from me for two
or three days, I expected to hear the resolution,
to what place in *Kent* I should betake my self;
and receiving no news, I tossed many things in
my mind, as perhaps, that the King desired to
hear somewhat from the Duke, how he sped in
his journey; or that peradventure he might alter

Anno 1627. his purpose, upon report of my ready obeying; or that it might so fall out, that some of the Lords of the Court understanding, upon the Secretary's return from Croyden, that which was formerly concealed from them, might infuse some other Counseis into the King. These thoughts I resolved, at last, not forgetting the courtes of the Court, and imprinting that into my heart, That there was no good intended towards me, but that any advantage would be taken against me, I sent a man to *Whitehall*, whither the King was now come for a night or two, and by him I wrote to the Lord *Conway*, in these words.

My very good Lord,

The Arch-
bishop
writes to
the Lord
Conway, to
know if
his Majesty
will give
him his
choise of
two Hou-
ses to re-
tire to.

I Do not forget the Message which you brought unto me on Thursday last, and because I have heard nothing from you since that time, I send this Messenger on purpose to know what is resolved touching the House, or Houses where I must remain: There belong to the Archbishoprick three Houses in Kent, one at Canterbury, another five miles beyond, called Foord, and a third on the side of Canterbury, but two miles off, the name whereof is Becksburn.

I pray your Lordship to let me know his Majesties pleasure, whether he will leave the choise of any of those Houses to me to reside in: I have reason to know the resolution hereof, because I must make my provision of Wood, and Coals, and Hay, for some definite place; and when I shall have Brewed, it is fit I should know where to put it, or else it will not serve the turn: It is an unseasonable time to brew now, and as untimely to cut Wood, being green in the highest degree, and to make Coals, without all which, my House cannot be kept. But when I shall know what must be my Habitation, I will send down my Servants presently, to make the best Provisions that they can. And so expecting your Lordship's Answer, I leave you to the Almighty, and remain,

Your Lordship's

Croyden, July 10.
1627.

very loving Friend,

G. Cant.

He made my Servant stay, and when he had gone up to know the King's further pleasure, he returned me the Answer following.

May it please your Grace,

The Lord
Conway's
Answer.

I Am ashamed, and do confess my fault, that I wrote not to your Grace before I received your Reproof, though a gracious one; but, in truth, I did not neglect, nor forget. But the continual oppression of business, would not permit me to advertise to your Grace the King's Answer. His Majesty heard seriously your Professions and Answers, and commanded me to signify unto you, That he knew not the present difference between you and the Town; and if he had, he would not have cast you into that inconvenience. He was well pleased you should go to your House at Foord, and said, he did not expect when the Question was ended between your Grace and the Town, that you should go to Canterbury.

And he further said, He would not tie you to so short a time, as might be any way inconvenient, but doth expect, that your Grace will govern it so, as his Majesty shall not need to warn you a second time.

I will not fail to move his Majesty, to give you liberty to chuse either of your Houses you name, and give

you knowledge of his pleasure, and in all things be ready to obey your commandments, or take occasion to serve you in the condition of

Car. 3.

Your Grace's

Whitehall, July 10.
1627.

most humble Servant,

Conway.

I could not but observe therein that passage, That the King doth expect, that your Grace will govern it so, as his Majesty will not need to warn you a second time; I needed no Interpreter to expound those words, and therefore did take order, that one of my Officers was presently dispatched unto Foord, to see the House ready.

While Necessaries were caring for, and I lay for some days at Croyden, and afterwards at Lambeth, the City of London was filled with the report of my confining (for so they did term it) and divers men spake diversly of it. I will not trouble my self to mention some idle things, but some other of them require a little consideration. A main matter that the Duke was said to take in ill part, was, the resort which was made to my House at the times of Dinner and Supper, and that oftentimes of such as did not love him.

The rea-
son why
the Duke
was
thought to
be offend-
ed with
the Arch-
bishop.

My Answer unto that is, That by Nature I have been given to keep a House according to my proportion, since I have had any Means, and God hath blessed me in it. That it is a property by St. Paul required in a Bishop, That he should be given to hospitality; that it is another of his Rules, Let your conversation be without covetousness; and those things I had in mine eyes. Besides, I have no Wife nor Child; and as for my Kindred, I do that for them which I hold fit; but I will not rob the Church nor the Poor for them.

The Arch-
bishop ac-
customed
to Hospi-
tality.

Again, It is so rare a fault in these days, that men not feeding on the King's meat, but of their own charge, should frankly entertain their Friends when they come unto them, that I deserve to be pardoned for it. But this is not all.

When King James gave me the Bishoprick, he did once between him and me, and another time before the Earl of Salisbury, charge me that I should carry my House Nobly (that was his Majesties word) and live like an Archbishop; which I promised him to do: And when men came to my House, who were of all civil sorts, I gave them friendly entertainment, not sitting what exceptions the Duke made against them; for I knew he might as undeservedly think ill of others, as he did of me. But I medled with no man's quarrels, and if I should have received none but such as cordially, and in truth, had loved him, I might have gone to Dinner many times without Company. There frequented me Lords Spiritual and Temporal, divers Privy Counsellors, as occasion served, and Men of the highest Rank; where, if the Duke thought that we had busied our selves about him, he was much deceived: Yet perhaps the old saying is true, That a man who is guilty of one Evil to himself, thinketh that all men that talk together, do say somewhat of him. I do not envy him that happiness, but let it ever attend him.

K. James
enjoyed
the Arch-
bishop to
live like an
Arch-
bishop.

As for other men of good report, but of lesser quality, I have heard some by name, to whom exception hath been taken, and these are three, (I know from the Court, by a Friend, that my House,

House, for a good space of time, hath been watched; and I marvel that they have not rather named sixty than three.)

The first of these is Sir *Dudley Diggs*, a very great Mote in the Duke's Eye, as I am informed; for it is said, That this Knight hath paid him in Parliament with many sharp speeches. If this be so, yet what is that to me? he is of age to answer for himself. But in the time of the late Parliament, when the Earl of *Carlisle* came unto me, and dealt with me thereabout, I gave him my word, and I did it truly, That I was not acquainted with these things; only being sick, as I was, I had in general given him advice, That he should do nothing, that might give just offence to the King; and I have credibly heard, that when Sir *Dudley* was last in the *Fleet*, committed from the Council Table, he was much dealt withal to know, Whether he was not instigated by me to accuse the Duke in Parliament: The Knight, with all the protestations and assurances that could come from a Gentleman, acquitted me of the part, and whole, wherein he did me but Right: And I do remember, when that man, now so hated, was a great Servant of the Duke's. So that if he have now lost him, it cannot but be presumed, that it is for some unworthy carriage, which the Gentleman conceiveth hath, by that Lord, been offered unto him.

Moreover, how can I but imagine, the words and actions of Sir *Dudley Diggs* have been ill interpreted and reported: when I myself saw the Duke stand up nine times in a morning in the Parliament House, to fasten upon him words little less (if at all less) than Treason; when by the particular Votes of all the Lords and Commons in both Houses, he was quit of those things, which the other would have enforced upon him: And a little while before he was hastily clapt into the *Tower*, and within a day or two released again, because nothing was proved against him. And I assure you, I am so little interested in his actions, that to this day I could never learn the reason why he was imprisoned in the *Fleet*, although he was kept there for seven or eight weeks. I distinguish the King from the Duke of *Buckingham*, the one is our Sovereign by the Laws of God and Men; the other a Subject as we are: And if any Subject do impeach another, though of different degrees, let the Party grieved remedy himself by Law, and not by Power.

But to speak further for this Knight, I may not forget when he was publicly employed, one time to the *Hague*, a second time to *Muscovia*, and thirdly into *Ireland*, about affairs of the State; such opinion was then held of his good endeavours. And, for my own part, ever since the days of Queen *Elizabeth*, I have been nearly acquainted with him; he was my Pupil at *Oxford*, and a very towardsly one; and this knowledge each of other, hath continued unto this time. He calleth me Father, and I term his Wife my Daughter; his eldest Son is my God-son, and their Children are, in love, accounted my Grandchildren.

The second that I have heard named, was Sir *Francis Harrington*, a Gentleman whom, for divers years, I have not seen, and who, for ought I know, was never in my House but once in his life.

The third was Sir *Thomas Wentworth*, who had occasion to send unto me, and sometimes to

see me, because we were joynt Executors to Sir *George Savile*, who married his Sister, and was my Pupil at *Oxford*; to whose Son also, Sir *Thomas Wentworth* and I were Guardians, as may appear in the Court of Wards, and many things passed between us in that behalf; yet, to my remembrance, I saw not this Gentleman but once in these three quarters of a year last past; at which time he came to seek his Brother-in-law, the Lord *Clifford*, who was then with me at Dinner at *Lameth*.

For one of the punishments laid upon me, it was told me by the Lord *Conway*, That I must meddle no more with the High Commission; and accordingly, within a few days after, a Warrant is sent to the Attorney General, that the Commission must be renewed, and the Archbishop must be left out: This under-hand being buzzed about the Town, with no small mixture of spight, I conceived it to be agreeable to the proceedings with the Lords and Gentlemen which refused to contribute to the Loan, they all being laid aside in the Commissions for Lieutenancy, and the Peace, in their several Countreys. For my part, I had no cause to grieve at this, since it was his Majesties pleasure; but it was by the Actors therein understood otherwise, they supposing that this power gave me the more Authority and Splendor in the Church and Commonwealth.

To deliver therefore truly the state of this question, it cannot be denied, but that it was a great point of Policy, for the establishing of Order in the Ecclesiastical, and consequently Civil Estate also, to erect such a Court, whereby Church-men that exorbitated in any grievous manner, might be castigated, and rectified; and such sort of crimes in the Laity might be censured, as were of Ecclesiastical Cognizance. And verily this is of great use in the Kingdom, as well for the cherishing the Study of the Civil Law, as otherwise: so that it be kept incorruptible, and with that integrity, as so grave a Meeting and Assembly requireth. That was principally my care, who took much pains, and spent much money, that in fair and commendable sort, Justice was indifferently administered to all the King's people that had to do with us: But every one might see, that this was to my singular trouble; for besides that to keep things in a streight course, sometimes in fits of Gout, I was forced by my Servants to be carried into the Court, where I could not speak much, but with difficulty; I was at no time free from Petitions, from Examinations, from signing of Warrants, to call some, to release others, from giving way to speeding and forwarding Acts of Courts; Suitors, as their fashion is, being so importunate, as that in Summer and Winter, in the day and in the night, in sickness and health, they would not be denied.

These things were daily dispatched by me out of Duty, and more out of Charity, no allowance of Pay being from the King, or of Fee from the Subject, to us that were the Judges: Nay, I may say more, the holding of that Court in such a sort as I did, was very expenceful to me out of my private Purse, in giving weekly entertainment to the Commissioners; the reason whereof was this: King *James* being desirous, when he made me Archbishop, that all matters should gravely and honourably be carried, directed me, that I should always call some of the Bishops, that were about London, and some Divines and Civilians, that by a good presence, Causes might be handled for the reputation of the Action; and willed me withal to imitate therein the Lord Archbishop *Whigist*, who invited weekly some of the Judges to Dinner, the rather

Car. 3.

The Archbishop commanded to meddle no more in the High Commission.

Commendations of the High Commission Court.

Anno rather to allure them thither. This advice proceeded from the Bishop of *Durham* that now is, 1627. which was not ill, if it came from a good intention.

The High Commissioners chargeable to the Archbishop.

I obeyed it singly, and did that which was enjoined: But whereas in those times the Commissioners were but few, since that time there hath been such an inundation of all sorts of men into that Company, that without proportion, both Lords Spiritual and Temporal, Commissioners and not Commissioners, resorted thither, and divers of them brought so many of their men, that it was truly a burthen to me. I think it may by my Officers be justified upon Oath, That since I was Arch-bishop, the thing alone hath cost me out of my private Estate one thousand pounds and a half, and if I did say two thousand pounds, it were not much amiss, besides all the trouble of my Servants; who neither directly, nor indirectly, gained six pence thereby in a whole year, but only travel and pains for their Master's honour, and of that they had enough: My house being like a great Hostelry every *Thursday* in the Term; and for my Expences, no man giving me so much as thanks.

Now this being the true Case, if the Church and Common-wealth be well provided for in the Administration of Justice, and regard be had of the Publick, can any discreet man think, that the removing of me from this molestation, is any true punishment upon me? I being one that have framed my self to Reality, and not to Opinion, and growing more and more in years, and consequently into weakness, having before surfeited so long of worldly shews, whereof nothing is truly gained temporally, but vexation of spirit; I have had enough of these things, and do not dote upon them: The World, I hope, hath found me more stayed and reserved in my courses.

Nevertheless, whatsoever was expedient for this, was dispatched by me while I lived at *Lambeth* and *Croyden*, albeit I went not out of door.

Yea, but you were otherwise inutile, not coming to the *Star-Chamber*, nor to the Council-Table.

The Archbishop's infirmity permitted him not to come to the Star-Chamber, or Council-Table.

My pain, or weakness, by the Gout, must excuse me herein. When I was younger, and had my health, I so diligently attended at the *Star-Chamber*, that for full seven years I was not one day wanting. And for the Council-Table, the same reason of my Indisposition may satisfy: But there are many other things that do speak for me. The greatest matters there handled, were for Money, or more attempts of War: For the one of these, we of the Clergy had done our parts already; the Clergy having put themselves into Payments of Subsidy, by an Act of Parliament, not only for these two last years, when the Temporality lay in a sort dry, but yet there are three years behind, in which our Payments run on with weight enough unto us; and no man can justly doubt, but my hand was in those Grants in a principal fashion.

And concerning the Provisions for War, I must confess mine ignorance in the Feats thereof; I knew not the grounds whereupon the Controversies were entered in general: I thought, that before Wars were begun, there should be store of Treasure; That it was not good to fall out with many great Princes at once; That the turning of our Forces another way, must needs be some diminution from the King of *Denmark*, who was engaged by us into the Quarrel for the *Palatinate*

and *Germans*, and hazarded both his Person and Dominions in the prosecution of the Question. These matters I thought upon, as one that had sometimes been acquainted with Councils; but I kept my thoughts unto my self.

Again, I was never sent for to the Council-Table, but I went, saving one time, when I was so ill, that I might not stir abroad.

Moreover, I was sure that there wanted no Counsellors at the Board, the number being so much increased as it was. Besides, I had no great encouragement to thrust my crazy Body abroad, since I saw what little esteem was made of me in those things which belonged to mine own Occupation; with Bishopricks, and Deanries, or other Church-places, I was no more acquainted than if I had dwelt at *Venice*, and understood of them but by some *Gazette*.

The Duke of *Buckingham* had the managing of these things, as it was generally conceived: For, what was he not fit to determine, in Church, or Common-wealth; in Court, or Council; in Peace, or War; at Land, or at Sea; at home, or in Foreign parts?

Mountague had put out his *Arminian* Book; I three times complain'd of it, but he was held up against me, and by the Duke, magnified as a well-deserving man.

Cofens put out his Treatise, which they commonly call, [*The Seven Sacraments*:] which, in the first Edition, had many strange things in it, as it seemeth: I knew nothing of it, but as it pleased my Lord of *Durham*, and the Bishop of *Bath*: So the World did read.

We were wont in the High-Commission, to repress obstinate and busie Papists: In the end of King *James* his time, a Letter was brought me under the Hand and Signet of the King, That we must not meddle with any such matter, nor exact the twelve pence for the *Sunday* of those which came not to the Church, (with which Forfeit we never meddled.) And this was told us to be in contemplation of a Marriage intended with the Lady *Mary*, the Daughter of *France*.

After the death of King *James*, such another Letter was brought from King *Charles*, and all Executions against Papists was suspended. But when the Term was at *Reading*, by open divulgation in all Courts, under the Great Seal of *England*, We and all Magistrates are set at liberty to do as it was prescribed by Law: And now our Pursuivants must have their Warrants again, and take all the Priests they can; whereof Mr. *Cross* took fourteen or fifteen in a very short space. Not long after, all these are set free; and Letters come from the King, under his Royal Signet, That all Warrants must be taken from our Messengers, because they spoiled the Catholics, and carried themselves unorderly unto them, especially the Bishop's Pursuivants: Whereas we had in all but two; *Cross*, my Messenger, for whom I did offer to be answerable; and *Thomlinson*, for whom my Lord of *London* (I think) would do as much. But the Caterpillers indeed, were the Pursuivants used by the Secretaries, men of no value, and shifters in the World, who had been punished and turn'd away by us for great misdemeanors.

But truth of Religion and God's Service, was wont to over-rule human Policies, and not to be over-ruled; and I am certain, that things best prosper, where those courses are held. But be what it may be, I could not tell what to make this Variation of the Compass, since it was or

Anno
1627.

commanded unto me to put such and such things in execution. But I never understood any thing of the Counsel, whereby I might give my judgment how fit or unfit they were, or might speak to alter the Tenure, whereunto in former times I had been otherwise used. Variety of Reasons breedeth Variety of Actions.

For the matter of the Loan, I knew not a long time what to make of it: I was not present when the Advice was taken: I understood not what was the Foundation whereupon the Building was raised, neither did ever any of the Council acquaint me therewith. I saw on the one side the King's necessity for Money, and especially it being resolved, that the War should be pursued; and on the other side I could not forget, that in the Parliament great Sums were offered, if the Petitions of the Commons might be hearkened unto. It ran still in my mind, That the old and usual way was best; That in Kingdoms the Harmony was sweetest, where the Prince and the People turned well together; That, whatsoever pretence of Greatness, he was but an unhappy man, that set the King and the Body of the Realm at division; That the People (though not fit to be too much cockered, yet) are they, that must pray, that must pay, that must fight for their Princes; That it could not be, that a man so universally hated in the Kingdom as the Duke was, must, for the preservation of himself, desperately adventure on any thing, if he might be hearkened unto.

These Meditations I had with my self; and, God knoweth, I frequently in my Prayers did beg, That he, whom these things did most concern, would seriously think upon them. It ran in my mind, that this new device for Money could not long hold out; That then we must return into the High-way, whither it were best to retire our selves betimes, the shortest Errors being the best. But these thoughts I suppressed within my Soul; neither did I ever discourage any man from Lending, nor encourage any man to hold back: which I confidently avouch.

At the opening of the Commission for the Loan, I was sent for from *Croyden*. It seemed to me a strange thing; but I was told there, That howsoever it shewed, the King would have it so, there was no speaking against it. I have not heard, that men throughout the Kingdom should lend Money against their will; I knew not what to make of it: But when I saw the Instructions, the Refusers should be sent away for Souldiers to the King of *Denmark*, I began to remember *Urias*, that was set in the Fore-front of the Battel; and, to speak truth, I durst not be tender in it. And when afterwards I saw, that men were to be put to their Oath, with whom they had had conference, and whether any did dissuade them; And yet further beheld, that divers were to be imprisoned: I thought this was somewhat a New World. Yet all this while I swallowed my own spittle, and spake nothing of it to any man. Nay, when after some trial in *Middlesex*, the first Sitting was for *Surrey* in my House at *Lambeth*, and the Lords were there assembled with the Justices of the whole County, I gave them entertainment in no mean fashion: and I sate with them, albeit I said nothing; for the confusion was such, that I knew not what to make of it: Things went on every day, and speech was, of much Money to be raised out of some Counties; yet afterwards it was not so readily paid, as preferred; and at length some refused even in *London* it self, and *Southwark*, besides many Gentlemen of special rank, and some

Lords, as it was said. And though it was reported, that they were but a contemptible company, yet the Prisons in *London* demonstrated, that they were not a very few, but persons both of note and number. The Judges besides concurring another way, That they could not allow the Legality of the Demand, and the Enforcement that is used thereupon, did somewhat puzzle me for being too busie in promoting of that, for which I might one day suffer. Yet hitherto I remained silent, hoping that time would break that off, which was almost come to an absolute period. But instead of this, by the permission of God, I was called up to the King to look clearly into the Question. When the allowance of *Sibthorp's* Pamphlet was put upon me, I then had some reason, out of the grounds of that Sermon, to fear, (and I pray God that my fear was in vain) that the Duke had a purpose to turn upside-down the Laws, and the whole Fundamental Courses, and Liberties of the Subject, and to leave us not under the Statutes and Customs which our Progenitors enjoyed, but to the pleasure of Princes; of whom, as some are gentle and benign, so some others, to ingreat themselves, might strain more than the string will bear.

Besides, now it came in my heart, that I was present at the King's Coronation, where many things on the Prince's part were solemnly promised; which being observed, would keep all in order, and the King should have a loving and faithful people, and the Commons should have a kind and gracious King. The contemplation of these things made me stay my Judgment; not any unwillingness to do my Prince any dutiful service, whom I must and do honour above all the Creatures in the World, and will adventure as far for his true good, as any one whatsoever. But I am loath to plunge my self over head and ears in these difficulties, that I can neither live with quietness of Conscience, nor depart out of the World with good fame and estimation. And perhaps my Sovereign, if hereafter he looked well into this Paradox, would, of all the World, hate me, because one of my Profession, Age, and Calling, would deceive him, and with base flattery swerve from the Truth. *The hearts of Kings are in the hand of God, and he can turn them as the Rivers of Water.*

I draw to a conclusion; only repute it not amiss (because so much falleth in here) to observe a few words of the Duke of *Buckingham*, not as now he is, but as he was in his rising. I say nothing of his being in *France*, because I was not present, and divers others there be that remember it well; but I take him at his first repair to Court. King *James*, for many insolencies, grew weary of *Somerset*; and the Kingdom groaning under the Triumvirate of *Northampton*, *Suffolk*, and *Somerset*, (though *Northampton* soon after died) was glad to be rid of him. We could have no way so good to effectuate that which was the common desire, as to bring in another in his room; one Nail (as the Proverb is) being to be driven out by another. It was now observed, that the King began to cast his eye upon *George Villiers*, who was then Cup-bearer, and seemed a modest and courteous Youth. But King *James* had a fashion, that he would never admit any to nearness about himself, but such an one as the Queen should commend unto him, and make some suit on his behalf; that if the Queen afterwards, being ill treated, should complain of this *Dear one*, he might make his answer, *It is long of your self, for you were the party*

Cur. 3.

The Archbishop's observation concerning the rise of the Duke.

that commended him unto me. Our old Master took Anno: delight strangely in things of this nature.

1627. That Noble Queen (who now resteth in Heaven) knew her Husband well; and having been bitten with Favourites both in England and Scotland, was very shie to adventure upon this request. King James, in the mean time, more and more loathed Somerset, and did not much conceal it, that his affection increased towards the other; but the Queen would not come to it, albeit divers Lords (whereof some are dead, and some yet living) did earnestly solicit her Majesty thereunto. When it would not do, I was very much moved to put to my helping hand, they knowing, that Queen Anne was graciously pleased to give me more credit than ordinary, which all her attendants knew she continued till the time of her death. I laboured much, but could not prevail; the Queen oft saying to me, *My Lord, you and the rest of your friends know not what to do: I know your Master better than you all; for if this young man be once brought in, the first persons that he will plague, must be you that labour for him; yea, I shall have my part also: The King will reach him to despise and hardly intreat us all, that he may seem to be beholden to none but himself.* Noble Queen! how like a Prophetess or Oracle did you speak!

Notwithstanding this, we were still instant, telling her Majesty, that the Change would be for the better: For George was a good nature, which the other was not; and if he should degenerate, yet it would be a long time before he were able to attain to that height of evil, which the other had. In the end, upon importunity, Queen Anne condescended, and so pressed it with the King, that he assented thereunto: Which was so stricken while the Iron was hot, that in the Queens Bed-Chamber, the King Knighted him with the Rapi-er which the Prince did wear. And when the King gave order to swear him of the Bed-Chamber, Somerset, who was near, importuned the King with a Message, that he might be only sworn a Groom: But my self and others that were at the door, sent to her Majesty, that she would perfect her work, and cause him to be sworn a Gentleman of the Chamber. There is a Lord or two living that had a hand in this achievement; I diminish nothing of their praise for so happy a work: But I know my own part best; and, in the word of an honest man, I have reported nothing but truth. George went in with the King; but no sooner he got loose, but he came forth unto me into the Privy-gallery, and there embraced me: he professed, that he was so infinitely bound unto me, that all his life-long he must honour me as his Father. And now he did beseech me, that I would give him some lessons how he should carry himself. When he earnestly followed this chace, I told him I would give him three short Lessons, if he would learn them. The first was, That daily upon his knees he should pray to God to bless the King his Master, and to give him (George) grace, studiously to serve and please him. The second was, That he should do all good offices between the King and the Queen, and between the King and the Prince. The third was, That he should fill his Masters ears with nothing but Truth. I made him repeat these three things unto me, and then I would have him to acquaint the King with them, and so tell me, when I met him again, what the King said unto him. He promised me he would; and the morrow after, Mr. Tho. Murry, the Prince's Tutor, and I, standing together in the Gallery at White-hall, Sir George Villiers coming

forth, and drawing to us, he told Mr. Murry how much he was beholden unto me, and that I had given him certain Instructions; which I prayed him to rehearse, as indifferently well he did before us; yea, and that he had acquainted the King with them, who said, They were Instructions worthy of an Arch-bishop to give to a young man. His countenance of thankfulness for a few daies continued, but not long, either to me, or any others his Well-wishers. The Roman Historian Tacitus hath somewhere a note, That Benefits, while they may be requited, seem Courtesies; but when they are so high that they cannot be repaid, they prove matters of Hatred.

Thus, to lie by me, to quicken my remembrance, I have laid down the Cause and the Proceedings of my sending into Kent, where I remain at the writing of this Treatise: Praying God to bless and guide our King aright; To continue the Prosperity and welfare of this Kingdom, which at this time is shrewdly shaken; To send good and worthy men to be Governours of our Church; To prosper my mind and body, that I may do nothing that may give a wound to my Conscience; and then to send me patience quietly to endure whatsoever his Divine Majesty shall be pleased to lay upon me; *Da quod jubes, & jube quod vis!* And in the end to give me such a happy deliverance, either in life or death, as may be most for his glory, and for the wholesome example of others, who look much on the Actions and Passions of Men of my Place.

'Several Gentleman, as you have heard, were imprisoned upon their refusal of the Loan, and five of them brought their *Habeas Corpus*, viz. Sir Thomas Darnel, Sir John Corbet, Sir Walter Earl, Sir John Hevingham, Sir Edward Hampden.

'In Michaelmas Term, 3 Caroli, a Return was made of their several Commitments. [To instance only in one, all the rest being in the same form.] The Warden of the Fleet made this Return,

'That Sir Walter Earl, Knight, named in the Writ, is detained in the Prison of the Fleet in his Custody, by Special Command of the King, to him signified by Warrant of several of the Privy-Council, in these words:

'Whereas Sir Walter Earl, Knight, was heretofore committed to your Custody, These are to will and require you still to detain him, letting you know, that both his first Commitment, and direction for the continuance of him in Prison, were, and are, by his Majesties special Commandment.

From White-hall,
Nov. 7. 1627.

Tho. Coventrey.

Because this hath been a cause much disputed amongst our Lawyers whether a Commitment per *Speciale mandatum Domini Regis* be good in Law or not, the Proceedings and Judgment of the Judges herein you have in the Historical Collections, as followeth:

Sir Thomas Darnel was the first that was brought to the Bar upon that Writ, where the King's Attorney-general, Sir Robert Heath, did inform the Court, that his Majesty told him, He heard, that some of the imprisoned Gentlemen for the Loan did report, That the King did deny them the course

Anno 1627. course of Justice; and therefore his Majesty commanded him to renew the Writ of *Habeas Corpus*, lest they would not move for another themselves, by reason the Warden of the Fleet had not returned the first according to his duty.

To this, Sir Thomas Darnel replied, that such words never came into his thoughts: and did humbly pray, they might make no impression upon the Court to the disparagement of his Cause; for he was accused of that he was in no manner guilty of. Upon which Sir Nicholas Hyde, Chief Justice, said, That he had made a fair and temperate Answer; And you may perceive (said the Chief Justice) the upright and sincere proceedings which have been in this business: You no sooner moved for a *Habeas Corpus*, but it was granted you; you no sooner desired Counsel, but they were assigned you, though any Counsel might move for you without being assigned, and should have had no blame for it: The King's pleasure is, his Law should take place and be executed, and for that do we sit here; and whether the Commitment be by the King or others, this Court is the place where the King doth sit in person to do right, if injury be done: And we have power to examine it; and if it appear that any man hath wrong done him by his Imprisonment, we have power to deliver and discharge him; if otherwise, he is to be remanded by us to Prison again. And the Attorney-General, after the Chief Justice had spoken, said, Though this be a Case which concerns the King in an high degree, yet he hath been so gracious and so just, as not to refuse the Examination and Determination thereof according to the Laws of the Kingdom.

Then the Court proceeded to hear the Arguments made in the Prisoners behalf. Mr. Noy argued for Sir Walter Earl, Sergeant Bramston for Sir John Heveningham, Mr. Selden for Sir Edward Hampden, Mr. Calthrop for Sir John Corbet, who were all assigned of Counsel with the Prisoners by the Court of King's-Bench, upon a Petition delivered by them to that purpose. After they had argued, Mr. Attorney had a day appointed to argue for the King. It is not our intention to take up the Reader's time with the Arguments at large, either by the one side or the other: We shall only hint unto you some Generals, chiefly concerning the form of the Return of the Writ. The first Exception taken by the Council for the imprisoned Gentlemen, was to the form of the Return.

1. For that the Return is not positive, but referred to the signification made by another, (by the Lords of the Council.)
2. The Keepers of the Prisons have not return'd the Cause of the Commitment, but the Cause of the Cause; which they held not to be good.
3. That the Return of the Commitment is imperfect, for that it sheweth only the Cause of the detaining in Prison, and not the Cause of the first Commitment.

Lastly, That the Return is contradictory in itself: For that in the first part thereof it is certified, that the detaining of those Gentlemen in Prison is *per speciale mandatum Domini Regis*; and when the Warrant of the Lords of the Council is shewn, it appeareth, that the Commitment is by the Command of the King, signified by the Lords of the Council.

The second general Exception was to the matter of the Return; and that was touching the imprisonment, *per speciale mandatum Domini Regis*;

by the Lords of the Council, without any Cause expressed. Wherefore, said Mr. Selden, by the constant and settled Laws of this Kingdom (without which, we having nothing) no man can be justly imprisoned, either by the King or Council, without a Cause of the Commitment; and that ought to be expressed in the Return. The Law saith expressly, No Free-man shall be imprisoned without due Process of the Law: *Nullus liber homo capiatur vel imprisonetur nisi per legem terræ, &c.* And in the Charter of King John there are these words, *Nec eum in carcerem mittemus*, We will not commit him to Prison; that is, The King himself will not.

This Right (saith Sergeant Bramston) is the onely means that a Subject hath, whereby to obtain his liberty; and the end of it is, to return the Cause of the Imprisonment, that it may be examined in this Court, whether the Parties ought to be discharged or not: Which cannot be done upon this Return; for the Cause of the Imprisonment is so far from appearing particularly by it, that there is no Cause at all expressed: And the Writ requires, that the Cause of the Imprisonment should be return'd, and the Cause ought to be expressed so far, as that it ought to be none of those Causes, for which, by the Laws of the Kingdom, the Subject ought not to be imprisoned; and it ought to be expressed, that it was by Presentment or Indictment, or upon Petition or Suggestion made unto the King. For (said he) observe but the consequence: If those Gentlemen who are committed, without any Cause shewn, should not be Bailed, but remanded; the Subjects of the Kingdom may be restrained of their Liberty for ever, and by Law there can be no remedy. We shall not reflect upon the present time and Government; but we are to look what may betide us in time to come hereafter. The Laws are called the great Inheritance of every Subject, and the Inheritance of Inheritances, without which, we have nothing that deserves the name of Inheritance.

If upon a *Habeas Corpus* a Cause of Commitment be certified, then (said Mr. Noy) the Cause is to be tried before your Lordships; but if no Cause be shewn, the Court must do that which standeth with Law and Justice, and that is, to deliver the Party. The Commons did complain in Edw. 3. his time, that the Great Charter, and other Statutes, were broken; They desired, that for the good of himself and his People, they may be kept and put in execution, and not infringed, by making any Arrest by Special Command, or otherwise. And the Answer which was given them, was this, That the said Great Charter and other Statutes should be put in execution according to the Petition, without disturbance of Arrests by Special Command; and the King granteth the Commons desire in the same words, as they were expressed in their Petition. And afterwards complaining again, That notwithstanding this Answer of the King, they were imprisoned by Special Command, without Indictment, or other legal course of Law; the King's Answer was, upon another Petition unto him, That he was therewith well pleased; and for the future he added further, *If any man be grieved, let him complain, and Right shall be done.* And forasmuch as it doth not appear to the Court, that there was any cause of the Commitment of these Members, no Charge against them, no Indictment or Process according to the Laws: Wherefore Mr. Noy prayed they might be no longer detained in Prison, but be Bailed or Discharged.


~~~~~ Admit the Commitment of the  
*Anno* the King was lawful, yet, said Mr. C.  
 1627. a man hath continued in Prison a rea  
 ~~~~~ he ought to be brought to answer, an  
 tinue still in Prison, without being
 answer; for that it appeareth by
 our Laws, that Liberty is a thing
 the Law, that the Law will not
 tinuance of a man in Prison for any
 than of necessity it must: And there
 will neither suffer the Party, Sheriffs
 to continue a man in Prison by their
 pleasure. It doth speak of the deliv
 out of Prison, with as reasonable e
 may be: And upon this reason it
 solved, that howsoever the Law al
 there may be a Term between the *Test*
 ginal Writ, and the Return of the
 there is only a Summons, and no i
 of the Body; yet the Law will no
 there should be a Term between th
 Writ of *Capias*, and the Return
 where the body of a man is to be imp
 somuch that it will give no way, that t
 have power to continue the body of
 time in Prison than needs must; fo
 Law of the Subjects Liberty.

Monday the 27th of November, the
 General argued for the King, That t
 ry great Cause, and hath raised grea
 on; and he was afraid, that thos
 whom it concerns, have rather a
 Counsels, than their Counsels ther
 first Exception, That the Return is
 but hath relation to some others;
 ceive it was positive enough: For
 words are, *Quod detentus est sub cuj*
speciale mandatum Domini Regis: The
 [*mihi significatum*] they follow a
 not part of the affirmation made bef
 if they will have it as they seem to u
 then they must return the words thus
nificatum est mihi per Dominos Privati
detentus est per speciale mandatum D
 and then it had not been their own pr
 but the signification of another, the
 Council. The turning of the senten
 solve this point; the thing it self m
 it self: It is clear, it is a positive Retu
 detaining is by the command of th
 the rest of the Return is rather satisf
 Court, than any part of the Retur
 the other Exception, That the Cause
 is returned, and not the Cause it
 Among the Logicians there are two C
 is *Causa causans*, and *Causa causata*.
causans here in this case, is not the V
 the Lords of the Council, for that
sata: But the primary and original C
 is *Causa causans*, is, *Speciale mandatu*
gis; the other is but the Councils S
 or Testification, or Warrant, for hi
 the Return. And for the other Ex
 Cause is imperfect, because it shew
 cause of detaining in Prison, and no
 of the first Commitment: He concei
 cient for an Officer of the Law to a
 the Writ is a Command to make a R
 detaining of the Prisoner, and he
 makes a Return of the Detention;
 Keeper of the Prison had only said
 detained, *per speciale mandatum*, &c.

Good.

Annals of the Reign of

the Command of Mr. Calthorp, when a reasonable time, and not to con- being brought to by the Books of thing so favoured of not suffer the con- or any longer time, therefore the Law heriffs, or Judges, by their power and delivery of a man ble expedition as on it hath been re- w alloweth, that the *Teste* of an Ori- the same, where no imprisonment ill not allow, that een the *Teste* of a turn of the same, be imprison'd; in- that the Party shall y of a man longer ; so tender is the

er, the Attorney- That this was a ve- great expectati- those Gentlemen ther advised their them. For the urn is not positive, hers; he did con- or (said he) the *sub custodia mea per* The other words ow after, but are de before it. And n to understand it, s thus; *Quod sig- ivati Consilii, quod um Domini Regis;* wn proper Return, the Lords of the sentence would re- self must speak for e Return, that the of the King; and satisfaction to the Return. And for Cause of the Cause e it self; he said, two Causes; there *causata*. The *Causa* the Warrant from r that is *Causa can-* ginal Cause, which *mandatum Domini Re-* ncils Signification, for him that made er Exception, the t shews only the and not the Cause conceives it is suffi- y to answer, That ke a Return of the d he accordingly tion; and if the y said, they were , &c. it had been

Then he proceeded to the matter of turn, and to answer the Book-Cases and that had been cited by the Council for th- ners, and to produce Presidents on the Ki- half; which are extant in Print, to wh- Reader is referred.

Afterwards Sir *Nicholas Hide*, Chief Ju- stice *Dodderidge*, Justice *Jones*, and Justice being upon the Bench, and Sir *John Heve* and the fore-mentioned Prisoners being to the Bar, Sir *Nicholas Hide*, Lord C- stice, by the consent and direction of the spake to this purpose:

That the Court hath seriously considere- hath been spoken by either side, and are g- a resolution; And that his Brothers have e- him to deliver unto you the resolution whole Court: And therefore (said he) it be delivered by my mouth, it is the re- of us all. I am sure you expect Justi- hence, and God forbid we should sit he- to do Justice to all men according to c- skill and knowledge, as it is our Oat- Duties so to do. But this is a Case of ver- weight, and great expectation, and more solemn Arguments than the time w- permit. The Exceptions which have bee- to this Return, are two; the one for th- the other for the substance. First, For th- because it is not returned, as they say, p- ly and absolutely, but with reference to- rant of the Lords of the Council: Ne- Court is of opinion, That this is a posit- absolute Return, upon this Reason, T- Keeper of the Prison first returns, Th- are detained by the Special Command King; and if they had ceased there, been positive: And for that which fo- That it was signified to him by the L- the Council, this is only to certifye the- that he returned the Cause truly, and shew us that he had no knowledge of the- but by the signification of the Lords of the- cil: There is not one word in the W- demands the cause why they were taken, b- they are detained. So that that point- Writ is sufficiently answered, which was- certifye the cause of the detention. And fore we resolve, That the form of this R- good.

The next thing is the main point in Law, the substance or matter of the Return b- or no? Wherein the substance is this; I- certifye, that they are detained in Prison- Special Command of the King: And whet- be good in Law, or no, is the Question. the Lord Chief Justice did mention the- Presidents and Book-Cases cited by each si- long to be here related.

And concluded, That that which is no- judged by us, is this, Whether or- is committed by the King's Authority, cause shewn of his Commitment, accor- here it is upon this Return, whether w- to deliver him by Bail, or to remand hi- again? Where, by the way, you must know- we can take notice only of *this Return*; when the Case appears to us no otherwi- by the Return, we are not bound to exam- truth thereof, but the sufficiency of the R- We cannot judge upon rumours or repor- upon that which is before us on Record, v- examinable by us, whether it be sufficient o-

Anno 1627. Mr. Attorney had told you, That the King hath done it; and we trust him in great matters: And we make no doubt but the King, if you seek to him, knowing the cause why you are imprisoned, will have mercy; but we leave that, we must not counsel you: If in Justice we ought to deliver you, we would do it; but upon these Grounds, Records, Presidents, and Resolutions, cited and produced, the Court is of opinion, they cannot deliver you, but you must be remanded.

About this time not only the Pens and Tongues of Foraigners; but of our Male-contents at home, were set on work purposely to cast a blemish upon the Duke's conduct of Affairs in the Isle of Rhee, many were dissatisfied, saith the Collector, with the Civilities that passed between *Toras* and the Duke: but more at home, and upon better grounds, were offended with the Earl of *Holland's* stay, the wind serving, not bringing the Supplies to the Duke in due time, whereby the Siege in the Isle might have been strengthened and continued, and the Passes into the Island sufficiently guarded, which would have infallibly prevented any relief from going to the besieged. These Ships were ready partly at *Plymouth* under the Lord *Wilmot*; and part at *Charham* under the Earl of *Holland*, who failing as before of his time to attend the Wind, and the King coming from his Summer Progress, finds him in *Portsmouth* Road, where he received the News, That his Majesty had ordered *Wilmot* to be gone for Rhee with his Squadron, and that *Holland* might now stay his own leisure. Now when it was too late, he makes hast and gets to *Plymouth* aboard the Fleet, and weighs; and in his way meets the Duke not at all pleased with his delays in bringing the Supplies, but upon his remonstrance and submission, at last the Duke permits him to come from *Portsmouth*, where he was ordered to stay under the notion of ordering the Ships and Souldiers there, which gave *Holland* good reason to expect to feel the effects of his ruin, had not, as before, his submission prevented. The *French* had got into the Isle with Provisions, and Sir *John Burroughs* going to view the Works was wounded by a shot, whereof he dyed: a Person much lamented both for his valour and conduct. In the mean time Sir *Pierce Crosby*, and others, with about one thousand six hundred *English* and *Irish* arrive in the Duke's Camp; and *Toras* being streightned, and in want now more than ever, sends out Sir *Greene* to the *French* King with advice of his Condition, who escaped our Guards, & came to the K. in his Leaguer against *Rochel*, who dispatch'd away some small Vessels with relief for *Toras* in the Cittadel for some small time; and presently after being near at hand under the advantage of the little Fort in the Isle, at first neglected to be taken in, got in more Provision into the Citadel, whereon they subsisted till the end of the Siege. At last the *Rochellers* after some difference amongst themselves, put forth their Manifesto and declare for *England*; and the Duke of *Rohan* gives out Commissions to the same purpose, and declares in preservation of the two Edicts of Peace, and of nothing farther than that they be observed. On the other side, the *French* declares he will observe the said Edicts, and *Rohan* and *Sobiez* to be Traitors, and whoever should kill the later, shall be accounted noble. *Toras* again desires a Treaty of the Duke, whilst the *French* had from the *Spaniard* got a great Supply of Shipping, making in all one hundred Sail, exceeding the *English* Navy in number, but durst not engage ours. *Toras* desires from the Duke leave

Car. 3. to send a Gentleman to the *French* King; the Duke consents so as he might send along with him a Gentleman to have safe conduct through *France* into *England*, but he was detained by the *French*; and hereupon the other was not permitted to go into the Citadel; who, however, acquainted the *French* King sufficiently how things stood with *Toras* in the Citadel, who again renews the Treaty, pretending that if relief came not by such a day and hour, he would deliver the Citadel and Island: In the interval relief got in, and the Ship which brought the fresh Men and Provisions carried off the sick and wounded, whilst those within drew over the Works all sorts of Provisions upon their Pikes heads, and that they wanted nothing. The Duke goes on to Mine and Battery, when he receives news that more Forces were Landed under the Meadow Castle in the Island to encounter with the *English*, who draw out of their Trenches, & beat them under the security of that Castle, and regain'd their own Trenches, seized by the besieged, in which Actions many mens lives were lost on both sides. And now Winter coming on, it being about the middle of *October*, the Duke hath thoughts of returning homewards, which being communicated to *Sobiez* he saith, that the Earl of *Holland* is coming with recruits, that the loss of *Rochel* would be the consequence of that retreat, that it would be to the dishonour of the King of *Great Britain*. Upon such entreaty the Duke continues the Siege, and Storms the Citadel and Forts on the sixth of *October*; but all in vain, for they were on all sides inaccessible, and the Citadel was re-inforced with fresh men and Provisions; hereupon the Duke raises the Siege and retreats, and was followed by the *French*, who were equal to ours in Foot, and much superiour to ours in Horse, yet dared they not to engage ours in the plain Field, who several times drew up for that purpose, and proffered them the Battel; but no sooner were they entered the narrow Cawsey (having not secured it by a Fort) but the enemy engageth our Rear, and the Horse being but weak, disordered our Foot, which the enemy took the advantage of, and followed them close, and many were drowned in the Salt Pits and Ditches on each side the Cawsey, and the Crowd was so great on the Bridge, upon the Enemies close pursuit, that many were drowned in the River. And notwithstanding all these disadvantages, the *English* Rally and drew up to Fight the Enemy, but *Mon-sieur* retreats over the Bridge, declining any further engagement, though he had so great advantage: the loss of the *English* was considerable, and the more to be lamented, that the terms whereupon he engaged were so unequal.

This, in short, is a true Account of that Action in the Isle of *Rhee*, betwixt the *French* Rhodamantades of *Jenardus* the *Parisian* Advocate, and our own Male-contents, who delighted ever to make all things worse on the one side, and the most partial accounts which were given thereof after the Duke's return by ours on the other hand. In very truth, the fault lay hard upon the Earl of *Holland* for not coming with the Supplies, though he pretended the stay of the Ships at *Charham*, and that the Winds did not serve, &c. And now great were the Complaints of the Mariners for their Pay, some being in Arrears for three years, that the Enemies came into our Harbour, survey our Rivers, and the Fishermen can scarce look out: A vast number of our Ships have been lost and taken in the three years past, and the Merchants cease to build more, because they were prest for the

Anno King's service at a low rate, and not paid; and
1627. the Mariners flee from their own employment,
fearing to be prest again; and our Enemies grow
upon us, especially in the Eastern Countries.

And the *Rochellers* send their Deputies humbly to remonstrate their weak, distressed, and low Condition to his Majesty; wherein they gave his Majesty most humble thanks for the great assistance and comfort they had received by the Fleet sent in July last, whereof the Duke of *Buckingham* was Admiral, which would have been of greater assistance unto them, had the season of the year permitted their stay longer there, or that the supply of Victuals and Ammunition had come unto them which his Majesty had assigned. That they are given to understand, that there is application made to the King of *Denmark*, to propound the making of a Peace between the two Crowns of *England* and *France*, a thing to be wished (if really intended :) But the Proceedings of *France* with the Reformed Churches there, have hitherto been such, as when they speak most fair, and nothing but Peace uttered, nothing less was intended, and great advantages thereby have been taken against the Reformed Churches. But in case the Treaty do proceed, they humbly prayed, that then his Majesty will be pleased to insist upon the Capitulation which was made upon his mediation, and for which he pass'd his word, that the Reformed Churches should perform on their part, which they kept inviolable, till there were Forces placed and kept in Forts against them, contrary to Capitulation, and more Forces drawn down, in order to the reduction of the Remonstrants, and a Fleet unexpectedly come upon them, to destroy their Navigation, when nothing on their part was offered in violation of the Treaty.

They did further remonstrate, That now the Forces of *France* are breaking down apace about them, totally to block them up by Land, and do intend to make a Barricado cross the Channel, leaving a narrow passage for the flux and reflux of the Sea, and by that means to stop all manner of Provisions by Sea; which evidently remonstrates their further ruin, if they, with all expedition, have not succour and help from his Majesty of *Great Britain*: For their necessities and straits are very great already, by reason their Magazines are consumed, their Moneys spent, and the Inhabitants reduced to small allowances. And therefore do beseech his Majesty, with all possible diligence to send them supply of all sorts of Provisions fit for a Siege, and to succour them once more with the Navy-Royal to interrupt the blocking up of the River; otherwise they are inevitably lost. And lastly, they did humbly beseech his Majesty, and the Lords of his Council, to have also so far pity of their indigency and need, as to permit a general Collection to be made in *England* and *Scotland*, of such persons, whom God shall move to contribute to their succour and relief. And declare, that they are resolved still to hold out, hoping yet a relief would come that might be of advantage unto them; and they were assured thereof by the Duke of *Buckingham* at his departure, that he would once more come in person to their assistance.

Hereupon Sir *Robert Cotton's* advice was desired concerning the present posture of Affairs, which was as followeth:

AS soon as the House of *Austria* had incorporated it self with *Spain*, and by their new discoveries gotten to themselves the Wealth of the *Indies*, they began to affect, and have ever since pursued a Fifth Monarchy. The Emperour *Charles* would lay the first Foundation of *Italy*, by surprising *Rome*: From this he was thrust by force, and respect of Religion, *Hen. 8.* being made *Caput Fœderis* against him. He then attempted *High-Germany*, practising by faction and force to reduce them first to Petty-States, and so to his absolute power. In this, *Hen. 8.* again prevented him, by laying the *Lutheran* Princes under his Confederacy and Assistance. His Son, the Second *Philip*, pursued the same Ambition in the *Netherlands* of *Germany*, by reduction whereof, he intended to make his way further into the others. This the late Queen of *England* interrupted, by siding with the afflicted People on the one part, and making herself the Head of the Protestant League with the Princes, on the other part, drawing in secret of State the countenance of *France*, to give the more reputation of assistance to them, and security to it self.

Spain seeing his hopes thus fruitless by these unions, and straits, began first to break, if he might, the Amity of *France* and *England*: but finding the common danger to be a fast tie, he raiseth up a party in that Kingdom of his own; by which the *French* King was so distressed, that had not the *English* Council assisted and relieved him, *Spain* had there removed that next and greatest Obstacle of his Ambition.

His Council now tells him from these examples, That the way to his great work is impossible, so long as *England* lay a let in his way; and adviseth him, that the remove of that obstacle be the first of his intents. This drew on those often secret practices against the person of the Queen, and his open fury in *Eighry Eight* against the Body of the State: Which she perceiving, following the advice of a free Council, would never after admit of a Peace; winning thereby the hearts of a loving People, who ever found hands and money for all occasions at home, and keeping sacredly all her Alliances abroad, securing to her Confederates, all her time, freedom from fear of *Spanish* slavery, and so ended her old and happy daies in glory.

Spain then, by the wisdom and power of that great Lady, dispoiled so of his means to hurt, though not of his desires, makes up with her peaceful Successor, of happy memory, that Golden League; that disarming us at home by the opinion of Security, and giving them a power in our Councils, by believing their Friendships and pretended Marriage, gave them way to cherish amongst us a Party of their own, and benefit of power abroad to lead in Jealousie and some Division between us and our Confederates: By which, we see, they have swallowed up the Fortune of your Majesty's Brothers Estate, with the rest of the Imperial States; distressed the King of *Denmark* by that quarrel; diverted *Sweden's* assistance by the Wars with the *Pole*, and moving them now with offer of the *Danish* Crown; and now (whether from the Plot of our Fatality) hath cast such a bone between *France* and us, as hath made themselves, by our quarrel of Religion, a fast Confederate, and us a dangerous Enemy. So as now we are left no other assurance against their malice and ambition, but the *Netherlands*, where the tie of mutual safety is weakened, by daily discontentments bred and fed between us, by some ill affected

Anno
1627. affected to both our securities, that from the doubtfulness of Friendship, as we now stand, we may rather suspect from our own domestick Faction, if they grow too furious, they will rather follow the example of *Rome* in her growing (that held, that equal safety, honourable and more easie, *dare Regnum*, than *Subjugare Provinciam*) considering the power they have in their hands, than to give any friendly assistance to save the present condition of a State. You may therefore see in what terms we stand abroad, and I fear we are at home for resistance in no better state. There must be to withstand a Forreign Invasion, a proportion both of Sea and Land Forces: For to give an Enemy an easie passage, and a Port to relieve him in, is no less than to hazard all at one stake.

And it is to be considered, That no March by Land can be of that speed to make head against the landing of an Enemy. Then that follows, That there is no such prevention, as to be Master of the Sea. To this point of Necessary Defence, there can be no less than Two hundred and forty thousand pounds.

For the Land Forces, if it were for an Offensive War, the men of less livelyhood were the best spared; and we used formerly to make such War *Purgamenta Reipub.* if we made no further purchase by it. But for the safety of a Commonwealth, the wisdom of all times did never intrust the Publick Cause to any other than to such as had a portion in the Publick Adventure. And that we saw in *Eighty Eight*, when the care of the Queen and of the Council did make the body of that large Army no other than of the Trained Bands, which with the Auxiliaries of the whole Realm, amounted to no less than Twenty four thousand men. Neither were any of these drawn from forth their Country and proper Habitations, before the end of *May*, that they might be no long grievance to the Publick; such discontentments being to us a more fatal Enemy, than any Forreign Forces.

The careful distributing and directing of their Sea and Land Forces, being more fitting for a Council of War, than a private man to advise of, I pass over; yet shall ever be willing and ready, when I shall be called, humbly to offer up such Observations, as I have gathered by the former like occasion in this Realm.

To make up this Preparation, there are requisite two things, Money, and Affections; for they cannot be properly severed. It was well and wisely said of that great and grave Counsellor the Lord *Burleigh* in the like case, to the late Queen; *Win hearts, and you have their hands and purses.* And I find that of late, Diffidence hath been in the one, and hath unhappily prevented the other.

In gathering then of Money for this present need, there are three things requisite, Speed, Assurance, and Satisfaction; And the way to gather (as, in other like cases hath been done) must be by the Path-way formerly called *Via Regia*, being more secure and speedy: For by unknown and untrodden ways, it is both rough and tedious, and never succeedeth well. This last way, although it took place as it were by a supply at first, and received no general denial, yet since, it hath drawn many to consult with themselves and others in the consequence, as it is now conceived a pressure on their Liberties, and against Law; I much fear, if that now again it be offered, either in the same face, or by Privy Seal, it will be refused wholly.

Neither find I that the restraint of the Recusants hath produc'd any other effect, than a stiff resolution in themselves and others to forbear. Besides although it were at the first with some assurance, yet when we consider the Commissions and other forms incident to such like services, as that how long it hangs in hand, and the many delays that are, we may easily see that such a sum granted by the Parliament is far sooner and easier levied.

If any will make the succession of times to produce an inevitable necessity to enforce it if denied, whether in general by Excise or Imposition, or in particular on some select persons, which is the custom of some Countries, and so conclude it, as there, for the Publick State, *supremâ lege*; He must look for this to be told him, That seeing Necessity must conclude always to gather Money; 'tis less speedy or assured than that by a Parliament: The success attendeth the honour of the heedless Multitude, that are full of jealousy and distrust, and so unlike to comply to any unusual Course of Levy, but by force; which if used, the effect is fearful, and hath been fatal to the State. Whereas that by Parliament resteth principally on the Regal person, who may with ease and safety mould them to his fit designs by a gracious yielding to their just Desires and Petitions.

If a Parliament then be the most speedy assurance and safe way, it is fit to conceive what is the fairest way to act and work that to the present need.

First for the time of usual Summons, Forty days, reputed to be too large for this present Necessity, it may be by dating the Writs lessened, since it is no positive Law; so that a care be had that there may be a County-day after the Sheriff hath received the Writ, before the time of sitting. If then the Sum to be levied be once granted and agreed of for the time, there may be in the body of the Grant an Assignment made to the Knights of every County respectively, who under such assurance may safely give Security proportionable to the Receipts, to such as shall adventure in present for the Publick Service any Sums of Money.

The last and weightiest Consideration, if a Parliament be thought fit, is, How to remove and comply the Differences between the King and Subject in their mutual Demands. And what I have learned amongst the better sort of the Multitude, I will freely declare, that your Lordships may be the more enabled to remove and answer those Distrusts, that either concern Religion, publick safety of the King and State, or the just Liberty of the Commonwealth.

Religion is a matter that they lay nearest to their Consciences, and they are led by this ground of jealousy to doubt some practises against it. First, for that though the Spanish Match was broken by the careful industry of my Lord of *Buckingham*, out of his religious care (as he then declared) that the Articles there demanded might lead to some such Sufferance as might endanger the quiet, if not the state of the Reformed Religion here; yet there have (when he was an Actor principal in the Conditions of *France*) as hard, if not worse to the preservation of our Religion, passed, than those with *Spain*. And the suspect is strengthened by the close keeping of this agreement, and doubt in them of his affection, in that his Mother and others, many his Ministers of near employment about him, are so affected.

They talk much of his advancing men Popishly devoted,

Car. 3.

devoted, to places in the Camp of nearest service and chief Command; and that the Recusants have got these late years by his power, more courage and assurance than before.

If to clear these doubts, (which perhaps are worse in fancy than in truth) he takes a course, it might much advance the Publick Service against the squeamish humours, that have more of violent Passion than of settled Judgment, and are not the least of the opposite number in the Commonwealth.

The next is the late misfortunes and losses of Men, Munition, and Honour in the late Undertakings abroad; which the more temperate Spirits impute to want of Council, and the more sublime Wits to Practice.

They begin with the *Palatinate*, and lay the fault of the loss thereof on the imputed Credit of *Gondomer*, distrusting him for the staying of supply to Sir *Horatio Vere*, when Colonel *Cecil* was cast on that employment; by which the King of *Spain* became Master of the King's Childrens Inheritance. And when Count *Mansfield* had a Royal Supply of Forces to assist the Princes of our party for the recovery thereof, either Plot or Error defeated the enterprise for us to *Spain's* advantage. That Sir *Robert Mansfield's* Expedition to *Algiers*, should purchase only the security and guard of the Spanish Coasts.

To spend many Hundred thousand pounds in the *Cadiz* Voyage, against the Advice in Parliament, only to warn the King of *Spain* to be in readiness, and so our selves weakned, is taken for a sign of an ill affection among the Multitude.

The spending of much Munition, Victuals and Money, in my Lord *Willoughbies* Journey, is counted an unthrifty Error in the Director of it; To disarm our selves in fruitless Voyages, may seem a Plot of danger.

It was held not long ago a fundamental Rule of our Neighbours, and our Security, by the old Lord *Burleigh*, That nothing can prevent the Spanish Monarchy, but a Fastness of those two Princes, whose Amity gave countenance and courage to the *Netherlands* and German Princes to make head against his Ambition. And we see, by this disunion, a fearful Defeat hath hapned to the King of *Denmark* and that party, to the advantage of the *Austrian* Family.

And this waste of Publick Treasure in fruitless Expeditions, will be an important Cause to hinder any new supply in Parliament.

Another Fear that may disturb the smooth and speedy passage of the King's desire in Parliament, is the vast waste of the King's livelyhood; whereby is like, as in former times, to arise this jealousy and fear, That when he hath not of his own to support his ordinary Charge, for which the Lands of the Crown were settled unalterable, and called *Sacrum patrimonium Principis*, that then he must needs of necessity rest upon those assistances of the people, which ever were only collected and consigned for the Commonwealth; from whence it is like there will be no great labour and stiffness, to induce his Majesty to an Act of Resumption; since such desires of the State have found an easie way in the Will of all Princes, from the Third *Henry* unto the last.

But that which is like to pass the deepest into their Disputes and Care, is the late Pressures they supposed to have been done upon the Publick Liberty and Freedom of the Subject, in commanding their Goods without assent by Parliament,

imprisoning and confining their Persons without special Cause declared, and that made good against them by the Judges lately, and pretending a Writ to command their attendances in Forreign War; All which they are like to enforce as repugnant to any positive Laws, Institutions, and Customary Immunities of this Commonwealth.

And these dangerous distastes to the People are not a little improved by the unexampled course, as they conceive, of retaining an Inland Army in Winter-season, when former times of general fear, as in *Eigbry eight*, produced none such; And makes them in their distracted fears to conjecture idly, it was raised wholly to subject their Fortunes to the Will of Power, rather than of Law; and make good some further breach upon their Liberties and Freedoms at home, rather than defend us from any Force abroad. How far such Jealousies, if they meet with any unusual disorder of lawless Soldiers, are an apt distemper of the loose and needy Multitude, which will easily turn away upon any occasion in the State that they can side withal, as a glorious pretence of Religion and Publick safety, when their true end will be only rapine and ruin of all, is worthy a prudent and preventing care.

I have thus far delivered, with that freedom you pleased to admit, such Difficulties as I have taken up amongst the Multitude, as may arrest, if not remove Impediments to any Supply in Parliament. Which how to facilitate, may better become the care of your Judgments, than my Ignorance.

Only I could wish to remove away a personal distaste of my Lord Duke of *Buckingham* amongst the people: He might be pleased, if there be a necessity of a Parliament, to appear first Adviser thereunto, and of the satisfaction it shall please his Majesty of grace to give at such time to his people; which I would wish to be grounded by president of his best and fortunate Progenitors; And which I conceive will satisfy the desires and hopes of all, if it may appear in some sort to be drawn down from him to the People; by the zealous care and industry that my Lord of *Buckingham* hath of the publick unity and content. By which there is no doubt but he may remain not only secure from any further quarrel with them, but merit a happy memory amongst them of a zealous Patriot. For, to expiate the passion of the people, at such times, with sacrifice of any of his Majesties Servants, I have found it—as in *Ed. 2. Rich. 2. Hen. 6.*—no less fatal to the Master than to the Ministers in the end.

A Resolution is now taken for a Parliament, and who so fit to represent the People therein than those Gentlemen who had refused to lend upon the Loan? who were now by order of the Council released; the List and Order followeth:

At Whitehall.

Present, The King's Majesty.

Lord Treasurer,
Lord President,
Lord Admiral,
Lord Steward,
Lord Chamberlain,
Earl of Suffolk,
Earl of Dorset,

Earl

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Earl of Salisbury,
Earl of Morton,
Lord Viscount Conway,
Lord Bishop of Durham,
Lord Bishop of Bath and Wells,
Mr. Treasurer,
Mr. Comptroller,
Master of the Wards,
Mr. Secretary Cook,
Mr. Chancellor of the Exchequer,
Mr. Chancellor of the Duchy.

Order of
the Coun-
cil to set
at liberty
the Gen-
try impris-
oned for
the Loan-
money.

It is this day Ordered by his Majesty be-
ing present in Council, That the several
persons hereunder written, shall from hence-
forth be discharged and set at liberty from a-
ny Restraint heretofore put upon them by his
Majesties Commandment: And heretof all
Sheriffs and other Officers are to take no-
tice.

Sir { John Strangeways
Thomas Grantham
William Armin
William Massam
William Wilmore
Erasmus Draiton
Edward Aiscough
Nath. Barnardiston
Robert Poyntz
Beachman St. John } Knights.

William Anderson
Terringham Norwood
John Trigonwell
Thomas Godfrey
Richard Knightley
Thomas Nicholas
John Hampden
George Ratcliffe
John Dutton
Henry Pool
Nathaniel Coxwell
Robert Hatley
Thomas Elmes } Esquires.

Thomas Wood
John Wilkinson
William Allen
Thomas Holyhead } Gent.

All these remain confined to several Counties.

Sir { Walter Earl
Thomas Darnel
Harbottle Grimston } Knights.

Edward Hooker
George Bassett
James Woodland
Henry Sanders } Londoners.

All Prisoners in the Fleet.

Sir John Corbet
Sir John Elliot } Knights.

William Coriton
George Caresby } Esquires.

John Stevens
Thomas Deacon
John Potter } Londoners.

In the Gauchouse.

Sir John Heveningham,
Samuel Vassal
William Angel } Londoners.

In the Marshalsey.

William Savage
Nathaniel Manesty.

In the New-Prison.

Robert Lever
John Peacock
Edward Ridge
John Oclabery
Andrew Stone
William Spurston
Roger Hughes
John Pope
James Bunch
Thomas Garri
James Waldron
John Bennet } Londoners.

Ambrose Aylot
Thomas Sharp
Thomas Totham
Augustine Brabrook
Robert Payne
Edward Talstone
John Whiting
Thomas Webb
John Ferry.

All in the Custody of the Messenger.

Orders were also issued out to the Lord Mayor
of London, to use moderation in the demanding
of the Loan-money, and that all discontents might
be removed, the Lord Archbishop Abbot, the Earl
of Bristol, and the Bishop of Lincoln, were sum-
moned thereto. A little before the meeting of
the Parliament, a Society of Jesuits is said to have
been discovered in Clerkenwell, London, and amongst
their Papers the Copy of a Letter, written to their
Father Rector at Brussels, to this purport follow-
ing:

A Letter from a Jesuit concerning
the ensuing Parliament.

Father Rector,

Let not the damp of Astonishment seize upon your
ardent and zealous soul in apprehending the sud-
den and unexpected Calling of a Parliament: We have
not opposed, but rather furthered it; so that we hope as
much in this Parliament, as ever we feared any in
Queen Elizabeth's days.

You must know the Council is engaged to assist the
King by way of Prerogative, in case the Parliamen-
tary

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tary way should fail. You shall see this Parliament will resemble the Pelican, which takes a pleasure to dig out with her beak her own bowels.

The Election of Knights and Burgeses hath been in such confusion of apparent Faction, as that which we were wont to procure heretofore with much Art and Industry (when the Spanish Match was in Treaty) now breaks out naturally as a borch or boil, and spits and spues out its own rankor and venom.

You remember how that famous and immortal Statesman the Count of Gondomer sed King James his fancy, and rocked him asleep with the soft sweet sound of Peace, to keep up the Spanish Treaty. Likewise we were much bound to some Statesmen of our own Countrey, for gaining time by procuring those most advantageous Cessations of Arms in the Palatinate, and advancing the Honour and Integrity of the Spanish Nation, and vilifying the Hollanders; remonstrating to King James, That that State was most ungrateful both to his Predecessor Queen Elizabeth, and his Sacred Majesty; That the States were more obnoxious than the Turk, and perpetually injured his Majesties loving Subjects in the East-Indies, and likewise they have usurped from his Majesty the Regality and unvaluable profit of the Narrow Seas in fishing upon the English Coast, &c.

This great States-man had but one principal means to further their great and good designs, which was to set on King James, that none but the Puritan Faction, which plotted nothing but Anarchy, and his Confusion, were averse to this most happy Union. We steered on the same Course, and have made great use of this Anarchical Election, and have prejudicated and anticipated the Great one, that none but the King's Enemies, and his, are chosen of this Parliament, &c.

We have now many strings to our Bow, and have strongly fortified our Faction, and have added two Bulwarks more: For when King James lived (you know) he was very violent against Arminianism and interrupted (with his pestilent Wit and deep Learning) our strong Designs in Holland, and was a great Friend to that old Rebel and Heretick the Prince of Orange.

Now we have planted that Sovereign Drug Arminianism, which we hope will purge the Protestants from their Heresie; and it flourisheth and bears fruit in due season.

The Materials which build up our Bulwark, are the Projectors and Beggars, of all ranks and qualities: Howsoever, both these Factions cooperate to destroy the Parliament, and to introduce a new species and form of Government, which is Oligarchy.

Those serve as direct Mediums and Instrumens to our end, which is the Universal Catholick Monarchy. Our foundation must be Mutation, and Mutation will cause a Relaxation, which will serve as so many violent diseases; as the Stone, Gout, &c. to the speedy distraction of our perpetual and insufferable anguish of body, which is worse than death it self.

We proceed now by Counsel and mature deliberation, how and when to work upon the Duke's Jealousie and Revenge; And in this we give the honour to those which merit it, which are the Church-Catholicks.

There is another matter of Consequence, which we take much into our consideration and tender care, which is to stave off Puritans, that they hang not in the Duke's ears. They are impudent subtil people.

And it is to be feared lest they should negotiate a Reconciliation between the Duke and the Parliament at Oxford and Westminster; But now we assure our selves we have so handled the matter, that both Duke and Parliament are irreconcilable.

For the better prevention of the Puritans, the Arminians have already lock'd up the Duke's ears; And we have those of our own Religion, which stand continually at the Duke's Chamber, to see who goes in and out: We cannot be too circumspect and careful in this regard.

I cannot choose but laugh to see how some of our own Coat have accounted themselves; you would scarce know them, if you saw them: And 'tis admirable, how in speech and gesture they act the Puritans. The Cambridge Scholars, to their woful experience, shall see we can act the Puritans a little better than they have done the Jesuites: They have abused our sacred Patron Saint Ignatius in jest, but we will make them smart for it in earnest. I hope you will excuse my merry digression; for I confess unto you, I am at this time transported with joy to see how happily all Instruments and Means, as well great as less, cooperate unto our purposes.

But to return unto the main Fabrick: Our foundation is Arminianism; The Arminians and Projectors, as it appears in the premisses, affect mutation. This we second, and enforce by probable Arguments. In the first place we take into consideration the King's honour, and present necessity; and we shew how the King may free himself of his Ward, as Lewis the Eleventh did. And for his great splendor and lustre, he may raise a vast Revenue, and not be beholden to his Subjects; which is by way of Imposition of Excise. Then our Church-Catholicks proceed to shew the means how to settle this Excise, which must be by a Mercenary Army of Horse and Foot. For the Horse, we have made that sure; They shall be Foreigners and Germans, who will eat up the King's Revenues, and spoil the Countrey wheresoever they come, though they should be well paid. What harvock will they make there, when they get no pay, or are not duly paid? They will do more mischief than we hope the Army will do.

We are provident and careful, that this Mercenary Army of Two thousand Horse, and Twenty thousand Foot, shall be taken on and in pay before the Excise be settled. In forming the Excise, the Countrey is most likely to rise: If the Mercenary Army subjugate the Countrey, then the Soldiers and Projectors shall be paid out of the Confiscations; If the Countrey be too hard for the Soldiers, then they must consequently Mutiny, which is equally advantageous unto us. Our superlative design is, to work the Protestants, as well as the Catholicks, to welcome in a Conqueror, and that is by this means: We hope instantly to dissolve Trades, and hinder the building of Shipping, in devising probable Designs, and putting on the State upon Expeditions, as that of Cadiz was, in taking away the Merchant Ships, so that they may not easily catch and light upon the West-India Fleet, &c.

The Parliament Assembled on the Seventeenth of March, and the King spake to them as followeth:

My Lords and Gentlemen,

THESE Times are for Action: Wherefore for Examples sake, I mean not to spend much time in Words; expecting accordingly that your (as I hope) good Resolutions will be speedy, not spending time unnecessarily, or (that I may better say) dangerously; For tedious Consultations at this conjuncture of time are as hurtful as ill Resolutions.

The King's Speech at the opening of the Parliament.

Anno 1627. I am sure you now expect from me, both to know the cause of your meeting, and what to resolve on: Yet I think that there is none here but knows that Common danger is the cause of this Parliament, and that Supply at this time is the chief end of it: So that I need but point to you what to do. I will use but few persuasions: For if to maintain your own Advices, and as now the case stands for the following thereof, the true Religion, Laws, and Liberties of this State, and the just Defence of our true Friends and Allies, be not sufficient, then no Elequence of Men or Angels will prevail.

Only let me remember you, That my duty most of all, and every one of yours according to his degree, is to seek the maintenance of this Church and Commonwealth: And certainly, there never was a time in which this duty was more necessarily required, than now.

I therefore judging a Parliament to be the ancient, speediest, and best way in this time of common danger, to give such Supply as to secure our selves, and to save our Friends from imminent ruine, have called you together. Every man now must do according to his Conscience: Wherefore if you (as God forbid) should not do your duties, in contributing what the State at this time needs, I must, in discharge of my Conscience, use those other means, which God hath put into my hands, to save that, which the follies of particular men may otherwise hazard to lose.

Take not this as a Threatning, for I scorn to threaten any but my Equals; but an Admonition from him, that both out of nature and duty, hath most care of your preservations and prosperities: And (though I thus speak) I hope that your demeanours at this time will be such, as shall not only make me approve your former Counsels, but lay on me such obligations, as shall tie me by way of thankfulness to meet often with you: For, be assured, that nothing can be more pleasing unto me, than to keep a good correspondence with you.

I will only add one thing more, and then leave my Lord Keeper to make a short Paraphrase upon the Text I have delivered you, which is *To remember a thing, so the end we may forget it*. You may imagine that I came here with a doubt of success of what I desire, remembering the distractions of the last Meeting: But I assure you, that I shall very easily and gladly forget and forgive what is past, so that you will at this present time leave the former ways of distractions, and follow the Counsel late given you, *To maintain the unity of the Spirit in the bond of Peace*.

And the Lord Keeper on this manner:

The Lord
Keeper's
Speech.

YE are here in Parliament by his Majesties Writ and Royal Command, to consult and conclude of the weighty and urgent Business of this Kingdom. Weighty it is, and great; as great as the honour, safety, and protection of Religion, King, and Countrey; And what can be greater? Urgent it is; It is little pleasure to tell or think how urgent: And to tell it with circumstances, were a long work: I will but touch the sum of it in few words.

The Pope and House of Austria have long affected, the one a Spiritual, the other a Temporal Monarchy: and to effect their ends, to serve each others turn, the House of Austria, be-

sides the rich and vast Territories of both the Indies, and in Africa, joynd together, are become Masters of Spain and Italy, and the great Countrey of Germany. And although France be not under their subjection, yet they have environed it all about; the very bowels of the Kingdom are sway'd by the Popish Faction: They have gotten such a part, and such intercession in the Government, that under pretence of Religion, to root out the Protestants and our Religion, they have drawn the King to their adherence so far, that albeit upon his Majesties interposition by his Ambassadors, and his engagement of his Royal word, there was between the King and his Subjects Articles of Agreement, and the Subjects were quiet; whereof his Majesty, interested in that great Treaty, was bound to see a true accomplishment; yet against that strict Alliance, that Treaty hath been broken, and those of the Religion have been put to all extremity, and undoubtedly will be ruined, without present help. So as that King is not only diverted from assisting the common Cause, but hath been misled to engage himself in Hostile Acts against our King and other Princes, making way thereby for the House of Austria, to the ruine of his own and other Kingdoms.

Other Potentates, that in former times did ballance and interrupt the growing greatness of the House of Austria, are now removed and diverted. The Turk hath made Peace with the Emperor, and turned himself wholly into Wars with Asia: The King of Sweden is embroiled in a War with Poland, which is invented by Spanish practises, to keep that King from succouring our part: The King of Denmark is chased out of his Kingdom on this, and on that side the Sound; so as the House of Austria is on the point to command all the Sea-coasts from Dantzick to Embden, and all the Rivers falling into the Sea in that great extent: so as besides the power by Land, they begin to threaten our Part by Sea, to the subversion of all our State.

In the Baltick Sea, they are providing and arming all the Ships they can build or hire; and have at this time their Ambassadors treating at Lubbeck, to draw into their Service the Ham-Towns, whereby taking from us and our Neighbours the East-land Trade, by which our Shipping is supplied, they expect, without any blow given, to make themselves Masters of that Sea. In these Western parts, by the Dunkirkers, and by the now French and Spanish Admiral, to the ruine of Fishing (of infinite consequence, both to us, and the Low-Countreys) they infest all our Coast, so as we pass not safely from Port to Port. And that Fleet which lately assisted the French at the Isle of Rhee, is now preparing at S. Andrews, with other Ships built in the Coast of Biscay to re-inforce it; and a great Fleet is making ready in Lisbon; where, besides their own, they do serve themselves upon all Strangers Bottoms coming to that Coast for Trade; And these great Preparations are, no doubt, to assault us in England or Ireland, as they shall find advantage, and a place fit for their turn.

Our Friends of the Netherlands, besides the fear that justly troubles them, lest the whole force of the Emperor may fall down upon them, are distracted by their Voyages into the East, which hath carried both Men and Money into another World, and much weakened them at home.

G g

Thus

Anno 1627. Thus are we even ready on all sides to be swallowed up; the Emperor, *France*, and *Spain* being in open War against us, *Germany* over-run, the King of *Denmark* distressed, the King of *Sweden* diverted, and the *Low-Country-men* disabled to give us assurance.

I speak not this to increase fear, unworthy of English Courages, but to press to provision worthy the wisdom of a Parliament: And for that cause his Majesty hath called you hither, that by a timely provision against those great & imminent dangers, our selves may be strengthened at home, our Friends and Allies encouraged abroad, and those great causes of fear scattered and dispelled.

And because in all Warlike preparations, Treasure bears the name, and holds the semblance of the Nerves and Sinews; and if a Sinner be too short or too weak, if it be either shrunk or strained, the part becomes useless: It is needful that you make a good and timely supply of Treasure, without which, all Counsels will prove fruitless. I might press many Reasons to this end; but I will name but few.

First, For his Majesties sake, who requires it. Great is the Duty which we owe him by the Law of God; great by the Law of Nature, and our own Allegiance; great for his own merit, and the memory of his ever blessed Father. I do but point at them: But methinks our thoughts cannot but recoil on one Consideration touched by his Majesty, which, to me, seems to sound, like a Parliamentary Pact or Covenant.

A War was devised here, Assistance professed, yea, and protested here: I do but touch it, I know you will deeply think on it; and the more for the example the King hath set you; his Lands, his Plate, his Jewels he hath not spared to supply the War: What the People hath protested, the King, for his part, hath willingly performed.

Secondly, For the Cause sake: It concerns us in Christian Charity to tender the distressed of our Friends abroad; it concerns us in Honour not to abandon them, who have stood for us. And if this come not close enough, you shall find our Interest so woven and involved with theirs, that the Cause is more ours than theirs. If Religion be in peril, we have the most flourishing and Orthodox Church: If Honour be in question, the Stories and Monuments in former Ages will shew, that our Ancestors have left us as much as any Nation: If Trade and Commerce be in danger, we are Islanders, it is our life. All these at once lie at stake, and so doth our safety and Being.

Lastly, In respect of the manner of his Majesties demand, which is in Parliament, the way that hath ever best pleased the Subjects of England. And good cause for it: For, Aids granted in Parliament work good effects for the People; they be commonly accompanied with wholesome Laws, gracious Pardons, and the like. Besides, just and good Kings finding the love of their People, and the readiness of their Supplies, may the better forbear the use of their Prerogatives, and moderate the rigor of the Laws towards their Subjects.

This way, as his Majesty hath told you, he hath chosen, not as the only way, but as the fittest; not as destitute of others, but as most agreeable to the goodness of his own most gracious disposition, and to the desire and weal of his People. If this be deferred, Necessity, and the Sword of the Enemy make way to the others.

Remember his Majesties Admonition, I say, remember it.

Let me but add, and observe God's Mercy towards this Land above all others. The Torrent of War hath overwhelmed other Churches and Countreys; but God hath hitherto restrained it from us, and still gives us warning of every approaching danger, to save us from surprise. And our gracious Sovereign, in a true sense of it, calls together his High Court of Parliament, the lively Representation of the Wisdom, Wealth, and Power of the whole Kingdom, to joyn together to repel those Hostile Attempts, which distressed our Friends and Allies, and threatned our selves.

And therefore it behoves all to apply their thoughts unto Counsel and Consultations, worthy the Greatness and Wisdom of this Assembly; to avoid discontents and divisions, which may either distemper or delay; and to attend that *Unum necessarium*, the common Cause; propounding for the scope and work of all the Debates, the general Good of the King and Kingdom, whom God hath joyned together with an indissoluble knot, which none must attempt to cut or untie. And let all, by unity and good accord, endeavour to pattern this Parliament by the best that have been, that it may be a pattern to future Parliaments, and may infuse into Parliaments a kind of multiplying power and faculty, whereby they may be more frequent, and the King our Sovereign may delight to sit on his Throne, and from thence to distribute his graces and favours amongst his People.

His Majesty hath given you cause to be confident of this you have heard from his Royal mouth; which nevertheless he hath given me express command to redouble: If this Parliament, by their dutiful and wise proceedings, shall but give this occasion, His Majesty will be ready, not only to manifest his gracious acceptance, but to put out all memory of those distastes that have troubled former Parliaments.

I have but one thing more to add, and that is, As your Consultations be serious, so let them be speedy. The Enemy is before hand with us, and flies on the wings of success. We may dally and play with the Hour-glass, that is in our power, but the Hour will not stay for us; and an Opportunity once lost, cannot be regained.

And therefore resolve of your Supplies, that they may be timely, and sufficient, serving the Occasion: Your Counsel, your Aid, all is but lost, if your Aid be either too little, or too late: And his Majesty is resolved, that his Affairs cannot permit him to expect it over-long.

Sir John Finch chosen Speaker, on the Nineteenth of March made the Address following:

Most Gracious Sovereign,

YOur Obedient and Loyal Subjects, the Knights, Citizens, and Burgesses, by your Royal Summons here Assembled, in obedience to your gracious direction, according to their ancient usage and privileges, have lately proceeded to the choice of a Speaker; and whether sequestering their better Judgments for your more weighty Affairs, or to make it known, that their Honour and Wisdom can take neither increase, or diminution, by the value or demerit

Anno 1627. demerit of any one particular Member, in what place soever serving them; omitting others of worth and ability, they have fixed their eyes of favour and affection upon me.

Their long knowledge of my unsuitness every way to undergo a Charge of this important weight and consequence, gave me some hope they would have admitted my just excuse: Yet for their further and clearer satisfaction, I drew the Curtains, and let in what light I could upon my inmost thoughts, truly and really discovering to them what my self best knew, and what I most humbly beseech your Royal Majesty to take now into your consideration. That of so many hundreds sitting among them, they could have found few or none, whose presentation to your Majesty would have been of less repute or advantage to them: For, *Et impeditioris linguae sum*, and the poor experience I have of that Royal Assembly, is so ill ballanced with true Judgment, that every gust and wave hath power on me; whereby I shall not only suffer in my own particular, but (which I apprehend with much more care and sorrow) do prejudice to their common interest.

Wherefore, dread and dear Sovereign, as low as the lowest step of your Royal Throne, I humbly bend, appealing to your great and Sovereign Judgment, for my discharge from this so unequal a burthen imposed on me; most humbly and earnestly beseeching your most excellent Majesty, for the Honour of that great Council, and the better digestion of publick services there, and withal to avert so ill an Omen, as the choice of me in the beginning of a Parliament, ordained (I hope) for the joy of our own, and the envy of other Nations; that by your gracious command, the House may reconsult, and settle their better thoughts on some more worthy their Election, and your Majesties Approbation.

The King not admitting his Excuse, the Lord Keeper said,

Mr. Speaker,

The Lord Keeper's Answer to the Speaker.

HIS Majesty with most Gracious and Princely attention, hath heard your humble Excuse, he knoweth the weight and importance of your Place, but your ability to discharge it he approves, and commends the Election of the House of Commons, and therein receives the more content, because they followed the light taken from himself, who formerly made choice of you, to serve him in a place of Trust, both about himself and his Royal Consort; the Omen can't be ill, when the People so readily follow him, whom God hath ordained to go in and out before them.

And therefore, knowing your Tackling to be strong, and finding your Sail to be moderate, and not overborn, his Majesty doth doubt neither Gulph nor Wave to endanger your passage; but since you are duly chosen, his Majesty counsels and commands, that unto your Humility you add Resolution and Courage; they stand well together, and being joyned, they will arm all your Abilities, to that great employment of Service to your King and Countrey, which the Commons, by their Uniform voice, have put upon you; so his Majesty, by his Royal Approbation, doth grant unto you, and settle you Speaker.

Mr. Speaker's Speech.

Car. 3.

IT is now too long time to dispute with my Lord the King, but with all joy of heart and alacrity, humbly and thankfully meet so great a favour from the best of Masters, and the best of Men: Therefore first I bow my knee to your most Excellent Majesty, in all humble and hearty acknowledgment of this your great and gracious favour; the truth of mine own heart, (full of Zeal and Duty to your Majesty and the Publick, as any man's) quits me from all fear of running into wilful Errors, and your Majesties great goodness, (of which I have been so large a partaker) gives me strong assurance, that having by your gracious Beams drawn me up from Earth and Obscurity, you will uphold me, by a benign and gracious interpretation of all my Words and Actions, that I fall not down like a rude and imperfect vapour, but consume the rest of my days in the Zeal of your Majesties Service.

This great and glorious Assembly, made perfect by your Royal Presence, like a curious Perspective, the more I behold it, with the more joy and comfort I find a lively representation of that happiness we all enjoy; a better Tongue were fitter to express it, but a rich Stone returns its value, though ill set.

Here in the fulness and height of your Glory, like the Sun in the Exaltation of his Orb, sits your most Excellent Majesty (the Sovereign Monarch of this Isle) in a Throne made glorious by a long Succession of many great Princes, a Meditation worthy our better thoughts, that we live neither enthral'd to the slavery and rage of the giddy multitude, nor yet to the distracted Wills of many Masters, but under the Command of a King, the stay and strength of the People, one (as Homer said of Kings; *Multorum consilium & aliorum*) not so be laid in ballance with other men; (for Kings know no Tenure but God's Service) and their value is only tried at his Beam; besides, that is a Sovereign Hereditary which maketh the Commonwealth, the King's care, as that which is his own Patrimony and Inheritance of his Children, when Elective Monarchies quickly run to ruin, and are ever made poor by the enriching of several Families.

On your right hand are the Reverend, Religious, and Learned Prelates, the Lights of the Church, fit to be set in Golden Candlesticks, and not made contemptible by Parity and Poverty; that blessing, above all the rest, by God's great goodness, and your Majesties Piety; the Realm enjoys the Liberty of the Gospel, and the free possession of God's true Religion: Your Majesty passed the fiery Trial in Spain, and gave us the assurance, That your Faith is built on the Rock, against which the Gates of Hell shall never prevail.

Since your coming to the Crown, by your Royal Edict you have banished those Incendiaries of Rome, the Priests and Jesuites, Enemies to our Church and State, so as now they are gone to lurk in corners, like the Sons of Darkness; You have given life to the Law against Recusants; and by your exemplary Piety, have drawn more to the Church: Yet, *Coge ingredi, ut impleatur domus mea*, was his command that made the great Feast, and is the duty of Magistrates.

And certainly, Dread Sovereign, Religion will be ever a Target to them, that are a Buckler to it, strong to hold your Subjects hearts in true obedience; Our Religion never bred a Ravilliac, and that execrable Villany, never to be forgot here, when all of us should have turned to ashes, was a Monster that could never be bred, but by the Devil or Jesuites.

Who killed Henry the IV. King of France.

On your left hand sit your Nobles, the Lights of Anno Honour, full of Courage and Magnanimity, yet in 1627. right distance between Crown and People, neither overshadowing the one, nor oppressing the other.

Before your Throne, like the Twelve Lions under Solomon's Throne, sit the Lights of Justice, your Grave Judges, the Sages of Law, Learned and Just.

Our Laws, as excellent as they are, and surely no Human Laws excel them, nor could suit so well with the condition of the People; Justice could never keep her right Channel, nor run so clear, as in your Majesty's Reign it now doth.

I must not forget the other Lights, the Knights, Citizens, and Burgeses of the Third State, who, though they move more slow, and at more distance from your Royal Person, yet, I am confident, will be ever found constant to the Poles of Love and Loyalty. It is a gracious favour of your Majesty, and our former Kings, (which I have thought on) that when both the Houses are humble Suitors for any thing, they are never denied; and I assure my self, your Majesty shall find your Subjects so full of duty to the Crown, and of true and loyal affection to your Royal Person, that you shall never have cause to think your greatest favours ill bestowed upon them. This Union is a greatness beyond that of the Kingdom, to which you are Heir; is of more advantage to the Island, if the Division be not among our selves, which the God of Unity, for his Mercys sake, forbid, and so knit our hearts in love one to another, and all of us in Duty and Loyalty to your most Excellent Majesty, that this renowned Island perish not for want of discretion, but may ever flourish and be like the Jerusalem of God, where his name may be ever honoured.

Great and Gracious have been the Actions of your Royal Predecessors; yet greater remain for your Majesty, and most of those attend you for their perfection.

The first Christian Kings of Europe, that abated the swelling pride of the Pope, by banishing the usurped power over God's Vice-gerent, that first established the true Religion now professed, were all Kings of England, and the last a young one; Queen Elizabeth was a Woman, yet Spain had good cause to remember her, and the Protestants of France will never forget her.

Your Royal Father, of Blessed and Famous Memory, had a Reign like Solomon's; for Religion, no man knew more, and no man's knowledge was of more lustre and advantage to it; this Age shall declare to the next, and all Ages shall see it in his Kingly works; yet whilst under his glorious Reign we abounded with Peace and Plenty, our hands forgot to War, and our fingers to fight; till at last your Princely Mediation, upon the humble suit of both Houses, the two Treaties were dissolved, and a foundation laid for your Majesty to steer another course.

Eritis sicut Dii was the Serpents counsel, and ruined Mankind; nor is it fit for private men (much less for me) to search into the Counsels and Actions of Kings, (only Sovereign) from a heart full of zeal to your Glory and Greatness, to say to your Majesty, The time requires you, and Religion calls upon you, to go on with the Kingly course you have begun, till the State of Christendom be set at his right ballance again.

We see the Eagle spreading her Wings in Germany, reaching with her Talons as far as the Sound and the Baltick Sea, Denmark and Sweden in danger of utter ruin; Binslyn the Elector at the choice of the Emperor, invested, in a manner, solely in the House of Austria, our Religion in France never so near a Period, and we know from whom it is; Ille cui Monarchia Mundi, &c. and who, by the ruin of us and our Re-

ligion, would make a new Zodiack, and draw his eclipsed Lines through the East and West-Indies; but he that sits on High will, in his due time, laugh them to scorn; and, as the Wise Woman said unto King David, God will make my Lord the King a sure House; to continue still to fight the Battels of Jehovah, and let all England say, Amen.

I have presumed too far upon your Royal patience, therefore I will conclude with a few words for them that sent me, who are all most humble Suitors to your most Excellent Majesty.

1. For the better attending of the publick and important Service of the House, our Selves and our Attendants may be free, both in Person and Goods, from Arrests and Troubles, according to our Ancient Priviledges and Immunities.
2. Next, that your Majesty, according to our Ancient Use and Priviledge, will be graciously pleased to allow us Liberty and Freedom of Speech; and I assure my self, we shall not pass the latitude of Duty and Discretion.
3. That upon all occurrences of moment, sit for resort unto your Royal Person, your Majesty, upon humble suit at your best times, will vouchsafe us access to your Royal Person.
4. And lastly, That all our Proceedings may be lodged in your Royal Heart, with a belief of our Zeal and Loyalty, and reap the fruit of your Majesty's favourable and gracious Interpretation.

One word more I humbly beg for my self, that though it be the beginning of Parliaments, I may now and ever enjoy the benefit of your Majesty's most gracious, general, and free Pardon.

Mr. SPEAKER,

His Majesty with no less contentment than attention, hath hearkened to your Eloquent Discourse, and marked your beginning futable to his gracious encouragement and advice, not departing from your humble modesty but adding to it alacrity, thankfulness and joy of Heart. He observes that you derive these Rights from the Throne in Heaven, his Majesty looks thither, and with you joyns his Prayers, that both he and this Assembly may by the Divine Hand and Power be moulded into a joyful Union, for the safety and good of this Kingdom. Next in applying your self to the Throne on Earth, of his Majesties gracious acceptance, and of the fulness of Zeal in your self, his Majesty believes it, and not in you alone but in this great Assembly, and that both you and they may stand secure, not only from fear of wilful and pregnant Errors, but also from doubt of sinister interpretations, I may say with the Woman in Scripture, my Lord the King is like unto an Angel of God, of a quick, of a noble and just apprehension, he strains not at Gnats, but will easily distinguish between a Vapor and a Fog, betwixt a Mist of Errors and a Cloud of ill wills: If the heart be right, his Majesty knows that out of the abundance of the Heart, the Mouth speaks.

You proceed to a Survey of this great and glorious Assembly, and in it as in a curious Christall, you view the true happiness that we all enjoy. You have shewed and described it aright, and whosoever it is that saith otherwise, either hath no sight or false glasses.

We have enjoyed it long under gracious and good Princes, and the way to enjoy it still, is, to know

Anno 1627. know and acknowledge it, and that God hath not dealt so with other Nations, and a principal cause and means is, as you mention, in the Form of Government under which we live, a Monarchy and the best of Monarchies, where Sovereignty is Hereditary, no *Interregnum*, no Competition for a Crown; Descent and Succession are here at once; the Spirit of God did long since propound by the mouth of the wisest of Kings this Beatitude, *Blessed art thou, O Land, where thy King is the Son of Nobles*: The Frame of other States are subject, some to Unconstancy, some to Faction, some to Emulation and Ambition, and to many Distempers, where the people ever go to wrack: the Monarchy is most natural in its unity, the best Cement of Government, prevailing most in respect of the head that commands the rest; and therefore other States after they have continued a while, for the most part are reduced into this, as the best for Peace, for Strength, or for Continuance; but forms of Government though never so exact, move not of themselves, but are moved of the Governours.

And therefore this our Monarchy, and this great Assembly, the lively image of this our Monarchy, are made happy and perfect in his Royal presence, in the Royal presence of him that sits here in his Throne: The Law as it is glorious in itself, so it is glorious in the happy Laws and Oracles that issue from it, but most glorious by them that sit on it, his Majesty, and his most Royal Progenitors, incomparable Kings, that with much honor have swayed the Royal Scepter of this Kingdom, so many Successions and Reigns.

From the Throne of Majesty you turn aside to the Chair of Doctrine, the Reverend Prelates and the Stars of Religion, (as they are properly called) this is (as you have well said) a Blessing of Blessings, the very Pledge and Assurance that secures all the rest, that as our Religion is most Sincere and Orthodox, so our Clergy is eminent, both for purity of Doctrine, and integrity of Life, our Priests are clothed with Righteousness, and their lips preserve knowledge, and therefore we may say with the Prophet, *Let God's Saints sing for joy*. I must joyn with you in attributing this transcendent happiness, in the first place to the goodness of God; so in the second place to his Majesties Piety, who following the example of his ever blessed Father, is careful that all the Lamps of the Church should be furnished with Oyl, and they in Golden Candlesticks with the purest and best Oyl. The Schools and Nurseries of Learning were never so respected; Arts and Sciences did never so flourish, especially Divinity, as in these our last Ages: And as they shew his Majesties Piety, so they are infallible Arguments of his Constancy; the Tryal which you call the Fiery Tryal in a place of Danger, against all the power and policy of *Rome* and *Spain*, do prove his Majesties resolutions to be immutable; and his remarkable example in his Chappel and Closet, his strict oversight and command to his Household-servants, his charge to his Bishops and Judges, his Proclamations and Commissions, and the like, for the execution of the Laws, and his general care to keep the Fountain clear, both from Superstition and Schism, are fruits and effects of a pious Government.

From the Chair of Doctrine you turned to the State of Honour, to the Nobles and Barons of the Kingdom, these are as *Robur Belli*, and the service of the King and Kingdom, are to make good with their Swords what the Church doth allow and bless with their Prayers; therefore as the Pre-

lates are the Lights of the Church, so these be the Stars of the State. We know the Stars have fought and fought mightily against God's Enemies.

From the State of Honour you turn to the State of Justice, and the Twelve Lions under Solomon's Throne, the Judges and Sages of the Law, and as they be particularly trusted with the Laws of the Kingdom, Laws undoubtedly fitted to the disposition of this people, for *Leges Anglia & Consuetudines Angliae* (are) *Synonyma*, & *Consuetudo altera natura*; so that besides their Justice and uprightness, Law is become natural to them. A powerful point of Obedience, such Laws in the mouth of the upright and Learned Judges, are like good waters in a pure Channel; the longer they run, the sweeter they are, and procure that effect which Solomon speaks of, *when the Righteous be set in Authority, the people rejoyce*.

From the State of Justice you come to the Knights, Citizens, and Burgesses of the third State; the Scriptures are fulfilled; in the multitude of people is the King's Honour; and therefore you may be sure, that no distance of place or distance of order make a distance in affection: for wise Kings ever love their Honor next their heart. Kings are, *Pastores Populi*, and the care of the Shepherd extends to the furthest as well as the nearest of his Flocks, nay he hath as much care of the least Lambs as the greatest Cattel, and as it is in the Body natural, no Member is so far remote, but it is still and continually under the Care of the Head; so in this great and Politick Body of this Kingdom, no rank nor order of people so low and so far remote from the Throne, but daily and hourly they find and feel the influence and benefit of his Majesties Care and Providence; nay the superior rank of Nobles, of Judges, of Magistrates are not ordained for themselves but as Fountains to convey the Justice, Protection, and Goodness of the King to every inferior Member; and therefore as the King is just, so there is just cause you should be constant and Loyal to your power. And thus having perused both Houses by their special parts, you come to joyn them together, and in that juncture you observe the greatest denial of their requests is, that the King will Advise. It is a remarkable note, it shews also the Wisdom and Judgment of the House, Kings not willing to deny, and the People not willing to put them upon a denial; in the one modesty and wisdom in their request, in the other moderation and sweetness in their Answers.

But that is not all, King's deny not the requests of the House, it holds much better by the rules of proportion, that the House deny not the requests of the King, that is the ancient and true Union of Parliaments, and the God of Unity keep this Unity; you have rightly called this an union of Hearts; so then it is a Present fit for wise people to present to their King: Wise and Magnanimous Kings are a special gift from God, having large Hearts capable of greatness, it is never unwelcome to them where there is unity of Heart; so greatness is above all, and therefore present it to the King, and you cannot doubt of acceptance.

Having spoken of Union, you fell into Memorial of the great and glorious Actions of his Majesties Predecessors, in the thought of this great one that remains, if I mistake not your meaning, you would have it understood, that the Union of Princes and People made way to these memorable Actions of those former times, and we that wish the like in ours, should look back on our Forefathers; wisdom requires it, and that as we are the

the Sons of our Ancestors, so we should do the deeds of our Ancestors.

Anno 1627. The Pride of *Rome* abated (as you say) by *England*, lifts up her Horn again, and Religion, like a Vine Tree planted, and deeply rooted here, did spread into our Neighbour Countries, but lately hath lost many of her Golden Branches.

The *Austrian* Eagle that a while ago could not flutter for want of Feathers, now soars aloft, and preys where she lighteth on our Friends and Allies.

Spain often soyled by us, laughs and insults. that by their disguised Treaties, they have spoiled the Patrimony of those Princes, Branches of the Royal Cedar, and now she Posts apace to Universal Monarchy, to the ruin of us, our Friends and Religion; but God hath prevented them, and I hope his People will still stay their course.

There is a Resolution in our King, there is, I trust, a Resolution, for I am sure there was in the Parliament for that great Action.

His Majesty as he hath a *Solomon*, so he hath many *Dauids* in the Glorious Catalogue of his Royal Descent, and hath joyued himself in the Blood of the greatest Princes, (as you mention) and besides he hath a Victorious name sutable to his thoughts, and therefore as you have encouraged him to fight the Battels of *Jehovah*, so let all put to their helping hands and help, that it may be the glory of our King and Nation, for to set Christendom in a right Ballance.

The Lord Keeper's Answer to the Speaker's several Petitions. And now, Mr. Speaker, to come to your Petitions that you have made in behalf of the House, his Majesty most graciously and readily grants them all, according to the true Rights and Privileges in Parliament, which he trusts and believes you will not transgress, nor exceed; therefore you may go on and conclude of the weighty and publick business, and the Almighty God prosper your work.

After this the House met, and one Bill was read about Recusants Children sent beyond Sea, and then the House rose.

And now take a Copy of the famous Speech without doors to inflame all things within, it was by way of Letter, representing the grievances of the State, and was communicated to several of the Members of the Lower House.

To my noble Friends of the Lower-House of Parliament.

If any County had held me worthy to have served in this Parliament, I had now been made a Member of your Lower-House, as formerly I have been in sundry other Parliaments: But how unkindly soever she dealeth with me, I will ever shew my thankfulness to her, and deliver, by way of observation, what I have heretofore learned in that grave and wise Assembly; for admonishment to the elder, and a path-way for the younger to walk in.

Parliaments, in my time, have been wont to take up some space at the first meetings, to settle the House, and to determine of unlawful Elections; and in this point they never had greater cause to be circumspect, than at this time: For by an Abuse lately crept, in there is introduced a custom, which if it be not fore-seen and prevented, will be a great derogation to the Honour, and a weakning to the power of your House. Where the Law giveth a freedom to Corporations to elect Burgeses, and forbiddeth any indi-

rect course to be taken in their Elections; many of the Corporations are so base minded, and timorous, that they will not hazard the indignation of a Lord Lieutenants Letter, who underhand sticks not to threaten them with the charge of a Musket or a Horse at the Muster, if that he hath not the Election of the Burgeses, and not they themselves.

And commonly those that the Lords recommend, are such as desire it for protection, or are so ignorant of the place they serve for, as that there being occasion to speak of the Corporation for which they are chosen, they have asked their Neighbours sitting by, whether it were a Sea or a Land Town?

The next thing that is required, is, *Liberty of Speech*, without which Parliaments have little force or power; Speech begets doubts, and resolves them, and doubts in Speeches beget understanding; he that doubts much, asketh often, and learns much; and he that fears the worst, soonest prevents a mischief.

This Priviledge of Speech is anciently granted by the testimony of *Philip Comines* a Stranger, who prefers our Parliaments and Freedom of the Subject in them, above all other Assemblies; which Freedom, if it be broken or diminished, is negligently lost since the daies of *Comines*.

If freedom of speech should be prohibited, when men with modesty make repetition of the Grievances and Enormities of the Kingdom; when men shall desire reformation of wrongs and injuries committed, and have no relation of evil thought to his Majesty, but with open heart and zeal express their dutiful and reverend respect to him and his service: I say, if this kind of liberty of Speech be not allowed in time of Parliaments, they will extend no further than to Quarter Sessions, and their Meetings and Assemblies will be unnecessary, for all means of disorder new crept in, and all remedies and redresses will be quite taken away.

As it is no manners to contest with the King in his Election of Councillors and Servants, (for Kings obey no men, but their Laws) so were it a great negligence, and part of Treason, for a Subject not to be free in Speech against the abuses, wrongs, and offences, that may be occasioned by persons in Authority. What Remedy can be expected from a Prince to the Subject, if the enormities of his Kingdom be concealed from him? Or what King so religious or just in his own nature, that may not hazard the loss of the hearts of his Subjects, without this Liberty of Speech in Parliament? For such is the misfortune of most Princes, and such is the unhappiness of Subjects where Kings affections are settled, and their loves so far transported to promote servants, as they only trust and credit what they shall inform.

In this Case, what Subject dares complain? or what Subject dares contradict the words or actions of such a servant, if it be not warranted by freedom of a Parliament, they speaking with humility? for nothing obtaineth favour with a King, so much as diligent obedience.

The surest and safest way betwixt the King and his people, which hath least scandal of partiality, is with indifference, with integrity and sincerity, to examine the Grievances of the Kingdom, without touching upon the person of any man, farther than the cause giveth occasion. For otherwise, you shall contest with him that hath the Princes ears open to hearken to his inchanting

Anno 1627. ing tongue; he informs secretly, when you shall not be admitted to excuses, he will cast your deserved malice against him, to your contempt against the King, and seeking to lessen his Authority; and so will make the Prince the Shield of his Revenge.

These are the sinister practises of such Servants, to deceive their Sovereigns, when our Grievances shall be authentically proved, and made manifest to the world by your pains to examine, and freedom to speak. No Prince can be so affectionate to a Servant, or such an Enemy to himself, as not to admit of this indifferent proceeding: If his Services be allowable and good, they will appear with glory; if bad, your labour shall deserve thanks both of Prince and Country.

When Justice shall thus shine, people will be animated to serve their King with integrity: for they are naturally inclined to imitate Princes in good and bad.

The words of *Cicero* will then appear, That malicious and evil men make Princes poor; and one perfect good man is able to make a Realm Rich.

One Case I will instance, that is common in the mouths of all men, and generally, *Vox Populi, vox Dei*. One of quality in the last Expedition to the Isle of *Rhee*, endeavoured to conceal the number of men lost in the last Encounter, and confidently affirmed their number not to exceed three or four hundred; till a Doctor of Physick, out of tenderness of Conscience, and duty to his Majesty, could not dissemble the vulgar and true Report, but acquainted his Majesty with two thousand of his Subjects there lost. This was so contrary to the first information, and so displeasing to the Informer and his Designs, that he caused the Physicians remove from his Highness presence, who yet remains in kind of a banished man.

The truth of these two Reports is easily determined by the Clerks of the Bands of each Company, and is worthy to be discovered for Truths sake. Truth being so noble of it self, as it will make him honourable that promoteth it: Lies may shadow it, but not darken it: they may blame, but never shame it. By this small President his Majesty shall see himself abused; and it may be a means for him to reflect both upon Men and Matters.

The Men slain are no less injured by concealing their names, whose lives were lost for King and Country. The *Romans* would have held it the highest Honour for their Friends and Posterity so to die: And a Parliament may fear, that those that stick not so palpably to wrong a King, may as unjustly cast aspersions upon the House, and other his loving Subjects.

There is no remedy left for these mis-reports, but a freedom of Speech in Parliament. For there is no wise man that speaks, but knows what and when to speak, and how to hold his peace. Whilst Subjects tongues are tied, for fear they may reach him a rap whose Conscience cries guilty; the King and his People are kept from understanding one another; the Enemy is heartened abroad, and the malignant humour of discontent nourished at home, and all for one who is like a Dragon, that bites the ear of the Elephant, because he knows the Elephant cannot reach him with his Trunk; and Princes are abused by false Reports whispered in their ears by Sycophants and Flatterers.

Diogenes being asked what Beast bit forest, answered, Of Wild Beasts, the *Back-biter*; of Car. 3. Tame, the *Flatterer*.

Now to descend to Grievances, which are of two kinds; some concerning the Kingdom in general; some in particular, which have relation to the general.

The Grievances in general are so many in number, as will serve for every Member of the House to present two apiece to your views. And because I cannot be admitted amongst you my self, yet in regard I have been a Member of you, I will presume so far as to rank my self with you, and to tender the number of two unto your consideration.

My first complaint is, Of *Tules of Honour*; and in two kinds.

First, In respect of the Parties themselves, their Estates and Parentage.

Secondly, In respect of the manner of their attaining thereunto, which is mercenary, base, and corrupt, which, in reason, should not hold: For by Law, the consideration is unlawful.

Trajanus commended *Plutarch* for his Precepts in School, when he taught, That men should labour to deserve Honour, but avoid the getting of it basely; for if it were Reputation to have it by desert, it were Infamy to buy it for Money. In that Age where Rich men were honoured, Good men were despised.

Honour is not to be valued according to the vulgar opinion of men, but prized and esteemed as the Sirname of Virtue, ingendred in the mind; and such Honour no King can give, or Mopey can purchase. He that will strive to be more Honourable than others, must abandon Passion, Pride, and Arrogancy; that so his Vertue may shine above others. For Honour consists not in the Title of a Lord, but in the opinion People have of their Vertue; for it is much more honor to deserve, and not to have it, than to have it, and not deserve it.

There is one of these three things, that commonly causeth mans Advancement; Desert, Favour, and Power.

The first makes a man worthy of it, the other two are but abuses: For Favour is but a blind Fortune, an ounce of which at Court, is better than a pound of Wisdom: Fortune never favoureth, but flattereth; she never promiseth, but in the end she deceiveth; she never raiseth, but she casteth down again. And this Advancement is meet to be called Luck than Merit.

That Honour that is compassed by Power, takes unto it self Liberty, and desires not to be governed by wisdom, but force: It knows not what it desireth, nor hath a feeling of any Injury: It is neither moved with sweet words, nor pitiful tears; such men leave not to do evil, because they have a desire to it, but when their power faileth to do it.

The true Honour amongst the Honourablest is, where Fortune casts down, where there is no fault; But it is Infamy where Fortune raiseth, where there is no Merit.

Examine the state and condition of men raised to Honour these twenty five years past, and whether it be desert, favour or power that hath preferred them.

Enter into the mischief the Kingdom hath suffered and doth suffer by it, and the cause of his Ma-

Anno 1627. Majesties great wants will soon appear: If you Collect with your selves how many hungry Courtiers have been raised to the highest top of honour.

After this, examine their Princely expence in these twenty five years, their Estates in present, and what is requisite to maintain them in their future degrees of honour, to themselves and their Posterities, and you shall find his Majesties annual Revenues consumed and spent upon those unworthy persons. Besides the impairing and impoverishing of the State, it brings with it the contempt of Greatness and Authority, it breeds an inward malice in Gentlemen better deserving of their Country, and better able to maintain the degree of honour without charge to King or Kingdom, and whose Houses and Alliance may better challenge it than the best of them.

The Character of a covetous man is, that he getteth his Goods with care and envy of his Neighbours, with sorrow to his Enemies, with travel to his body, with grief to his Spirit, with Scruple to his conscience, with danger to his soul, with suit to his Children and curse to his heirs; his desire is to live poor, to die rich: But as these vices are made virtues, even so is he honoured for them with Title of Nobility.

When Philip the second, King of Spain, entred with Arms upon his Kingdom of Portugal, and though with his Sword he might have made fitting Laws; yet were there some few Priviledges which the Portugals besought they might enjoy; one whereof was, That the King would make no unworthy person Noble, or without their approbation, which was granted them, and to this day they hold that Freedom, which keeps that Kingdom in the antient State, Honour and Dignity, (that is to say) two Dukes, one Marquess and eighteen Earls: And thus much for the point of Honour.

The second Grievance I will recommend to your view, is, The carriage of our Wars, the excessive charges vainly spent therein, the unworthiness of the people imployed, the grave and experienced neglected, the designs not warranted by reason and discretion, and the executions worse performed, with many other circumstances that depend upon it.

But before I Proceed herein, I must crave leave to speak to two Points:

The one to declare the property and condition of Impostors and Deceivers of Princes.

In the other I must clear the House of Parliament of an Imputation cast upon it.

Abusers of Princes are they that perswade them to War; to become poor, when they may live in Peace, and become rich; when they may be loved, cause them to be hated; when they may enjoy their lives surely, put them in hazard of cross fortune rashly; and lastly, having necessity to use their Subjects, put them into that necessity, as they refuse to do for him: All this is Pride of the Perswader, as Socrates saith.

In the Second I will clear the Parliament (in which I was a Member) of an ungrateful aspersion cast upon it, that is to say, That the Parliament was a cause to draw his Majesty into a War, and failed on their parts to contribute to it.

These have been often repeated, and the Parliament accused; the contrary hath been as often reiterated, and the truth expressed how far the Parliament proceeded therein. But to stop the mouths of such false Reports, and to free the

Parliament of such a calumnation I must use this Argument;

At the Assembly of Oxford, the Parliament being Prorogued thither, Money was required of us towards the furnishing of his Majesties Fleet then preparing, upon many reasons alledged, too tedious now to repeat: with one consent it was refused.

Whereupon there was offer made by him, that, next the King, seemed to have best Authority, That if they would but contribute Forty thousand pounds, they should choose their enemy.

Whereupon I infer, That before that proposition there was no Enemy; and therefore no Wars; the motion for Money being denied, the Parliament instantly brake up; and seeing no Enemy was nominated, nor Money consented unto by us, I see not how the House can be taxed for Peace-breakers, but rather the name to be cast upon some young men; for youth by nature is prone to Pride, especially where experience wants; They are credulous in what they hear that pleaseth them, and incredulous in what is told them by wise men; They are despisers of others Counsels, and very poor in their own; They are dangerous for Princes to rely on, for self-will is of greater force than Precepts.

Now to proceed: In October following the Fleet to put to Sea, and what they did is apparent, by a Relation written by their General at his Return.

The Voyage being ended, another followed the next Summer under the command of that noble Lord, the Earl of Lindsey, which through the weakness and disability of the Ships, was not able to perform what he had in Charge, and what he desired.

The last and most lamentable, was that to the Isle of Rhee, which I likewise refer to a man I have seen, and to the Books Printed and extant.

These, with that to Algier, to make up a Mess of Island Voyages, I wish might be referred to the examination of choice and experienced Souldiers by Land and by Sea, to report their opinions of it, That so their Errors, their wasteful expences, their Negligences, their weak Designs, and want of experience, may appear, with the success that might have proved, if Advice and Counsel had had preheminance above Will and Arrogancy; For he that is ignorant of truth and knowledge, and led away with pride of his own opinions, must needs err. After it hath past your approbation, it is worthy his Majesties view, who then shall see the difference of Actions well mannaged, and rash and heady enterprises undertook by ignorance, and performed by folly.

Businesses of so great a consequence ought to be considered of with Counsel, and not only of the necessity, profit and honour, but of the possibility that was like to follow; for an action well begun is half ended.

My experience in Discipline of War by Land and Sea can say no more than to refer it to others; for 'tis a course I never was bred to in my youth, and now too late in mine age to practise: Only one thing I observe, that in the two Journeys of Cadiz and Rhee, in the first a Land-Souldier commanded at Sea, who knew not what belonged thereunto; and the other was carryed by him that was Souldier neither by Land nor by Sea; and the success proved accordingly in both: yet their

Anno 1627. their errors were never questioned, but they both highly advanced.

And it is no marvel; for according to the old saying, The best Fencer is not alwaies the best Fighter; the fairer Tilter, not the best experienced Souldier; nor the eye of a Favourite at Court, the best General of an Host: And who-soever takes upon him that command without knowledge, beholds himself in a false Glass, that makes him seem what he is not.

As on the contrary, Experience is the Mother of Prudence, and Prudence will take Counsel, lest she joyn her self with her Will: hastiness causeth repentance, and forwardness causeth hinderance.

Of the Evils that followed upon these two Voyages, your selves are sufficient Witnesses, and can judge of them: As namely, the Billeting of Souldiers in the Country, and bringing their Ships into Harbours, not abating the entertainment of the one, nor the wages of the other. And yet notwithstanding this needless cost and charges, our Ships and Coasts are daily infested in such sort, as we dare not peep out of Harbour.

Were the carriage of things now answerable to the Prudence and Presidents of former times, we cannot pretend a fear of Invasion; because our Ships are divided into several Harbours, and our Souldiers Billeted in In-land Countries; besides, the season of the year giveth no opportunity to an Enemy to attempt it.

Here is a Mass of Wealth curiously consum'd, whether the King or Subject bear it, and no man bettered, but only those that have the Titles of Souldiers, yet never had the happiness or honour to see what appertained to service.

Their example of disorder encourages the other to follow their Liberty, People that were wont to live poorly, yet safely, are now by these Fellows and their Followers robbed and spoiled, and no remedy for redress.

The Rich stand upon their Guard, and dare not resort to their Church, lest in their absence their Houses be surpris'd and rifled.

The Enemy giveth a sudden attempt and returneth, the others do every day rob and spoil.

The Enemy surpriseth with fear, the others have neither fear nor shame.

The first lessening the greatness of the Roman Empire, was by the insolency of Souldiers, and the first raising of the House of Ottoman, was by permission and conniving at his Army.

What man is there so old in England that hath seen, or what youth so young that ever thought to see, Scottish men and Irish men Garrisoned in England, and no Enemy appear against us? Or who could have imagined he should ever have seen our own people tyrannized over in our own Kingdom by these of our own Nation, and those Scottish and Irish, and not dare so much as complain?

Would our Fore-fathers have thought it safety or policy to draw two thousand Scottish men and Irish men into the Isle of Wight, for their defence against France, when they of the Isle desired it not, nay, when they opposed it?

Would they have thought it wisdom, that two thousand Mouths, besides the Inhabitants, should live on the food of that Island, and so bring themselves into want and penury of Victuals, if they should in earnest be attempted by an Enemy? Would they have thought fit the Charge of it should be required of them, and yet

they do suffer all injuries from the hands of strange Souldiers, when the meanest Boy in the Island is taught to mannage Arms better than the best of them that are there Billeted? No, but they would rather have thought it discretion, upon the return of those Voyages, to have caused the men to repair to the places where they were preferred, and to have ordered, that each Parish should have set them to work for their maintenance, with command to be ready, upon warning, to repair to the place of Rendezvous.

There is no place or part of England so remote from the Sea, but they might have resorted to the Port assigned, before the Ships could be furnished or drawn together. They would have thought it more wisdom to have retired to their own Harbours, and to have had their men discharged, than to have continued this needless and expenceful course that is taken. They would have judged it better to have supplied the Isle of Wight with two thousand men out of the main Land, when they feared any evil to the Island, than to send for them out of Scotland, and to keep them in continual entertainment. They would have thought it more fit to have returned the barbarous Irish into the Country from whence they came, than to make them a vexation to the places and parts where they remain, seeing no shadow of reason can be pretended for it.

England wants no men, and hath as good and able men as either of the other two Nations, if his Majesty had occasion to use them.

England, with small charge, can raise what men his Majesty pleaseth to command, and that suddenly, and discharge them again without trouble or charge as quickly. The wise men of England would have thought two or three hundred thousand pounds better spared, than thus wastefully consumed, and disorders committed; we may compute it to that sum, and yet keep our selves within compass: And notwithstanding the want of Money, and the waies to exact it of the Subject, is all the Song now sung. He that sees and complains of the evil manning of things, is either imprisoned, banished the Court, or censured for a Discontent.

There is no English-man, but knoweth the heart of every other true-hearted English-man, and with one consent will all obey our Prince, and to his Person we owe all due reverence; and we may truly say, No King is more happy in Subjects for their love, nor no Subjects readier to serve their King with their Purse and Persons, nor never people was better blest with a King, who is endowed with all kind of virtues, and stained with no manner of vice.

False informers, and misguiders of good Kings, are much more perilous, than if Princes themselves were evil: for commonly as Worms breed soonest in soft and sweet Wood, so are the best Natures, inclined to Honour and Justice, soonest abused by false Flatterers.

The evil they commit under the Authority of good Princes, is accounted as done by the Prince himself; but commonly such people in the end pay for it; for he that desires not to do good, cannot be wise, but will fall into four thousand follies.

One of the first Propositions made to the House, will be for Money to support his Majesty's vast expence at this time, that the Enemy threatens thunder against the Kingdom. Your often Alarms upon such pretences, may make you now too secure; for true it is, that the last

Anno 1627. Parliament, Books were published of invincible Preparations intended against us, and nothing came of it. But beware you be not deceived by an old saying, That when one usually tells lies, he is not trusted when he speaks truth; for certainly the danger is much more, than by the power and greatness of another Enemy.

In this case you must give for your own sakes, that so you may be sure to enjoy what is yours; for your Sovereigns sake, to maintain his greatness and state; and for your Countreys sake, to keep it from oppression of the Enemy: but withal, you ought to lay down the condition of the Kingdom, and to shew, that your necessity cannot run parallel with your Hearts and your desires; that your minds will be carried with a willingness to give, but your hands will keep back your hearts for want of ability to give.

Themistocles demanding Tribute of the *Athenians*, told them, He brought two Gods with him, that is to say, Perswasion and Violence: They answered, That they had two other Gods in their Countrey, both great and powerful, which were Poverty and Impossibility, which hindred them from giving.

We may truly say, That God hath so placed and seated this Isle of *England*, that nothing but evil counsel can hurt it. But true it is, advice that is not warranted from wise men, may prove more forcible and perilous, than the power of an Enemy.

The Scripture telleth us, *That the thought perissheth that taketh not counsel.*

A King of the *Lacedemonians* asked how a Kingdom might ever stand, and was answered, Two ways; If a King take counsel of wise honest men, and they speak freely; And do Justice uprightly.

There was never Censor that judged, Senator that Ordered, Emperour that Commanded, Council that Executed, Orator that Perswaded, nor any other mortal man, but sometimes he committed Errors, and deserved either blame or punishment for his misdoings; and if he were wise, desired advice what to do.

St. Gregory saith, No man can give so faithful counsel, as he who loves one more than his gifts; then who are, or can be, so true Counsellors to our noble King, as a House of Commons that hath no relation to a King's gift, but only to his Honour, flourishing Estate and Safety?

This is the time to amend evil Counsels past, and to let evil Counsellors see their Errors.

This is the time for all men to put to their helps, some with their hands to fight, others with their advice to counsel: And for my advice, this it is;

That you present to his Majesty in all humbleness, your willing minds and hearts, to repair and fit to Sea his Majesties Navy, your selves to have power to make them able and serviceable, with the advice of experienced men that you may call unto you. This is a matter of great importance at this present for the safety of King, Realm, and Subject; for the strength of the Kingdom much depends upon this Bulwark, which we may well term, *The Walls of England.*

His Majesty shall find himself much eased by it, Businesses shall be carried without his trouble or care. Money shall not be sought for to that end, but provided by you: his Majesty may dispose of the rest of his Revenue at his pleasure.

By your frugality and husbandry, his Majesty shall have occasion to judge of things past, of yours in present, and hereafter it will serve for a President to walk after; it will stop the mouths of malignant tongues, that inform his Majesty of the unwillingness of the Subject to give; and it will make it apparent, that their true grief is not in the matter of giving, but to see the evil employing of it when it is given.

If any man shall pervert this good meaning and motion of yours, and inform his Majesty, *'Tis a derogation from his Honour to yield to his Subjects upon Conditions:* His Majesty shall have good cause to prove such mens eyes malicious and unthankful, and thereby to disprove them in all their other actions: For what can it lessen the reputation of a Prince, whom the Subject only and wholly obeyeth, that a Parliament, which his Majesty doth acknowledge to be his highest Council, should advise him, and he follow the advice of such a Council? What dishonour rather were it to be advised and ruled by one Counsellor alone, against whom there is just exception taken of the whole Common-wealth?

Marcus Portio saith, That the Commonwealth is everlasting, where the Prince seeks to get obedience and love, and the Subjects to gain the affection of the Prince; and that Kingdom is unhappy where their Prince is served out of ends and hope of reward, and hath no other assurance of them but their service.

Upon the Twentieth of *March* the House of Commons settle their grand Committees, and desire the Lords concurrence to a Petition to the King for a Fast, as followeth:

The Petition for a Fast.

Most Gracious Sovereign,

WE your most humble and loyal Subjects, the Lords Spiritual and Temporal in this present Parliament assembled, upon a tender and compassionate sense of the extreame Calamities of the Reformed Churches abroad, and with much sorrow apprehending the displeasure of Almighty God declared against our selves, the manifold evils already fallen upon us, and those which are further threatned, as by your Sacred Majesty was intimated unto us, even to the utter destruction and subversion of this Church and State, and which our sins have justly deserved; and being now by your Majesties gracious favour assembled in Parliament, as the great Council of this your Kingdom, to consult of such means as we think fittest to redress the present, and prevent the future evils, wherein we, through God's blessing, intend to employ our utmost endeavours, humbly beseech your Majesty, that by your special Command, one or more days may be forthwith solemnly set apart, wherein both our selves and the whole Kingdom may, by fasting and prayers, seek reconciliation at the hands of Almighty God, and with humble and penitent hearts beseech him to remove those miseries that lie upon us and our neighbour Churches, to avert those which are threatned, to continue the favours we yet enjoy, and particularly to bestow his abundant blessing upon your Majesty and this present Par-

Anno 1627. Parliament, so that all our Counsels and Resolutions being blessed by his Divine assistance, may produce much honour and safety to your Majesty, your People and Allies.

Debates touching Grievances.

Saturday the Two and twentieth of March, was spent in opening the grievances and state of the Kingdom, as billeting of Soldiers, Loans by Benevolences and Privy Seal, and the imprisoning certain Gentlemen who refused to lend upon that account, who afterwards bringing their *Habeas Corpus*, were notwithstanding remanded to Prison; nor did the House encline to supply his Majesty till these Grievances were redressed: To which purpose Sir Francis Seimour thus began;

Sir Francis Seimour.

‘This is the great Council of the Kingdom, and here (if not here alone) his Majesty may see as in a true glass, the state of the Kingdom; we are called hither by his Majesties Writs to give him faithful Counsel, such as may stand with his honour; but this we must do without flattery: we are sent hither by the Commons to discharge that trust reposed in us, by delivering up their just Grievances, and this we must do without fear: let us not therefore be like *Cambyfes* Judges, who being demanded of their King, Whether it were not lawful for him to do what in it self was unlawful: They (rather to please the King, than to discharge their own Consciences) answered, That the Persian Kings might do what they listed. This base flattery tends to mischief, being fitter for reproof than imitation; and as flattery, so fear taketh away the judgment: let us not then be possessed with fear or flattery, of corruptions the basest: For my own part I shall shun both these, and speak my Conscience with as much duty to his Majesty as any man, but not neglecting the Publick, in which his Majesty and the Commonwealth have an Interest: But how can we shew our affections whilst we retain our fears? or how can we think of giving of Subsidies, till we know whether we have any thing to give or no? for if his Majesty be perswaded by any to take from his Subjects what he will, and where it pleaseth him; I would gladly know what we have to give? Its true, it is ill with those Subjects that shall give Laws to their Princes, and as ill with those Princes which shall use force with those Laws; that this hath been done, appeareth by the billeting of Soldiers; a thing no way advantageous to his Majesties Service, but a burthen to the Commonwealth. This also appeareth by the last Levy of Money against an Act of Parliament.

Again, Mr. Speaker, what greater proof can there be of this, than the imprisonment of divers Gentlemen for the Loan, who if they had done the contrary for fear, their fault had been as great as theirs that were the Projectors in it? and to countenance these Proceedings, hath it not been preached (or rather prated) in our Pulpits, that all we have is the Kings *Jure Divino*, say these Time-servers? they forsake their own Function, and turn ignorant States-men; we see how willing they will be to change a good Conscience for a Bishoprick, and (Mr. Speaker) we see how easie it is for a Prince, how just and good soever, to be abused, in regard he must see with other mens eyes, and hear with other mens ears. Let us not flatter his Majesty, it is too apparent to all the world, the King and People suffer more now than ever: His Majesty in his Affairs abroad,

and his People in their Estates at home: But will you know the reason of all this, let us look back to the Actions of former Princes, and we shall find that those Princes have been in greatest want and extremity that exacted most of their Subjects, and most unfortunate in the choice of their Ministers, and to have failed most in their Undertakings. Happy is that Prince that hath those that are faithful of his Council: That which his Majesty wanted in the management of his Affairs concerning France and Spain, I am clear was his want of faithful Council to advise: The reason is plain, a Prince is strongest by faithful and wise Council, I would I could truly say, such have been employed abroad. I will confess, and still shall from my heart, he is no good Subject, nor well affected to his Majesty and the State, that will not willingly and freely lay down his life, when the end may be the service of his Majesty, and the good of the Commonwealth: But on the contrary, when against a Parliament Law, the Subject shall have taken from him his Goods against his Will, and his Liberty against the Laws of the Land; shall it be accounted want of duty in us to stand upon our Priviledges, hereditary to us, and confirmed by so many Acts of Parliament?

In doing this we shall but tread the steps of our Forefathers, who ever preferred the Publick Interest before their own Right, nay, before their own Lives; nor can it be any wrong to his Majesty to stand upon them so as thereby we may be the better enabled to do his Majesties service; but it will be a wrong to us and our Posterity, and our Consciences, if we willingly forego that which belongs to us by the Law of God, and of the Land, and this we shall do well to present to his Majesty; we have no cause to doubt of his Majesties gracious acceptance.

‘This debate (said Sir Thomas Wentworth) carries a double Aspect towards the Sovereign and the Subject, though both be innocent, both are injured and both to be cured. Surely, in the greatest humility I speak it, these illegal ways are punishment and marks of indignation, the raising of Loans strengthened by Commission, with unheard of Instructions and Oaths; the billeting of Soldiers by the Lieutenants, and Deputy Lieutenants, have been as if they could have perswaded Christian Princes, yea Worlds, that the Right of Empires had been to take away by strong hands, and they have endeavoured as far as possible for them, to do it. This hath not been done by the King (under the pleasing shade of whose Crown I hope we shall ever gather the fruits of Justice) but by Projectors, who have extended the Prerogative of the King, beyond the just Symmetry, which maketh a sweet harmony of the whole: They have brought the Crown into greater want then ever, by anticipating the Revenues; And can the Shepherd be thus smitten and the Sheep not scattered? They have introduced a Privy Council, ravishing at once the Spheres of all ancient Government, imprisoning us without either Bail or Bond; they have taken from us, what? what shall I say indeed, what have they left us? All means of supplying the King and ingratiating our selves with him, taking up the root of all Propriety, which if it be not seasonably set again into the ground by his Majesties own hands, we shall have instead of beauty, baldness. To the making of those whole, I shall apply my self, and propound a Remedy to all these Diseases.

Sir Thomas Wentworth.

H h 2

By

Anno 1627. By one and the same thing have King and People been hurt, and by the same must they be cured; to vindicate, what, new things? no, our ancient vital Liberties, by reinforcing the ancient Laws made by our Ancestors, by setting forth such a Character of them, as no licentious spirit shall dare to enter upon them; and shall we think this is a way to break a Parliament? no, our desires are modest and just, I speak truly both for the Interest of the King and People, if we enjoy not those, it will be impossible to relieve him.

Therefore let us never fear they shall not be accepted by his goodness; wherefore I shall shortly descend to my motions, consisting of four parts, two of which have relation to our Persons, two to the propriety of Goods for our Persons: First, the freedom of them from imprisonment. Secondly, from employment abroad, contrary to the ancient Customs. For our Goods, that no Levies be made, but by Parliament. Secondly, no billeting of Soldiers. It is most necessary that these be resolved, that the Subject may be secured in both: Then for the manner, it will be fit to determine it by a grand Committee.

Sir Benjamin Rudyard acts the part of a Moderator.

Mr. Speaker,

THIS is the goodness of God, and the favour of the King, that hath brought us again to this place, and if we be as thankful to both as our duty to both requires, our meeting certainly will be crown'd with a blessing. This is the Crisis of Parliaments; we shall know by this if Parliaments live or die, the King and the Kingdom will be valued or disvalued both by Enemies and Friends, by the success of this Parliament. The Counsels of this House will have operations on all, 'tis fit we be wise; his Majesty begins to us with affection, proclaiming, that he will rely on his Peoples love. Preservation is natural, we are not now on the *bene esse*, but on the *esse*; be sure England is ours, and then prune it. Is it no small matter that we have provoked two most Potent Kings? We have united them, and have betrayed our selves more than our Enemies could. Men and Brethren, what shall we do? Is there no Balm in Gilead? If the King draw one way, the Parliament another, we must all sink: but I hope better of so grave, so wise an Assembly. I respect no particular, I am not so wise to condemn what is determined by the major part, one day tells another, and one Parliament instructs another. I desire this House to avoid all contestations, the hearts of Kings are great, 'tis comely that Kings have the better of their Subjects. Give the King leave to come off, I believe his Majesty with longing doth expect the occasion. 'Tis lawful, and our duty, to advise his Majesty, but the way is to take a right course to attain the right end; which I think may be thus: By trusting the King, and thereby to breed a trust in him towards us; by giving him a large Supply according to his wants, by prostrating our Grievances humbly at his feet, from thence they will have the best way to his heart, that is done in duty to his Majesty. And to say all at once, Let us all labour to get the King on our side, and this may be no hard matter, considering the near subsistence between the King and People.

Now, Mr. Speaker, concerning the Bill brought in by that Honourable and Reverend Person, it is no doubt necessary for the preservation of the Liberty of the Subject; for this I speak resolutely, He that is not safe in his person dwelleth not at home. These particulars I humbly offer to the consideration of the House, wherein I have declared my self freely and sincerely.

Sir Edward Cook speaks next.

Ubi tempus habemus bonum operemur. I am absolutely to give Supply to his Majesty; yet with some caution. To tell you of Foreign dangers and inbred evils, I will not do it; the State is inclining to a Consumption, yet not incurable; I fear not Foreign Enemies, God send us peace at home: For this Disease I will propound Remedies, I will seek nothing out of mine own head, but from my heart, and out of Acts of Parliament. I am not able to flie to all Grievances, but only at Loans. Let us not flatter our selves; who will give Subsidies, if the King may impose what he will? and if, after Parliament, the King may inhaunce what he pleaseth? I know the King will not do it, I know he is a Religious King, free from personal vices; but he deals with other mens hands, and sees with other mens eyes. Will any give a Subsidy that will be taxed after Parliament at pleasure? The King cannot tax any by way of Loans: I differ from them, who would have this of Loans go amongst Grievances, but I would have it go alone.

I'll begin with a noble Record, it cheers me to think of it, 25 E. 3. it is worthy to be written in Letters of Gold; Loans against the will of the Subject, are against Reason, and the Franchises of the Land, and they desire restitution: What a word is that Franchise? The Lord may tax his Villain high or low, but it is against the Franchises of the Land, for Freemen to be taxed by their consent in Parliament; Franchise is a French word, and in Latin it is *Libertas*. In *Magna Charta* it is provided, that, *Nullus liber homo capiatur vel imprisonetur aut disseisetur de libero tenemento suo, &c. nisi per legale iudicium parium suorum vel per legem terra*; Which Charter hath been confirmed by good Kings above thirty times.

When these Gentlemen had spoken, Sir John Cook, Secretary of State, took up the matter for the King, and concluded for redress of Grievances, so that Supplies take the precedency; and said:

I Had rather you would hear any than me; I will not answer what hath been already spoken; my intent is not to stir, but to quiet; not to provoke, but to appease: My desire is, that every one resort to his own heart to reunite the King and the State, and to take away the scandal from us; every one speaks from the abundance of his heart: I do conclude out of every ones Conclusion, to give to the King, to redress Grievances; all the difference is about the manner; we are all Inhabitants in one House, the Commonwealth, let every one in somewhat amend his House, somewhat is amiss: but if all the House be on fire, will we then think of mending what is amiss? will you not rather quench the fire? the danger all apprehend. The way that is propounded, I seek not to decline; illegal courses have been taken, it must be confessed, the redress

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redress must be by Laws and Punishment: but
withal, add the Law of *Necessity*; Necessity hath
no Law, you must abilitate the State to do, what
you do by Petition require. It is wished we be-
gin with Grievances. I deny not that we prepare
them, but shall we offer them first? Will not this
seem a Condition with his Majesty? Do we not
deal with a wise King, jealous of his Honour?
All Subsidies cannot advantage his Majesty so
much, as that his Subjects do agree to supply him;
this will amaze the Enemy more than ten Subsi-
dies: Begin therefore with the King, and not
with our selves.

Sir Robert Philips his Speech, March
22. 1627.

Mr. Speaker,

I Read of a Custom amongst the old *Romans*,
that once every year they had a solemn Feast
for their Slaves, at which time they had liberty,
without exception, to speak what they would,
hereby to ease their afflicted minds; which be-
ing finished, they severally returned to their for-
mer Servitude. This may, with some resem-
blance and distance, well set forth our present
estate, where now after the revolution of some
time, and grievous sufferance of many violent
Oppressions, we have (as those Slaves had) a
day of Liberty of Speech, but shall not hereafter
(I trust) be Slaves, for we are Free; but what
new illegal proceedings our Estates and Persons
have suffered under, my Heart yearns to think,
my Tongue falters to utter: They have been
well represented by divers worthy Gentlemen
before me, yet one, and the main, (as I con-
ceive) hath not been touched, which is our
Religion, Religion, Mr. Speaker, made vendi-
ble by Commission; and men for pecuniary An-
nual Rates dispensed withal, whereby Papists
may (without fear of Law) practise Ido-
latry.

For the Oppressions, under which we groan, I
draw them into two Heads.

Acts of power against Law, and Judgments
of Law, against our Liberties, strange Instru-
ctions, violent exactions of Money thereupon,
imprisonment of the persons of such, who to de-
liver over to their Posterity the liberty they re-
ceived from their Fore-fathers (and lawfully
were in possession of) refused to lend, and this
aggravated by reason of the remediless continu-
ance and length thereof, and chiefly the strange
vast & unlimited power of Lieutenants & their
Deputies, in Billeting of Souldiers, making Rates,
in granting Warrants for Taxes, as their discre-
tions guides them; and all against the Law.
These last are the most unsupportable burthens,
and most cruel oppressions that ever yet the
Kingdom of *England* endured. These upstart
Deputy Lieutenants (of whom perhaps in some
cases and times, there may be good use, being
by Laws regulated and attempered) are the
worst of grievances, and most zealous execu-
tioners of those violent and unlawful Courses, which
have been commended unto them; of whose pro-
ceedings, and for the qualifying of whose un-
ruly power, it is more than time, to consult, and
determine. Judgments of Law against our Liber-
ties have been three, each later stepping forward
than the former, upon the Right of the Sub-
jects, aiming in the end to tread and trample

underfoot our Law, and that in the form of
Law.

Car. 3.

1. The first was the Judgment of the *Post nati*,
whereby a Nation (which I heartily love for
their singular zeal in our Religion, and their free
spirits to preserve our Liberties far beyond many
of us) is made capable of any the like Favours,
Privileges and Immunities as our selves enjoy;
and this specially argued in the Exchequer-Cham-
ber by all the Judges of *England*.

2. The Second was the Judgment upon the Im-
positions in the Exchequer-Court by the Barons,
which hath been the Course and Fountain of ma-
ny bitter matters of affliction unto our Mer-
chants.

3. The Third was that fatal late Judgment
against the Liberty of the Subjects imprisoned by
the King, argued and pronounced but by one
alone. I can live, although another (without
Title) be but to live with me; nay I can live
although I pay Excises and Impositions far more
than I do, but to have my Liberty (which is the
Soul of my Life) taken from me by power, and
to be put up in a Gaol without remedy by Law,
and to be so adjudged! O improvident Ancestors!
O unwise Fore-fathers to be so curious in provid-
ing for the quiet possession of our Laws and Liber-
ties of Parliament, and to neglect our Persons
and Bodies; and to let them lie in Prison, and
that *Durante Beneplacito* remediless! If this be
Law, what do we talk of our Liberties, why do
we trouble our selves with the dispute of Laws,
Franchises, Propriety of Goods, and the like?
What may any man call his, if no Liberty?

I am weary with treading these waies, and con-
clude to have a select Committee deputed to
frame a Petition to his Majesty for redress of those
things, which being read, examined, and ap-
proved by the House, may be delivered to the
King, of whose gracious Answer we have no
cause to doubt, our desires being so Reasonable,
our intentions so Loyal, and the manner so Hum-
ble, neither need we fear this to be the Critical
Parliament (as was insinuated) or a way of di-
straction, but assure our selves of a happy issue:
then shall the King, as he calls us his great Coun-
cil, find us his true Council, own us his good
Council, which God grant.

Munday 24 March, Secretary Cook renewed
the motion of Supplies for his Majesty, yet so, that
Grievances be likewise taken into considera-
tion.

WE all think fit (said he) that both these
go hand in hand together; but let me
put you in mind of that which concerns the King,
let him have the precedency of Honour, if not
of time; let the Heads of the King's Supply first
be propounded, this will be an honour to the
King, and will do service to the House; the end
of this Parliament is the subsistence of the King,
as he himself hath declared, and such a Command
is not to be slighted; the King himself propound-
ed it, and then he will agree with us in other re-
quests that are fit for a King to give; we that
have the happiness to attend his Majesty, can
tell you, that no King is more ready to hear the
complaints of his Subjects, and withal you
know no King is more sensible of all Reproaches
which touch his Honour.

Secretary
Cook
moves for
Supply for
his Maje-
sty.

Will

Anno 1627. Will it not be fit to grant him this Honour, to have the precedency? It was the speech of an ancient Parliament man, Let us deal gently with our King; by these Laws that we make, we do bind our selves, and it is an addition of his power: None that dies, but leaves his Heir to the favour of the King; none that lives, but needs the favour of the King: we having made our first union with God, it is next intended, that we be at one with our King: Is it not fit we beat peace with our Head? His Majesty desires it, and expects it. After this unity with our Head, there is consideration to be had of unity with our selves; after this, we shall be all knit in one Body, we shall all pronounce clearly *Shibboleth*, and we shall consider of the grievances and irregularities of the times, which none desires to be reform'd more than his Majesty, and those whom you think most averse: Let us take the best way for Reformation: And will not this be a happy union, if the whole Body concur to reduce all into regularity? if Laws be our Birth-rights, we shall hereby recover them and their splendor; this will have good aspect abroad, and it will give courage to our men that have been despised, and will prevent practises to continue divisions amongst us both at home and abroad. The first sower of Seeds of Distractions amongst us, was an Agent of Spain, Gondomar, that did his Master great service here and at home.

Since that, we had other Ministers that have blown the fire: The Ambassador of France told his Master at home, what he had wrought here the last Parliament, namely, divisions between King and People, and he was rewarded for it. Whilst we sit here in Parliament, there was another intended Parliament of Jesuits, and other Well-willers, within a mile of this place; that this is true, was discovered by Letters sent to Rome: the place of their meeting is chang'd, and some of them are there where they ought to be; if you look in your Kalendar, there is a day of S. Joseph, it was called in the Letter the Oriental day, and that was the day intended for their meeting. I speak this, to see God's hand to work our union in their division; they are not more rent from us, than they are from themselves. I desire the meanest judgment to consider what may follow by giving precedency to his Majesty, and by so doing, we shall put from our selves many imputations. If we give any occasion of breach, it is a great disadvantage; if otherwise, it is an obligation to his Majesty, which his Majesty will not forget.

Then he made a motion, That the same Committee may hear Propositions of general Heads of Supply, and afterward go to other businesses of the day for Grievances. Others preferred the consideration of Grievances, as a particular root that invades the main Liberty of the Subject. It is the Law (said they) that glorious fundamental Right, whereby we have power to give; we desire but that his Majesty may see us have that Right therein, which, next to God, we all desire; and then we doubt not, but we shall give his Majesty all supply we can. The time was, when it was usual to desire favours for sowing discords, as Gondomar did for Raleigh's head. But the Debates of this day came to no Resolution.

The day following Mr. Secretary Cook tender'd the House certain Propositions from the King, touching Supply; and told them, That his Maje-

sty finding time precious, expects that they should begin speedily, lest they spend that time in deliberation, which should be spent in action; that he esteems the Grievances of the House his own, and stands not on Precedence in point of Honour. Therefore to satisfy his Majesty, let the same Committee take his Majesties Propositions into consideration, and let both concur, whether to sit on one in the Forenoon, or the other in the Afternoon, is all one to his Majesty.

Hereupon the House turned themselves into a Committee, and commanded Edward Littleton Esq; unto the Chair, and ordered the Committee to take into consideration the Liberty of the Subject, in his Person, and in his Goods; and also to take into consideration his Majesties Supply. In this Debate, the Grievances were reduced to six Heads, as to our Persons.

1. Attendance at the Council-board.
2. Imprisonment.
3. Confinement.
4. Designation for Foreign Employment.
5. Martial Law.
6. Undue Proceedings in matter of Judicature.

The first matter debated, was the Subjects Liberty in his Person; the particular instance was in the case of Sir John Heveningham, and those other Gentlemen who were imprisoned about Loan-money, and thereupon had brought their Habeas Corpus, had their Case argued, and were nevertheless remanded to Prison, and a Judgment, as it was then said, was entred. Whereupon Mr. Cresswell, of Lincolns Inn, spake to this purpose.

The Speech and Argument of Mr. Cresswell of Lincolns-Inn, one of the Members of the Commons House of Parliament, concerning the Subjects Grievances, by the late Imprisonment of their Persons, without any Declaration of the Cause; delivered March 25.

I Stand up to speak somewhat concerning the points of the Subjects Grievance, by Imprisonment of their Persons, without any Declaration of the Cause, contrary to, and in derogation of the Fundamental Laws and Liberties of this Kingdom.

I think I am one of the Puiſnes of our Profession, which are of the Members of this House: But howsoever, sure I am, that in respect of my own inabilities, I am the Puiſne of the whole House; and therefore according to the usual course of Students in our Profession, I may, as the Puiſne, speak first in time, because I can speak least in matter.

In pursuance of which course, I shall rather put the Case, than Argue it, and therefore I shall humbly desire, first of all, of this Honourable House in general, that the goodness of the Cause may receive no prejudice by the weakness of my Argument. And next, of all my Masters here of the same Profession in particular, That they by their Learned Judgments will supply the defects I shall discover by declaring of my unlearned Opinion.

Before I speak of the Question, give me leave

Thursday,
March 15.
Mr. Secretary Cook
tender'd
Propositions touch-
ing Supply.

Car. 3.

The House
turned in-
to a Com-
mittee.

Habeas
Corpus and
the Libe-
ry of the
Subject
debated.

as an entrance thereunto, to speak first of the occasion.

Anno 1627. You all know that Justice is the life, & the heart-blood of the Common-wealth, and if the Common-wealth bleed in that Master-Vein, all the Balm of Gilead is but in vain, to preserve this our Body of Policy from Ruin and Destruction.

Justice is the *Columna & Corona Reipublicæ*; she is both the Column and the Pillar, both the Crown and Glory of the Common-wealth. This is made good in Scripture by Solomon, the wisest King that ever Reigned upon Earth. For First, that she is the Pillar; he saith, *That by Justice the Throne shall be established*. Secondly, she is the Crown; for he saith, *That by Justice a Nation shall be exalted*.

Our Laws, which are the Rules of Justice, are the *ne plus ultra*, both to the King and Subject; And as they are *Hercules Pillars*, so are they the Pillars of every *Hercules*, to every Prince, which he must not pass.

Give me leave to resemble her to *Nebuchadnezzar's Tree*, for she is so great, that she doth shade not only the Pallace of the King and the House of Nobles, but also shelter the Cottage of the poorest Beggar.

Wherefore if now either the blasts of Indignation, or the unresistable violator of Law, Necessity, hath so bruised any of the Branches of this Tree, that either our Persons, our Goods, or Possessions have not the same shelter as before, yet therefore let us not neglect the Root of this great Tree; but rather with all our possible endeavours, and unfeigned duties, apply fresh and fertile Mould unto it; and also water it, even with our own Tears, that so these bruised Branches may be recovered, and the whole Tree again prosper and flourish: for this I have learned from an ancient Father of the Church, That though *Preces Regum sunt Armatae*; yet *Arma Subditorum* are but only *Proces & Lachrymae*.

I know well, that *Cor Regis inscruabile*; and that Kings, though they are but men before God, yet are they Gods before men. And therefore to my gracious and dread Sovereign, whose virtues are true qualities, ingenerate both in his Judgment and Nature, let my Arm be cut off; nay, let my Soul not live that day that I should dare to touch that forbidden Fruit, those Flowers of his Princely Crown and Diadem.

But yet in our *Eden*, in the Garden of the Common-wealth, as there are the Flowers of the Sun, which are so glorious, that they are to be handled by Royal Majesty; so are there also some Daisies, and wholsom Herbs, which every common hand, that lives and labours in this Garden, may pick and gather up, and take comfort and repose in them: Among all which, this *Oculus Dei*, this *bona libertas*, whereof I am now to speak is one, and the chief one.

Thus much, in all humbleness, I presume to speak for the occasion: I will now descend to the Question, wherein I hold (with all dutiful submission to better Judgments) That these Acts of Power in Imprisoning and Confining his Majesties Subjects in such manner, without any Declaration of the Cause, are against the Fundamental Laws of this Kingdom.

And that for these Reasons, thus briefly drawn, and concluded.

The First from the great favour the Law doth give unto, and the great care which the Law hath ever taken of the Liberties and Safeties of the

Bodies and Persons of the Subjects of this Kingdom.

I shall not need to take the Question in pieces, nor handle it in parts dividedly, but as one entire, because I hold, no other difference between imprisonment and confinement than only this; that the one hath a less and straighter, the other a greater and larger Prison. And this word *Confinement* being not to be found in any one Case of our Laws, if therefore it is become the language of State, it is too difficult for me to define.

To proceed therefore in maintenance of my first Reason, I find the same doth so much favour the Subjects Liberty, that the Body of a man was not liable to be Arrested or Imprisoned, for any other cause at the Common-Law, but only for Force, and things done against the Peace: For the Common-Law (being the preserver of the Peace of the Land) so abhorreth Force, that she accounts those that commit it, her Capital Enemies, and therefore did subject their Bodies to Imprisonment. But by the Statutes of *Marebridge*, cap. 24. which was made 32 Hen. 3. who was the eighth King from the Conquest, because Bailiffs would not render account to their Lords, it was ordered, that their Bodies should be attached. And afterwards by the Statute 33 E. 3. 17. who was the Eleventh King after the Conquest, because men made no Conscience to pay their Debts, it was enacted, That their Bodies should likewise be Attached. But before those Statutes, no mans Body was subject to be taken, or imprisoned, otherwise than as aforesaid; whereby it is evident how much the Common-Law favoured the Liberty of the Subject, and protected his Body from Imprisonment.

I will enforce this Reason further by a Rule in Law, and some Cases in Law upon that Rule: the Rule is this, *Corporalis injuria non recipit estimationem de futuro*. So as if the Question be for wrong done to the person, the Law will not compel him to sustain it, and afterwards expect a remedy, for the Law holds no damage a sufficient recompence for wrong which is Corporal.

The Cases in Law to prove this Rule shall be these.

If one Menace me in my Goods, or that he will burn the Evidences of my Land, which he hath in his Custody, unless I make unto him a Bond; there I cannot avoid the Bond by Pleading this Menace: but if he restrains my person, or threatens me with Battery, or with burning my House, which is a Protection, or with burning an Instrument of Manumission, which is Evidence of Enfranchisement; upon these Menaces, or *Direfums*, I shall avoid the Bond by Plea: so if a Trespasser drives my Beasts over another mans Ground, and I pursue to rescue them, there I am a Trespasser to him on whose Ground I am.

But if a man assault my Person, and I for safety fly over into another man's Ground, there I am no Trespasser to him, for *jure evenit ut quod quis ab tutelam sui Corporis fecerit, jure id fecisse existimatur*; nay, which is more, the Common-Law did favour the Liberty not only of Free-men, but even of the persons of Bond-men and Villains, who have no right or propriety either in Lands or Goods, as Free-men have; and therefore, by the Law, could not make him his Villain; nay, if the Lord Commanded another to beat his Villain, and he did it, the Villain should

should have his Action of Battery against him for it.

Anno 1627. If the Lord made a Lease for years to his Villain, if he did plead with his Villain, if he tendered his Villain to be Champion for him in a Writ of Right, any of these Acts, and many others which I omit, were in Law Infranchisements, and made these Villains Free-men; nay, in a Suit brought against one, if he by Attorney will plead that he is a Villain, the Law is so careful of Freedom, that it dissolves this Plea by Attorney; but he must do it *propria persona*, because it binds his Posterity and Blood to be Villains also. And thus much in general for my first Reason.

My next Reason is drawn by an Argument, *à minore ad majus*; I frame it thus, That if the King hath no absolute power over our Lands and Goods, then *à fortiori* not over our persons to imprison them, without declaring the cause; for our persons are much more worth than either Lands or Goods, which is proved by what I have already said. And Christ himself made it clear, when he said, *An non est Corpus supra vestimentum? Is not the Body more worthy than Rayment?* Where the Canonists say that (*Vestimentum*) comprehendeth all outward things, which are not in the same degree with that which is Corporal. And our Law also maketh it plain, that if a Villain purchase Frankland, this makes it Villain-Land, according to the nature of his person: but it holds not *à Converso*, Frankland shall not free the person.

Now that the King hath no absolute power, either over our Lands or Goods, I will only at this time but put a Case or two, without proof of the Premises, else my conclusion would not follow.

First, for Land, the King cannot by his Letters Patents make the Son of an Alien Heir to his Father, nor to any other, for he cannot disinherit the right Heir, saith the Book; no prejudice to the Lord of his Escheat.

The King, by his Prerogative, shall pay no Toll for things bought in Fairs or Markets; but a Custom for paying Toll to go over the Soil and Free-hold of another, shall bind the King, for this toucheth the Inheritance of the Subject: And therefore the King shall not have as much as a way over his Land, without payment; and if not a way, then certainly not the Land itself.

Next for Goods, if a man have a Jewel ingaged for ten pounds, and is attainted for Treason, the King shall not have this Jewel, if he pays not the Money. So if Cattel be Distreined, and the party afterwards Attainted, yet the King shall not have them until the party be satisfied for which they were Distreined.

And if in these Cases, where the owners of the Goods are such Capital Offenders, the King cannot have them, much less shall he have them when the owner is Innocent and no offender.

Nay, I may well say, That almost every Leaf and Page of all the Volumes of our Common-Law, prove this Right of Propriety, this distinction of *Meum & Tuum*, as well between King and Subject, as one Subject and another; and therefore my Conclusion follows, That if this Prerogative extend not neither to Lands nor Goods, then *à fortiori*, not to the person, which is more worthy than either Lands or Goods, as I said before.

And yet I agree, that by the very Law of Nature, service of the persons of the Subject, is subject to his Sovereign; but this must be in such things as are not against the Law of Nature, but to have the Body imprisoned without any cause declared, and so be in Bondage, I am sure is contrary unto, and against the Law of Nature, and therefore not to be enforced by the Sovereign upon the Subject.

My next Reason is drawn *ab inutili & incommodo*, for the Statute *De frangentibus prisonam* made 1 E. 3. is *Quod nullus qui prisonam frerit subeat Judicium visa vel membrorum pro fractione prisonae tantum, nisi causa pro qua capus & imprisonatus fuerit, tale judicium requirat*. Whence this Conclusion is clearly gathered, that if a man be Committed to Prison, without declaring for what cause; and then Malefactors do break the Prison, or the Gaolers suffer him to escape, albeit the person so escaping had committed *Crimen Laesae Majestatis*; yet neither the Gaoler, nor any other that procured the escape, can by the Law suffer any corporal punishment, for setting him at large, which if admitted might prove, in consequence, a matter of great danger to the Common-wealth.

My next is drawn *à Regis honore*, from that great honour, the Law doth attribute to Sovereign Majesty, and therefore the Rule of Law is, *Solum Rex hoc non potest facere, quod non potest juste agere*. And therefore if the Subject have the Nomination, and the King the Presentation to the Church, whereunto the King presents without the Subjects Nomination; here the *Quare Impedit* lies against the Incumbent (*tantum*) and the King is in Law no disturber.

And Hussy, Chief Justice in 1 H. 7. fol. 4. saith, Sir John Markham told King Edward the Fourth, he could not Arrest a man either for Treason or Felony, as a Subject might, because that if the King did wrong, the party could not have his Action against him; Why, what is the Reason, that an Action of false imprisonment lies against the Sheriff, if he Returns not the Writ by which he hath taken the body of the Subject? But this, because the Writ doth *brevisiter enarrare causam captionis*; which if it doth not, it shall abate, and is void in Law, to the end that being returned, the party when he appears, may know what to answer, and the Court what to Judge. And if the King's Writ under the Great Seal cannot imprison the Subject, unless it contain the cause, shall the King's Warrant otherwise do it without containing the cause, that so his Judges, upon Return thereof, may likewise Judge of the same, either to Remand or Judge the party imprisoned?

I should argue the point more closely upon the Statute of *Magna Charta* 29. *quod nullus liber homo imprisonetur*; the Statute of Westminster, 1 Cap. 15. for letting persons to Bail, and the Judgment lately given in the King's Bench. But that the latter of these Statutes having been by that Honourable Gentleman (to whom the Professors of the Law, both in this and all succeeding Ages, are and will be much bound) already expounded unto us. And that also fortified by these many Contemporary Expositions and Judgments, by him learnedly cited.

And there being many learned Lawyers here, whose time I will not waste, who were present, and some of them perhaps of Counsel in the late Case so adjudged in the King's Bench, where you, to whose Person I now speak, do well know I

Anno 1627. 'was absent, being then of Counsel in a Cause in another Court. And my practise being in the Country, far remote from the Treasuries of Antiquities, and Records, conducing to the clearing of this Question: Therefore the narrowness of my understanding, commands unto me sober ignorance, rather than presumptuous knowledge, and so commands me no further to trouble your patience. But I will conclude with that which I find reported of Sir John Davies, who was the King's Serjeant, and so by the duty of his place, would, no doubt, maintain to the uttermost, the King's Prerogative Royal; and yet it was by him thus said, in those Reports of his, in the Case of *Tanistrey Customs*, That the Kings of England have alwaies had a Monarchy Royal, and not a Monarchy Seignoral; Where, under the first (saith he) the Subjects are Free-men, and have propriety in their Goods, and Free-hold, and Inheritance in their Lands. But under the latter, they are as Villains and Slaves, and Proprietors of nothing, and therefore (saith he) when a Royal Monarch makes a new Conquest; yet if he receive any of the Nationals and Inhabitants, into his Protection, they, and their Heirs after them, shall enjoy their Lands, and Liberties, according to the Law, and there he voucheth this President, and Judgment following, given before William the Conqueror himself, viz.

'That one *Sherborne*, at the time of the Conquest, being owner of a Castle and Lands in *Norfolk*, the Conqueror gave the same to one *Warren a Norman*; and *Sherborne* dying, and the Heir claiming the same by descent, according to Law: It was before the Conqueror himself, adjudged for the Heir, and that the gift thereof by the Conqueror was void.

'If then it were thus in the Conquerors time, and by his own Sentence and Judgment, and have so continued in all the Successions of our Kings ever since, what doubt need we have, but that his Majesty (upon our humble Petition prostrated at his feet, which (as was well said) is the best passage to his heart) will vouchsafe unto us our ancient Liberties and Birth-rights, with a through Reformation of this, and other our just Grievances? And so I humbly crave pardon of this Honourable House, that I have made a short Lesson long, by making more Rests than Notes.

Sir Robert Philips.

This Matter of the *Habeas Corpus* was referred to a Committee, and Mr. *Selden* to make Report; Upon his Report Sir Robert Philips gave his Opinion, 'That this intended Judgment in the *Habeas Corpus*, was a draught made by some man that desired to strike us all from Liberties: But the Judges justly refused it; but if the Judges did intend it, we sit not here (said he) to answer the trust we are sent for; if we present not this matter to his Majesty. Let this business be further searched into, and see how this Judgment lies against us, and what the Judges do say concerning the same.

Sir Edward Cook.

Sir Edward Cook proceeded, and said, 'This draught of the Judgment will sting us, *quia nulla causa fuit ostensa*, being committed by command of the King, therefore he must not be bailed: What is this, but to declare upon Record, that any Subject, committed by such absolute command, may be detained in Prison for ever? What

doth this tend to, but the utter subversion of the choice Liberty and Right belonging to every Free-born Subject of this Kingdom? I fear, were it not for this Parliament, that followed so close after the form of Judgment was drawn up, there would have been hard putting to have had it entered: But a Parliament brings Judges, Officers, and all men in good order.

But after this they desired the Opinion of the Judges.

Whitlock spake thus:

My Lords,

WE are, by your appointment, here ready to clear any Aspersions of the House of Commons in their late Presentment upon the King's Bench, that the Subject was wounded in the Judgment there lately given. If such a thing were, my Lords, your Lordships, not they, have the power to question and judge the same. But, my Lords, I say, there was no Judgment given, whereby either the Prerogative might be enlarged, or the Right of the Subject trenced upon. It is true, my Lords, in *Michaelmas Term* last, four Gentlemen petitioned for a *Habeas Corpus*, which they obtained, and Counsel was assigned unto them; the Reason was, *Per specialem mandatum Domini Regis*, which likewise was made known to us under the hands of Eighteen Privy Counsellors. Now, my Lords, if we had delivered them presently upon this, it must have been because the King did not shew cause wherein we should have judged the King had done wrong, and this is beyond our knowledge; for he might have committed them for other matters than we could have imagined; but they might say thus, They might have been kept in Prison all their days: I answer, No, but we did remit them, that we might better advise of the matter; and they the next day might have had a new Writ, if they had pleased. But they say, we ought not to have denied Bail: I answer, if we had done so, it must needs have reflected upon the King, that he had unjustly imprisoned them: And it appears in *Dyer, 2 Eliz.* that divers Gentlemen being committed, and requiring *Habeas Corpus*, some were bailed, others remitted: whereby it appears, much is left to the discretion of the Judges.

Judge Whitlock in justification of the Proceedings in the Upper Bench upon the Habeas Corpus.

'For that which troubleth so much, *Remittitur quousque*; This, my Lords, was only (as I said before) to take time what to do: and whereas they will have a difference between *Remittitur* & *Remittitur quousque*; My Lords, I confess I can find none; but there are new inventions to trouble old Records. And herein, my Lords, we have dealt with knowledge and understanding; for had we given a Judgment, the Party must thereupon have rested; every Judgment must come to an issue in matter, in fact, or demurrer in point of Law; here is neither, therefore no Judgment.

'For endeavouring to have a Judgment entered (it is true) Mr. Attorney pressed the same for his Majesties Service: But we having sworn to do right between his Majesty and his Subjects, commanded the Clerk to make no Entry, but according to the old form; and the Rule was given by the Chief Justice alone. I have spent my time in this Court, and I speak confidently, I did

Anno 1627. never see nor know by any Record, that upon such a Return as this, a man was bailed, the King not first consulted with, in such a Case as this.

The Commons House do not know what Letters and Commands we receive; for these remain in our Court, and are not viewed by them. For the rest of the matters presented by the House of Commons, they were not in agitation before us, whether the King may commit, and how long he may detain a man committed. Therefore having answered so much as concerneth us, I desire your Lordships good construction of what hath been said.

Judge Doderidge, concerning the same Subject, said,

Judge Doderidge the like.

It is no more fit for a Judge to decline to give an account of his doings, than for a Christian of his Faith. God knoweth, I have endeavoured all ways to keep a good Conscience; for a troubled one, who can bear? The Kingdom holds of none but God; and Judgments do not pass privately in Chambers, but publickly in Courts, (where every one may hear) which causeth Judgment to be given with maturity. Your Lordships have heard the particulars given by my Brother, how that Counsel being assigned to those four Gentlemen in the latter end of Michaelmas Term, their Cause received hearing, and upon consideration of the Statutes and Records, we found some of them to be according to the good old Law of *Magna Charta*; but we thought that they did not come so close to this Case, as that Bail should be presently thereupon granted. My Lords, the *Habeas Corpus* consisteth of three parts; the Writ, the Return upon the Writ or Schedule, and the Entry or Rule reciting the *Habeas Corpus* and the Return, together with the Opinion of the Court, either a *Remittitur*, or a *Traditur in Ballivum*. In this Case, a *Remittitur* was granted, which we did, that we might take better advisement upon the Case, and upon the *Remittitur*, my Lords, they might have had a new Writ the next day, and I wish they had, because, it may be, they had seen more, and we had been eased of a great labour. And, my Lords, when the Attorney, upon the *Remittitur*, pressed an Entry, we all straightly charged the Clerk, that he should make no other Entry, than such as our Predecessors had usually made in like Cases. For the difference between *Remittitur* and *Remittitur quousque*, I could never yet find any: I have now late in this Court Fifteen years, and I should know something: surely, if I had gone in a Mill so long, dust would cleave to my clothes. I am old, and have one foot in the Grave; therefore I will look to the better part as near as I can. But, *Omnia habere in memoria, & in nullo errare, Divinum potius est quam Humanum.*

The Lord Chief Justice Hyde, and Justice Jones delivered their Opinions much to the same purpose. The House proceedeth in further debate of the Liberty of the Subject.

Mr. Hackwel resumes the Debate of the Matter concerning the Habeas Corpus.

The late Judgment (said he) which lies in Bar, is only an Award, and no Judgment; and in the Lord Chief Justice his Argument, there was no word spoken, that the King might commit or detain without cause.

For the King to commit a man, is indignum Regi: Mercy and Honour flow immediately from the King, Judgment and Justice are his too, but they flow from his Ministers; the Sword is carried before him, but the Scepter in his hands. These are true Emblems of a good King.

The Law admits not the Kings power of detaining in Prison at pleasure. In ancient times Prisons were but *pro custodia, carceres non ad penam, sed ad custodiam*. Admit the King may commit a man, yet to detain him as long as he pleaseth, is dangerous, and then a man shall be punished before his offence: Imprisonment is a maceration of the body, and horrow to the mind; it is *vis a peior morte*.

Mr. Selden last of all produced the Statutes, Presidents, and Book Cases, which were expressed in point to the Question in hand, which were very large; and the House commanded that Case in the Lord Chief Justice Anderson's Book, all of his own hand-writing, to be openly read.

And for the Precedents cited by the King's Council, in the Four and thirtieth year of the Queen, as the Opinion of all the Judges; certainly there was a great mistake in it, and the mistake was the greater, when it passed as current by the Judges of the King's Bench, in the last Case of the *Habeas Corpus*. And that the truth of the Opinion may clearly appear, let us read the words out of the Lord Chief Justice Anderson's Report, out of the Book written with his own hand, which will contradict all those Apocrypha Reports that go upon the Case: The words of the Report were these;

Divers persons fueront commises a several temps a several prisons sur pleasure sans bon cause parte de queux estiant amenes en Banck le Roy. Es parte en le Commune Banck fueront accordant a le Ley de la terre mise a large & discharge de le imprisonment, par que aucuns grans fueront ostendus & procure un commandement a les Judges que ils ne fera ainsi apres. Ceo nient meens les Judges ne surcease mes per advise enter eux ils fesoient certain Articles le renouir de queux ensui, & delivrer eux al Seigneurs Chancellor & Treasurer & eux subscribe avec toutes leur mainies, les Articles sont come crismoint.

We her Majesties Justices of both Benches, and Barons of the Exchequer, desire your Lordships, that by some good means some order may be taken, that her Highnesses Subjects may not be committed or detain'd in prison by commandment of any Nobleman or Counsellor against the Laws of the Realm; either else to help us to have access to her Majesty, to the end to become Spitors to her for the same: for divers have been imprisoned for suing ordinary Actions and Suits at the Common Law, until they have been constrained to leave the same against their wills, and put the same to order, albeie Judgment and Execution have been had therein, to their great losses and griefs: for the aid of which persons

Anno 1628. sons, her Majesties Writs have sundry times been directed to sundry persons; having the custody of such persons unlawfully imprisoned, upon which Writs, no good or lawful cause of imprisonment hath been returned or certified: Whereupon, according to the Laws, they have been discharged of their imprisonment; some of which persons so delivered, have been again committed to Prison in secret places, and not to any common or ordinary Prison, or lawful Officer or Sheriff, or other lawfully authorized to have or keep a Goal; so that upon complaint made for their delivery, the Queens Courts cannot tell to whom to direct her Majesties Writs; and by this means Justice cannot be done. And moreover, divers Officers and Serjeants of London have been many times committed to Prison for lawful executing of her Majesties Writs, sued forth of her Majesties Court at Westminster, and thereby her Majesties Subjects and Officers are so terrified, that they dare not sue or execute her Majesties Laws, her Writs and Commandments: Divers others have been sent for by Pursuants, and brought to London from their dwellings, and by unlawful imprisonment have been constrained, not only to withdraw their lawful Suits, but have also been compelled to pay the Pursuants, so bringing such persons, great sums of money. All which, upon complaint, the Judges are bound by Office and Oath to relieve and help, by and according to her Majesties Laws. And where it pleaseth your Lordships to will divers of us to set down in what Cases a Prisoner sent to custody by her Majesty or her Council, is to be detained in Prison, and not to be delivered by her Majesties Court or Judges: We think, That if any person be committed by her Majesties command, from her Person, or by Order from the Council-board; and if any one or two of her Council commit one for High Treason, such persons so in the Cases before committed, may not be delivered by any of her Courts, without due trial by the Law, and Judgment of acquittal had. Nevertheless the Judges may award the Queens Writ, to bring the bodies of such Prisoners before them; and if upon return thereof, the causes of their Commitment be certified to the Judges, as it ought to be, then the Judges in the Cases before, ought not to deliver him, but to remand the Prisoner to the place from whence he came, which cannot conveniently be done, unless notice of the cause in general, or else in special, be given to the Keeper or Gaoler that shall have the custody of such a Prisoner. All the Judges and Barons did subscribe their Names to these Articles, Ter. Paschæ 34 Eliz. and delivered one to the Lord Chancellor, and another to the Lord Treasurer: After which time there did follow more quietness than before, in the Cause before-mentioned.

After the reading of this Report, Sir Edward Cook said,

Sir Edw. Cook.

THAT of my own knowledge this Book vvas written vwith my Lord Anderson's own hand; it is no flying report of a young Student. I vvas Solicitor then, and Treasurer Burley vvas as much against Commitment as any of this Kingdom; It vvas the *Whire Staves* that made this stir. Let us draw towards a conclusion: The Question is, Whether a Freeman can be imprisoned by the King, vvithout setting down the cause? I leave it as bare as *Aesop's Crow*; they that argue against it, *Humores moti & non remoti corpus destruunt*. It is a Maxim, The Common Law hath admeasured the King's Prerogative, that in no case it can prejudice the Inheritance of the Subjects; had the Law given the Prerogative to that vvwhich is taken, it vvould have set some time to it, else mark vvhat vvould follow. I shall have an Estate of Inheritance for life, or

for years in my Land, or propriety in my Goods, and I shall be a Tenant at Will for my Liberty: I shall have propriety in my own House, and not liberty in my person, *Persone vera non sunt probanda*. The King hath distributed his Judicial Power to Courts of Justice, and to Ministers of Justice; it is too low for so great a Monarch as the King is, to commit men to Prison; and it is against Law, that men should be committed, and no cause shewed. I vvould not speak this, but that I hope my gracious King vvill hear of it; yet it is not I Edward Cook that speaks it, but the Records that spake it; vve have a National appropriate Law to this Nation; *diversis ab orbe Britannis*. I vvill conclude vvith the *Acts of the Apostles*, Chap. 25. It is against reason to send a man to prison, and not to shew the cause. It is now time to go to the Question.

Car. 4.

Resolved upon the Question, Nemine contradicente.

I. That no Freeman ought to be detained or kept in Prison, or otherwise restrained by the command of the King or Privy Council, or any other, unless some cause of the Commitment, Detainer or Restraint be expressed, for vvwhich by Law he ought to be committed, detained or restrained.

Resolves touching the Subjects Liberty in his Person.

II. That the Writ of *Habeas Corpus* may not be denied, but ought to be granted to every man that is committed or detained in Prison, or otherwise restrained, though it be by the command of the King, the Privy Council, or any other, he praying the same.

III. That if a Freeman be committed or detained in Prison, or otherwise restrained by the command of the King, the Privy Council, or any other, no cause of such Commitment; Detainer, or Restraint being expressed, for vvwhich by Law he ought to be committed, detained, or restrained, and the same be returned upon a *Habeas Corpus*, granted for the said Party, then he ought to be delivered or bailed.

And then, as to the Property of the Subject in his Goods, they came to this Resolve;

That it is the ancient and undubitable Right of every Freeman, that he hath a full and absolute property in his Goods and Estate; that no Tax, Tallage, Loan, Benevolence, or other like Charge ought to be commanded, or levied by the King, or any of his Ministers, vvithout common consent by Act of Parliament.

Wednesday, March 26.

The Propositions tendred the day before by Secretary Cook from his Majesty, vvhere now received and read, but the Debate thereof vvas referred to another day. The Propositions vvwere these; viz.

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The King's Propositions to the House of Commons touching Supply.

1. To furnish vvith Men and Victualls Thirty Ships, to guard the Narrow Seas, and along the Coasts.

2. To set out Ten other Ships for relief of the Town of Rochel.

3. To set out Ten other Ships for the preservation of the *Elbe*, the *Sound*, and *Baltick Sea*.

4. To levy Arms, Cloth, Victual, Pay, and transport an Army of 1000 Horse and 10000 Foot, for Foreign Service.

5. To pay and supply 6000 more, for the Service of *Denmark*.

6. To supply the Forts of the Office of Ordnance.

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7. To supply the Stores of the Navy.
 8. To build Twenty Ships yearly for the increase of the Navy.
 9. To repair the Forts within the Land.
 10. To pay the Arrears of the Office of Ordnance.
 11. To pay the Arrears of the Victuallers Office.
 12. To pay the Arrears of the Treasure of the Navy.
 13. To pay the Arrears due for the Freight of divers Merchant-Ships imployed in his Majesties Service.
 14. To provide a Magazine for Victuals for Land and Sea-service.

And the Commons having a Conference with the Lords about the Petition against Recusants, Secretary Cook was appointed to manage the said Conference.

A Conference between the Lords and Commons managed by Secretary Cook against Recusants.

IN the first place (he said) we acknowledge all due honours, both unto the Reverend Fathers of the Church, and to our Noble Lords, in that ye have shined before us as worthy Lights, in the encouragement and maintenance of true Religion, being the true Support of all Dignities and Honours. And this forwardness of you is the more remarkable, when that Viperous Generation, as your Lordships justly styled them, do, at ease, with tooth and nail, essay to rend the Bowels of their Mother. Give me leave to tell you what I know, That these now both vaunt at home, and write to their Friends abroad, They hope all will be well, and doubt not to prevail, and to win ground upon us.

And a little to wake the Zeal and Care of our Learned and Grave Fathers, it is fit that they take notice of that Hierarchy, which is already established, in competition with their Lordships; for they have a Bishop consecrated by the Pope; the Bishop hath his Subaltern Officers of all kinds as Vicars-General, Arch-Deacons, Rural-Deans, Apparators, and such like; Neither are these Nominal or Titular Officers alone, but they all execute their Jurisdictions, and make their ordinary Visitations through the Kingdom, keep Courts, and determine Ecclesiastical Causes. And which is an Argument of more consequence, they keep ordinary intelligence by their Agents in Rome, and hold correspondence with the Nuncio's and Cardinals, both at Brussels and in France.

Neither are the Seculars alone grown to this height, but the Regulars are more active and dangerous, and have taken deep root; they have already planted their Societies and Colledges of both Sexes, they have settled Revenues, Houses, Libraries, Vestments, and all other necessary provisions, to travel or stay at home: Nay, even at this time they intend to hold a current Assembly with this Parliament.

But now since his Sacred Majesty hath extended his Royal Arm, and since the Lords of his Council have, by their Authority, caused this Nest of Wasps to be digged out of the Earth, and their Convocations to be scattered; and since your Lordships joyn in courage and resolution, at least to reduce this people to their lawful restraint, that they may do no more hurt, we conceive great hope and comfort, that the Almighty God will from henceforth, prosper our endeavours both at home and abroad.

But now, my Lords, to come to the chief Errand of this our Meeting, which is, to make known to you the Approbation of our House of that

Petition to his Majesty, wherein you are pleased to request our concurrence. The House hath taken it into serious consideration, and from the beginning to the end approve of every word, and much commend your happy Pen; only we are required to present unto you a few Additions, whereby, we conceive, the Petition may be made more agreeable to the Statutes which are desired to be put in execution, and to a former Petition granted by his Majesty, recorded in both Houses, confirmed under the Broad-Seal of England, and published in all our Courts of ordinary Justice.

But these things we propound, not as our Resolutions, or as Matters to raise debate or dispute, but commend them only as our advice and desire, being ready notwithstanding to joyn with your Lordships in the Petition, as now it is, if your Lordships shall not find this Reason to be of weight.

This being agreed unto, on Monday the 31 of March, the Petition was presented to his Majesty by both Houses; at the delivery whereof, the Lord Keeper spake as followeth:

Most Gracious Sovereign,

THE Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, out of the due care of the Glory of Almighty God, and of the Honour and Safety of your Majesty, do, with all humbleness, and with one unanimous consent, present to your Royal Hands, the most Loyal desires of all their hearts; which is set down in a dutiful Petition, which is, to quicken the Laws against the Perturbers of the Peace of all States. We cannot, nor do not forget your Majesties most gracious Acts and Answers on the like Petition; they are visible to the World, to your Majesties honour and comfort: We bend our knees and hearts, blessing God and your Majesty therefore; yet let it not seem needless that we repair again to your Majesty: The Husbandman knows what Weeds are not destroyed at one weeding: These are growing Evils, they are Weeds of a spreading nature: And we that come from all parts, do think it our duty to tell your Majesty, that God's Vineyard is not yet cleansed. And God himself requires that we pray to him often, even for what he means and promiseth to bestow on us. But my message comes from the Pen of both Houses; and therefore I humbly beseech your Majesty to lend a gracious ear to hear me read the Petition.

The Lord Keeper's Speech at the presenting a Petition from both Houses against Recusants.

The King's Answer to the Petition.

My Lords and Gentlemen,

DO very well approve the method of your proceedings in this Parliament, A few Principium; hoping that the rest of your Consultations will succeed the happier. And I like the Preamble of my Lord Keeper, otherwise I should have a little suspected that you had thought me not so careful of Religion as I have, and ever shall be, wherein I am as forward as you can desire. And for the Petition, I answer first in general, That I like it well, and will use these as well as other means for the maintenance and propagation of that Religion wherein I have lived, and do resolve to die. But for the particulars, you shall receive a more full Answer hereafter. And now will I only add this, That as we pray to God to help

Anno 1628: help us, so we must help our selves: For we can have no assurance of his assistance, if we do lie in bed, and only pray, without using other means. And therefore I must remember you, that if we do not make provision speedily, we shall not be able to put one Ship to Sea this year. *Verbum sapienti sat est.*

Afterwards the Lord Keeper signified unto the House, That his Majesty had now given his Answer unto the Petition exhibited by both Houses against Recusants, and had commanded his Lordship to read the same Answer in this House; and Mr. Secretary to read it in the House of Commons. Whereupon the Clerk read the first Article of the said Petition, and the Lord Keeper read his Majesties Answer unto the same, and to each Article thereof.

The which Petition, with the Answers, follow, *in hac verba.*

Most Gracious Sovereign,

WE your most loyal and obedient Subjects, the Lords Spiritual and Temporal, and Commons in Parliament assembled, having, to our singular comfort, obtained your Majesties pious & gracious assent for a publick fast, to appeale the wrath of Almighty God kindled against us, and to prevent those grievous Judgments which do apparently press upon us, do, in all humility, present unto your Sacred Majesty all possible thanks for the same. And because the publick and visible sins of the Kingdom, are the undoubted causes of those visible Evils that are fallen upon us; amongst which sins, (as is apparent by the Word of God) Idolatry and Superstition are the most heinous and crying sins; to the end that we may constantly hope for the blessing of God to descend upon this our publick Humiliation, by abandoning those sins which do make a wall of separation betwixt God and us.

Artic. 1. WE most humbly and ardently beg at the hands of your most Sacred Majesty, That your Majesty will be pleased to give continual life and motion to all those Laws, that stand in force against Jesuits, Seminary Priests, and all that have taken Orders, by Authority of the See of Rome, by exacting a more due and serious execution of the same: Amongst which number, those that have highly abused your Majesties clemency, by returning into the Kingdom after their banishment, contrary to your Highnesses express Proclamation, we humbly desire may be left to the severity of your Laws, without admitting of any mediation or intercession for them. And that such of your Majesties unsound and ill-affected Subjects, as do receive, harbour, or conceal any of their viperous Generation, may, without delay, suffer such penalties and punishments, as the Laws justly impose upon them.

His Majesties Answer unto the first Article of this Petition.

TO the first Point his Majesty answereth; That he will, according to your desire, give both life and motion to the Laws that stand in force a-

gainst Jesuits, Seminary Priests, and all that have taken Orders, by Authority of the See of Rome: And to that end, his Majesty will give strict order to all his Ministers, for the discovering and apprehending of them, and so leave them, being apprehended, to the trial of the Law. And in case, after trial, there shall be cause to respite execution of any of them, yet they shall be committed (according to the example of the best times) to the Castle of *Witch*, and there be safely kept from exercising their Functions, or spreading their superstitious and dangerous Doctrine; and the Receivers and Abettors, they shall be left to the Law.

Artic. 2. That your Majesty would be pleased to command a surer and strait watch to be kept in and over your Majesties Ports and Havens, and to commit the care and charge of searching of Ships for the discovery and apprehension, as well of Jesuits and Seminary Priests brought in, as of Children and young Students, sent over beyond the Seas, to such in the popson of Rebellion and Superstition, unto men of approved fidelity and Religion: And such as shall be convicted to have connived or combined in the bringing in the one, or conveying of the other, that the Laws may pass upon them with speedy execution.

His Majesties Answer to the second Article.

TO the second Article, His Majesty granteth all that is in this Article; and to this end will give order to the Lord Treasurer, Lord Admiral and Lord Warden of the Cinque Ports, that in their several places they be careful to see this Article fully executed, giving strict charge to all such as have place and authority under them, to use all diligence therein. And his Majesty requireth them, and all other his Officers and Ministers, to have a vigilant eye upon such as dwell in dangerous places of advantage or opportunity, for receiving or transporting of any such as are here mentioned. And his Majesty will take it for good Service, if any will give knowledge of any such as have connived or combined, or shall connive or combine, as is mentioned in this Article, that Justice may be strictly done upon them.

Artic. 3. That considering those dreadful dangers (never to be forgotten) which did involve your Majesties Sacred Person, and the whole representative Body of your Majesties Kingdom, plotted and framed by the free and common accels of Popish Recusants to the City of London, and to your Majesties Court, your Majesty would be graciously pleased to give speedy command for the present putting in practice those Laws that prohibit all Popish Recusants to come to the Court, or within ten Miles of the City of London; as also those Laws, that confine them to the distance of five miles from their dwelling Houses; and that such by-past Licences not warranted by Law, as have been granted unto them for their repair to the City of London may be discharged and annulled.

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His Majesties Answer to the third Article.

TO the third; His Majesty will take order to restrain the recourse of Recusants to the Court; and also for the other Points in this Article his Majesty is well pleased that the Laws be duly executed, and that all unlawful Licenses be annulled and discharged.

Artic. 4.

That whereas it is more then probably conceived, that infinite sums of Monies have within these two or three years last past been extracted out of the Recusants within the Kingdom by colour of composition, and a small proportion of the same returned unto your Majesties Coffers, not only to the suddain enriching of private persons, but to the emboldning of Romish Recusants to entertain Massing Priests into their private Houses, and to exercise all their iniquie Rites of their gross Superstition, without fear of controll, amounting (as by their daily practice and ostentation we may conceive) to the nature of a concealed Toleration; your Majesty would be graciously pleased to entertain this particular more nearly into your Princely wisdom and consideration; and to dissolve this mystery of Iniquity patched up of colourable Leases, Contracts, and Preconvenances, being but Masks on the one part of fraud to deceive your Majesty and States, on the other part for private men to accomplish their corrupt ends.

His Majesties Answer to the fourth Article.

TO the fourth Article; his Majesty is most willing to punish for the time past, and prevent for the future any of the deceits and abuses mentioned in this Article, and will account it a good service in any, that will inform Himself, his Privy Council, Officers of his Revenues, Judges, or learned Counsel, of any thing that may reveal this Mystery of Iniquity. And his Majesty doth strictly command every of them, to whom such information shall be brought, that they suffer not the same to die, but do their uttermost endeavour to effect a clear discovery, and bring the Offenders to punishment. And to the intent no concealed Toleration may be effected, his Majesty leaves the Laws to their course.

Artic. 5.

That as the Persons of Ambassadors from Foreign Princes, and their Houses, be free for the exercises of their own Religion, so their Houses may not be made free Chappels and Sanctuaries unto your Majesties Subjects, popishly affected, to hear Mass, and to participate in all other Rites and Ceremonies of that Superstition, to the great offence of Almighty God, and scandal of your Majesties People loyally and religiously affected: That either the concourse of Recusants to such places may be restrained, or at least such a vigilant watch set upon them, at their return from those places, as they may be apprehended, and severally proceeded withal, Ut qui palam in luce peccant, in luce puniantur.

His Majesties Answer to the fifth Article.

TO the fifth; His Majesty is well pleased to prohibit and restrain their coming and resort to the Houses of Ambassadors, and will command a vigilant watch to be set for their taking and punishing, as is desired.

That no place of Authority and Command, within any the Counties of this your Majesties Kingdom, or any Ships of your Majesties Service, be committed to Popish Recusants, or to Non-communicants by the space of a year past, or to any such persons as according to direction of former Acts of State are justly to be suspected, as the Place and Authority of Lords Lieutenants, Deputy Lieutenants, Justices of Peace, or Captains, or other Officers or Ministers mentioned in the Statute made in the Third year of the reign of your Father of blessed Memory: And that such as by Connivance have crept into such places, may by your Majesties Royal Command be discharged of the same.

Artic. 6.

His Majesties Answer to the sixth Article.

TO the sixth; His Majesty is perswaded that this Article is already observed with good care; nevertheless, for the avoiding (as much as may be) all errors and escapes in that kind, his Majesty will give charge to the Lord Keeper, that at the next Term he call unto him all the Judges, and take Information from them of the state of their several Circuits, if any such (as are mentioned in this Article) be in the commission of the Peace, that due reformation may be made thereof; And will likewise give order to the Lord Admiral, and such others to whom it shall appertain, to make diligent enquiry and certificate to his Majesty, if any such be in place of Authority and Command in his Ships or Service.

That all your Majesties Judges, Justices and Ministers of Justice, unto whose care and trust, execution (which is the life of your Majesties Laws) is committed, may, by your Majesties Proclamation, not only be commanded to put in speedy execution those Laws which stand in force against Jesuits, Seminary Priests, and Popish Recusants, but that your Majesty would be further pleased to command the said Judges, and Justices of Assize, to give a true and strict account of their proceedings, at their returns out of their Circuits, unto the Lord Keeper, by the Lord Keeper to be presented unto your Majesty.

Artic. 7.

His Majesties Answer to the Seventh Article.

TO the Seventh His Majesty doth fully grant it.

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Artic. 8.

Add for a faire and clear erabication of all Popery for the future, and for the breeding and nursing up of a holy Generation, and a peculiar People, sanctified unto the true Worship of Almighty God, that until a Provisional Law may be made for the training and educating of the Children of Popish Recusants, in the Grounds and Principles of our holy Religion, which we conceive will be of more power and force to unite your people unto you in fastness of Love, Religion, and loyal Obedience, than all pecuniary Duties and penalties that can possibly be devised: Your Majesty would be pleased to take it into your own Princely care and consideration, these our humble Petitions proceeding from hearts and affections Loyally and Religiously devoted to God and your Majesties Service, and to the safety of your Majesties Sacred Person, we most zealously present to your Princely wisdom, craving your Majesties cheerful and gracious approbation.

His Majesties Answer to the Eighth Article.

TO the Eighth, his Majesty doth well approve it, as a matter of necessary consideration; and the Parliament now sitting, he recommendeth to both Houses the preparation of a fitting Law to that effect. And his Majesty doth further declare, that the mildness that hath been used towards those of the Popish Religion, hath been upon hope, that Foreign Princes thereby might be induced to use moderation towards their Subjects of the Reform'd Religion; but not finding that good effect which was expected, His Majesty resolveth, unless he shall very speedily see better fruits, to add a further degree of severity, to that which in that Petition is desired.

The 2 of April, the Propositions sent from his Majesty, were mentioned, and several of the Lower-House spake to them as followeth,

Several Speeches made at the Debates concerning the King's Propositions for Supply, April 2. 1628.

Mr. Alford.

That to answer punctually to every Article, were but to discover the King's wants, which is neither safe nor fit (as the World now goes) nor is it good for him to ask more than we can give, nor for us to answer disproportionably; withal it might be drawn into a President for the Subjects to make and maintain Wars.

Sir Robert Mansell.

IT had been much better for us to have taken care for those Propositions three years since; my desire is, not to have the Commons over-burthened. That Seven of these Propositions are not to be neglected, viz. The safe Guarding of the Coasts; the defence of *Elbe*; the defence of *Roche*; the increasing of the Navy; the Repairing of the Forts; the discharging of the Arrears of Merchants Ships; and the defence of

the King of *Denmark*; the other seven to be delayed to our next meeting at *Michaelmas*.

Sir Francis Seymour.

That as Supply is desired, so are we met for that purpose: But if by those late courses we be disabled, then he is not to expect it from us. Our greatest Grievances being his Majesties pressing wants. Two Subsidies formerly given, and five forceably and unadvisedly taken, are great motives not to be too forward. That we have too hastily drawn two great Enemies upon us, and both at one time; and all this done by men of small or no judgment.

Sir Peter Hayman.

That vast Propositions are delivered to us in shew, I desire, that he may give an Estimate of them that first brought them in.

Mr. Pym.

That in no case it is fit to examine the Propositions, especially of the Arrearages of the Merchants Ships, and for the preparation of Foreign Wars.

Secretary Cooke.

That three things especially are to be taken into consideration: the defence of *Roche*, the *Elbe*, and the Forts. He persuades to give bountifully now, which though the people do not presently pay it, yet it gives the King Credit abroad, and much advanceth his Affairs. We have already by our carriage and temper taken the King's Heart, which, he adviseth, we may make good use of.

Sir Dudley Diggs.

For to try and examine faithfully the Propositions, he refers it to the Judgment of the House, whether it be fit to handle the business in order, or to give in Gross, considering the Bill of Tonnage and Poundage is now brought into the House, which he thinks, they conceive to be given for the safe Guarding of the Seas.

Mr. Spencer.

IN no Case to enter into particulars, That formerly have been given our Subsidies for Repairing the Forts, and no Penny bestowed on them, but the Money wasted in dishonour.

Sir John Elliot.

That our late disasters at *Cales* and *Rhe*, might discourage us from thinking of any Foreign Attempts; at *Cales* when we neglected the taking of the Spanish Fleet in the Harbour; nothing attempted at our Landing but Drinking and Disorder; no good account given at their return, concerning the Service. At *St. Martins*, the whole Action carried against the Judgment of the best Commanders, which makes all the World despise and condemn us; besides, enriching of the Enemy with kindness, parleying with the Forts, without Presidents, which time will bring to light.

Sir

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Sir Edward Cooke.

That when England stood alone, without Friends, or addition of Kingdoms, as 42 E. 3. the King (wholly guided by his Parliament Council) brought alwaies home Victory, and prevailed both against France and Scotland. His Four Reasons of it were, First, Good Counsel. Secondly, Valiant Leaders. Thirdly, Timely Provision. Fourthly, Good Employment, and Forecast; and likewise in Rich. 2. Hen. 4. Hen. 5. he desires to give plentifully, and that in Gross; and not to examine the particulars, alledging Solomon's Rule, *Qui repetit separat*; For (said he) if we rip them up, we sever them for ever. And in that Proposition for setting forth Thirty Ships, shall we pay Tonnage and Poudage for them. This will draw a dangerous President, likewise in that other of setting forth (God knows whither) one thousand Horse, and ten thousand Foot; being not able to set them forth, how shall we look to maintain them abroad? That in an Island, the Defensive War is best, and most proper. To conclude, our gift in Gross will suit best with these times; for, by that course, we shall seem to allow all the Propositions, and except against none.

Sir Thomas Wentworth.

That he will look after the Island of England, and no farther, except our fortunes were better. That as he is bound in duty to the King, so in Faith and Love to his Country. That our Freedom and Liberty being known and granted, we may proportion our Gift. His Conclusion was, that the final debate of this Question may be laid aside until Friday, and in the mean time, to go on with the Grievances.

Sir Henry Martin.

Not to dash the Ship of the Common-wealth twice upon one Rock, the Disease we are now Sick of is the King's evil, which none but himself can cure; and Jacob's Example is our best President, who Wrestling with the Angel, would not give over till he got the Blessing. That over often Repetition of Grievances breeds hate and dislike. And because we have not to give what is asked; yet to give freely what we intend to give: and so by this means, we shall gain the King's Heart.

Mr. Kirton.

He desires to know the Rock, to the end we may avoid it; and not to go back, but forward in our Consultations.

Sir Robert Phillips.

His good hopes are in his Majesties Royal Care and Wisdom, that the free and great Council is the best, but time and hope of change is coming towards us: Rome and Spain trench deeply in our Counsels. That heretofore there hath been a fair progress on both parts, according to the saying of the late King, If the Parliament should give more than the Country could bear, They gave him a Purse with a Knife in it.

Serjeant Hoskins.

That knowing our own Right, we shall be better enabled to give. Two legs go best together, our just Grievances, and our Supply, which he desires may not be separated; for by presenting them together, they shall be both taken, or both refused.

Presently after the discussing of the King's great affairs and engagements, the House of Commons to enable him to go through with his designs, for his Majesties and the Kingdoms Honour, granted the Five Subsidies, of which their love, Sir John Cooke desired to be (and was appointed by the House) the Reporter to his Majesty, which he did accordingly.

The Debate about the Propositions being laid by, the House took into Consideration the Grievance of Confinement, and Designation for Foreign Employment; the Persons speaking to these were

Mr. Selden.

Confinement is different from Imprisonment, and it is against the Law that any should be confined, either to his House, or else-where: I know not what you can call a punishment, but there is some ground of it, or mention thereof in Acts of Parliament, Law-Books, or Records; but for this of Confinement, I find none: Indeed Jews have been confined in former times to certain places, as here in London to the Old Jewry: The Civilians have perpetual Prisons, and coercive Prisons, upon Judgments in Court. *Carcer domesticus* is a confinement for mad-men.

Sir T. Hobby.

I Was employed in 88. in that Service, it was then thought fit that Recusants should be confined in strong places, but it was not held legal, and when the Navy was dispersed, they were let at liberty; and the Parliament Petitioned the Queen for a Law, to warrant the Confinement: Hereupon it was resolved, That no Free-men ought to be confined by any Command of the King or Privy-Council, or any other, unless it be by Act of Parliament, or by other due course or warrant of Law. And then the House proceeded to the Debate, concerning Designation to Foreign Employment.

Sir Peter Hayman.

Touching Designation to Foreign Employment, Sir Peter Hayman opened his own Case: I have forgot my employment unto the *Palatine*, I was called before the Lords of the Council, for what I know not, I heard it was for not lending on a Privy-Seal. I told them, if they will take my Estate, let them, I will give it up, lend I will not. When I was before the Lords of the Council, they laid to my charge my unwillingness to serve the King; I said, I had my Life and my Estate to serve my Country, and my Religion: They put upon me, if I did not pay, I should be put upon an employment of Service. I was willing. After ten weeks waiting, they told me I was to go with a Lord into the *Palatinate*, and that I should have employment there, and means besfitting. I told them, I was a Sub-

Anno 1628. **A** Subject, and desired means. Some put on very eagerly, some dealt nobly; they said, I must go on my own purse: I told them, *Nemo militat suis expensis*. Some told me, I must go; I began to think, what, must I? none were ever sent out in that kind. Lawyers told me, I could not be so sent. Having that assurance, I demanded means, and was resolved not to stir upon those terms, and in silence and duty I denied. Upon this, they having given me a command to go, after twelve daies they told me, they would not send me as a souldier, but to attend on an Embassador. I knew that stone would hit me. I settled my troubled Estate, and addressed my self to that Service.

Mr. Hackwell.

This is a great point, that much concerns the Common-wealth, if the King cannot command a Subject to his necessary Service; and on the other side, it will be little less than an honorable banishment to the Subject, if he may. Our Books say, the King cannot compel any to go out of the Realm; and an Action brought against him, he cannot plead in Bar, that he is by command from the King in Foreign Service, but the King may give him his protection. 5 E. 3. N. 9. in the Parliament-Roll there was an Ordinance, whereby the King had power to send some to Ireland, it is ordained, that such Sages of the Law and Souldiers, where need shall be, though they refuse to go, and excuse themselves, if their excuses be not reasonable, the King may do to them according to right and reason: If the King by Law could do this of himself, and send them to Ireland his own Dominion, he would never have taken power from his Parliament; and if men do not according to that Law, there is no imprisonment prescribed.

Sir E. Cook.

NO restraint, be it never so little, but is Imprisonment, and foreign employment is a kind of honourable Banishment: I my self was designed to go to Ireland, I was willing to go, and hoped if I had gone, to have found some Accomplishments there: There is difference when the Party is the King's servant, and when not. 46 E. 3. this was the time when the Law was in its height: Sir Richard Pembridge was a Baron, and the King's Servant, and Warden of the Cinque-Ports, he was commanded to go to Ireland and to serve as Deputy there, which he refused: He was not committed, but the King was highly offended, and having Offices and Fees and Lands *pro servitio suo impenso*, the King seized his Lands and Offices: I went to the Parliament Roll, 47 E. 3. where I found another president for Foreign employment; they that have Offices *pro consilio* or *servitio impenso*, if they refuse, those Lands and Offices so given are seized, but no Commitment.

Sir Thomas Wentworth.

If any man owes a man a displeasure, and shall procure him to be put into Foreign Employment, it will be a matter of high concernment to the Subject: We know the Honour and Justice of the King, but we know not what his Ministers or the mediation of Embassadors may do to work their own wrath upon any man.

Sir John Elliot.

If you grant this Liberty, what are you the better by other privileges? what difference is there between imprisonment at home, and constrained employment abroad; it is no less than a temporal Banishment, neither is it for his Majesties service to constrain his Subjects to employment abroad: Honour and Reward invites them rather to seek it; but to be compelled, stands not with our Liberty.

Resolved by the House, That no Free-men ought to be confined by any command from the King, or Privy Council, or any other, unless it be by Act of Parliament, or by other due course or warrant of Law.

The Debate concerning the Supply was put off till Friday following.

Thursday, 3 of April.

Mr. Secretary Cook brought the House this Message from the King.

His Majesty having understood that some rumours were spread abroad of a sharp Message yesterday delivered by me, and of some malicious words, that the Duke should speak yesterday at the Council-Board, he commanded me to tell you of the malice of those false reports, for that nothing fell from the Duke or that Board, but what was for the good of this Assembly: He would have you observe the malice of those spirits that thus put in these Jealousies: Had the Duke so spoken, he should have contradicted himself, for all of us of the Council can tell, he was the first mover and perswader of this Assembly of Parliament to the King. Esteem of the King according to his Actions, and not these Tales; His Majesty takes notice of our purpose, that on Friday we shall resolve upon Supply, which his Majesty graciously accepts of, and that our free gift without any condition should testify to the world, that we will be as far from incroaching upon his Prerogative, as he will be to incroach upon our Liberties; and this shall well appear, when we present our Grievances to him, and then we shall know that he hath no intention to violate our Liberties, only let us not present them with any asperity of words; he counts it his greatest glory to be a King of Free-men, not of Villains: He thought to have delivered this Message himself, but that he feared it would take us too much time.

The King sends a Message to the House by Secretary Cook, touching some words said to be spoken by the Duke.

Then he added a word of his own, 'Yesterday after Dinner we attended his Majesty, and he asked us what we had done: We said we had entered into the consideration of Supply, and that the final Resolution was deferred till Friday; and that this was done for just reasons, to joyn the business of his Majesties and our Countries together, and this would further his Majesty, and it would give content to the Country, and that this union here might be spread abroad in the World. His Majesty answered, For God's sake, why should any hinder them in their Liberties? if they did it not, I should think they dealt not faithfully with me. You may see a true Character of his Majesties disposition: let us proceed with courage, and rest assured his Majesty will give great ear unto us, and let us all joyn to make a perfect union to win the Kings heart; we shall find a gracious answer from the King, and a hearty

K k

co-operation from those that you think to be
averse to us.

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Debates
on the
Message.

The House upon this debate acknowledged his Majesty had put a threefold Obligation on them; First, in giving them satisfaction. Secondly, in giving them assurance (which is a great Law) that he will protect and relieve them. Thirdly, in giving them advice as may best the Gravity of that Assembly and his own Honour. So they concluded to carry themselves as their Progenitors before had done, who never were marked for stepping too far on the Kings Prerogative, and they returned their humble thanks to his Majesty.

Friday 4
April, Secretary
Cook brings
another
Message
from the
King.

The day following Mr. Secretary Cook delivered another Message from the King, viz. His Majesty hath again commanded me to put you in mind how the eyes and interest of the Christian world, are cast upon the good or evil success of this Assembly. He also graciously taketh notice of that which is in agitation amongst us, touching the freedom of our Persons, and propriety of our Goods; and that this particular care (which he no way misliketh) may not retard our resolution for the general good, he willerth us cheerfully to proceed in both, and to express our readiness to supply his great occasions, upon assurance that we shall enjoy our Rights and Liberties, with as much freedom and security in his time as in any age heretofore under the best of our Kings. And whether you shall think fit to secure our selves herein, by way of Bill or otherwise, so as it be provided for with due respect of his Honour and the publick good, whereof he doubteth not but that you will be careful, he promitteth and assureth you that he will give way unto it; and the more confidence you shall shew in his grace and goodness, the more you shall prevail to obtain your desires.

Upon this occasion Mr. Pym spake.

Mr. Pym.

That in business of weight, dispatch is better than discourse; We came not hither without all motives that can be towards his Majesty, had he never sent in this Message; We know the danger of our Enemies, we must give Expedition to Expedition; let us forbear particulars. A man in a journey is hindered by asking too many questions: I do believe our peril is as great as may be, every man complains of it, that doth encourage the Enemy: our way is to take that that took away our Estates, that is, the Enemy; to give speedily is that that the King calls for: A word spoken in season, is like an Apple of Silver; and actions are more precious than words. Let us hasten our Resolutions to supply his Majesty. And after some debate, they came to this unanimous Resolve,

That Five Subsidies be given to his Majesty; and Mr. Secretary Cook was appointed to acquaint his Majesty with the Resolution of the House.

Monday the 7. of April.

Mr. Secretary
Cook reports
the King's
acceptance of
Five Sub-
sidies.

Mr. Secretary Cook reported to the House the King's acceptance of the Subsidies, and how his Majesty was pleased to ask, by how many voices they were gained; I said, But by one. His Majesty asked, How many were against

him? I said, None; for they were voted by one voice, and one general consent. His Majesty was much affected therewith, and called the Lords in Council, and there gave them an account what had passed; besides, it gave his Majesty no small content, that although Five Subsidies be inferior to his wants, yet it is the greatest gift that ever was given in Parliament; and now he sees with this he shall have the affections of his People, which will be greater to him than all value. He said, He liked Parliaments at the first, but since (he knew not how) he was grown to a distaste of them; but was now where he was before, he loves them, and shall rejoice to meet with his People often.

Upon the giving of the Five Subsidies, the Duke of Bucks made this Speech at the Council-Table, and Mr. Secretary at that time acquainted the House therewith. The Speech was this.

Sir, methinks I behold you a great King, for Love is greater than Majesty; opinion that the people loved you not, had almost lost you in the opinion of the World; but this day makes you appear as you are, a glorious King, loved at home, and now to be feared abroad; this falling out so happily, give me leave, I beseech you, to be an humble suitor to your Majesty; First for my self, that I who have had the honor to be your Favorite, may now give up that Title unto them, they to be your Favourites, and I to be your Servant. My second suit is, That they having done also well, you will account of them as one; a Body of many Members, but all of one heart: opinion might have made them differ, but affection did move them all to joyn with like love in this great gift: for proportion, although it be less than your occasions may ask, yet it is more than ever Subjects did give in so short a time; nor am I perswaded it will rest there, for this is but as an earnest of their affections, to let you see, and the world know, what Subjects you have, that when the honor, and the good of the State is engaged, and aid asked in the ordinary way of Parliament, you cannot want. This is not the gift of five Subsidies alone, but the opening of a Mine of Subsidies that lieth in their hearts. This good beginning hath wrought already these effects, they have taken your heart, drawn from you a Declaration that you will love Parliaments. And again, this will meet (I make no question) with such respect, that their demands will be just, dutiful, and moderate; for they that know thus to give, know well what is fit to ask. Then cannot your Majesty do less than out-go their demands, or else you do less than your self or them; for your Message begot trust, their truth and your promises must then beget performances. This being done, then shall I, with a glad heart, behold this work as well ended as now begun, and then shall I hope, that Parliaments shall be made hereafter so frequent, by the effects and good use of them, as they shall have this further benefit, to deter from approaching your ears those projectors and inducers of innovation, as disturbers, both of Church and Common-wealth. Now, Sir, to open my heart, and to ease my grief, please you to pardon me a word more; I must confess I have long lived in pain, sleep hath given me

The Duke
of Bucks
speech at
the Council-
Table
therupon.

Anno. 1628. me no rest, Favours and Fortunes no content, such have been my secret sorrows, to be thought the man of separation, and that divided the King from his People, and them from him; but I hope it shall appear, they were some mistaken minds, that would have made me the evil Spirit that walketh between a good Master and Loyal People, by ill Offices; whereas, by your Majesties favour, I shall ever endeavour to approve my self a good Spirit, breathing nothing but the best of Services to them all. Therefore this day I account more blessed to me than my birth, to see my self able to serve them, to see you brought in love with Parliaments, to see a Parliament express such a love to you; and God so love me and mine, as I joy to see this day.

Mr. Secretary Cook also at this time repeated the substance of the King's Answer to the Petition concerning Recusants. And after he had done, Sir John Elliot expressed the great satisfaction which he apprehended, the House in general, and himself in special, had received touching each particular of his Majesties gracious Answer; but shewed his dislike, that Mr. Secretary, in the close of his Relation, made mention of another in addition to his Majesty, which formerly had been a matter of complaint in the House, the mixture with his Majesty, not only in the business, but in his name. 'Is it (said he) that any man conceives the mention of others (of what quality so ever) can add encouragement or affection to us in our duties and loyalties towards his Majesty, or give them greater latitude or extent, than naturally they have? Or is it supposed, that the power or Interest of any man can add more readiness to his Majesty, in his gracious inclination to us, than his own goodness gives him? I cannot believe it. And as the sweetness and piety of his Majesty, which we have in admiration, makes me confident in this, so the expressions of our duty so perspicuous and clear, as already hath been given, is my assurance for the other.

But, Sir, I am sorry there is this occasion, that these things should be argued, or this mixture which was formerly condemned, should appear again: I beseech you, Sir, let it not be hereafter, let no man take this boldness within these Walls to introduce it, though, I confess, for my particular, I shall readily commend, nay, thank that man, whose endeavours are applied in such Offices, as may be advantageable for the publick: Yet in this matter, so contrary to the Custom of our Fathers and the honour of our Times, I cannot without scandal apprehend it, nor without some Characters or Exception pass it by, that such interposition for the future may be left.

Now let us proceed; said he, to those services that concern his Majesty and the Subject, which (I doubt not) in the end will render us so real unto him, that we shall not need more help to endear us to his favour.

And now we come to give you the Conference which the Commons had with the Lords. It was managed by the Persons following, but that part which consists of Book-Cases and Presidents which was mannag'd by Mr. Selden, doth follow the other.

SIR Dudley Digges began with this Introduction: 'I am commanded to shew unto your Lordships in general, that the Laws of England are grounded on Reason, more ancient than Books,

consisting much in unwritten Customs, yet so full of Justice and true Equity, that your most honourable Predecessors and Ancestors propounded them with a *Nolumus mutari*; and so ancient, that from the Saxon daies, notwithstanding the injuries and ruines of time, they have continued in most part the same, as may appear in old remaining Monuments of the Laws of *Ethelbert*, the first Christian King of Kent, Ina the King of the West-Saxons, *Offa* of the Mercians, and of *Alfred* the great Monarch, who united the Saxon Heptarchy, whose Laws are yet to be seen published, as some think, by Parliament, as he shies to that end, *Ut qui sub uno Rege, sub una Legge regerentur*. And though the Book of *Lawsfield*, speaking of the times of the Danes, saies, then, *Ius positum erat in regna, leges & consuetudines sapientia sunt*; and, *Prava voluntas, vi & violentia magis regnabant quam Iudicia vel Justitia*: Yet, by the blessing of God, a good King *Edward*, commonly called *St. Edward*, did awaken those Laws, and as the old words are, *Excitavit reparavit, reparatas decoravit, decoratas confirmavit*; which confirmavit shews, that good King *Edward* did not give those Laws, which *William* the Conquerour, and all his Successors, since that time, have sworn unto.

And here, my Lords, by many Cases frequent in our modern Laws, strongly concurring with those of the ancient Saxon Kings, I might, if time were not more precious, demonstrate, that our Laws and Customs were the same.

I will only intreat your Lordships leave to tell you, That as we have now, even in those Saxon times, they had their Court Barons, and Court-Leets, and Sheriffs Courts, by which, as *Tacitus* saies of the Germans, their Ancestors, *Jura reddebant per pagos & vicos*; and I do believe, as we have now, they had their Parliaments, where new Laws were made, *Cum consensu Prælatorum, Magnatum & totius Communitatis*; or as another writes, *Cum consilio Prælatorum, Nobilium & sapientium Laicorum*; I will add nothing out of *Glanville*, that wrote in the time of *Hen. 2.* or *Bracton*, that writ in the daies of *Hen. 3.* only give me leave to cite that of *Fortescue*, the learned Chancellor to *H. 6.* who writing of this Kingdom, saies, *Regnum istud moribus nationum & regum temporibus, eisdem quibus nunc regitur legibus & consuetudinibus regebatur*. But, my good Lords, as the Poet said of Fame, I may say of our Common-Law,

Ingrrediturque solo, caput inter nubila condit.

Wherefore the cloudy part being mine, I will make haste to open way for your Lordships, to hear more certain Arguments, and such as go on more sure grounds.

Be pleas'd then to know, that it is an undoubted and fundamental Point of this so ancient Common-Law of England, That the Subject hath a true property in his Goods and Possessions, which doth preserve as Sacred, that *Meum & Tuum*, that is the Nurse of Industry and Mother of Courage; and without which, there can be no Justice, of which *Meum & Tuum* is the proper object. But the undoubted Birth-right of true Subjects hath lately not a little been invaded and prejudiced by pressures; the more grievous, because they have been pursued by Imprisonment, contrary to the Franchises of this Land: and when according to the Laws and Statutes of this Realm, redress hath been sought for in a legal way, by

It is ill taken by Sir John Elliot, that the Duke's name was intermingled with the King's by Secretary Cook.

Sir Dudley Digges begins the Conference by way of Introduction.

Anno 1628. demanding *Habeas Corpus* from the Judges, and a discharge by Trial according to Law of the Land, success hath failed: that now enforceth the Commons in this present Parliament Assembled, to examine, by Acts of Parliament, Precedents and Reasons, the truth of the English Subjects liberty, which I shall leave to a learned Gentleman to argue.

Mr. Littleton.

Next after Sir Dudley Digges, spake Mr. Ed. Littleton of the Inner-Temple, 'That their Lordships have heard, that the Commons have taken into consideration the matter of personal Liberty, and after long debate thereof, they have, upon a full search, and clear understanding of all things pertinent to the Question, unanimously declared, That no Free-man ought to be committed or restrained in Prison by the command of the King or Privy-Council, or any other, unless some cause of commitment, detainer or restraint be expressed, for which by Law he ought to be committed, detained or restrained: And they have sent me, with other of their Members, to represent unto your Lordships the true grounds of their resolution, and have charged me particularly, leaving the reasons of Law and Precedents for others, to give your Lordships satisfaction, that this Liberty is established and confirmed by the whole State, the King, the Lords Spiritual and Temporal, and Commons, by several Acts of Parliament, the Authority whereof is so great, that it can receive no Answer, save by Interpretation or Repeal by future Statutes. And these I shall mind your Lordships of, are so direct in the point, that they can bear no other exposition at all; and sure I am, they are still in force. The first of them is the grand Charter of the Liberties of England, first granted in the 17 year of King John, and renewed in the 19 year of Hen. 3. and since confirmed in Parliament above Thirty times; the words there are, Chap. 29. *Nullus liber homo capiatur, vel imprisonetur, aut disseisietur de libero tenemento suo vel liberis consuetudinibus suis, aut utlagatur, aut exuletur, aut aliquo modo destruatur, nec super eum ibimus, nec eum mittemus, nisi per legale iudicium Parium suorum, vel per legem terra.*

He then proceeded to open, and argued learnedly upon the several particulars in the last recited Clause of *Magna Charta*; and further shewed, That no invasion was made upon this personal Liberty, till the time of King Edw. 3. which was soon repented by the Subject, for in the 5 Ed. 3. Chap. 9. it is enacted, That no man from henceforth shall be attached on any occasion, nor forejudged of Life or Limb, nor his Lands, Tenements, Goods, nor Chattels, seised into the King's hands, against the Form of the Great Charter, and the Law of the Land. And 25 Ed. 3. Chap. 4. it is more full, and doth expound the words of the Grand Charter, which is thus; Whereas it is contained in the Grand Charter of the Franchises of England, that none shall be imprisoned, nor put out of his Freehold, nor Free-custom, unless it be by the Law of the Land, it is awarded, assented, and established, That from henceforth none shall be taken by Petition or Suggestion made to our Lord the King, or to his Council, unless it be by Indictment or Presentment of his Good and lawful People of the same Neighbourhood; which such Deed shall be done in due manner, or by Process

made by Writ original at the Common-Law; nor that none be outed of his Franchises, Office, nor Freehold, unless it be duly brought in Answer, and forejudged of the same, by the course of the Law, and that if any thing be done against the same, it shall be redressed and holden for none. And 28 Ed. 3. Chap. 3. it is more direct, this liberty being followed with fresh Suit by the Subject, where the words are not many, but very full and significant, That no man, of what state and condition he be, shall be put out of his Lands nor Tenements, nor taken, nor imprisoned, nor disinherited, nor put to death, without it be brought in Answer by due process of the Law. Several other Statutes were cited by him, in confirmation of this point of the liberty of the Subject.

The King's Council afterward made Objections to the said Argument, yet acknowledged, That the seven Statutes urged by the House of Commons, are in force; yet said, That some of them are in general words, and therefore conclude nothing, but are to be expounded by Precedents, and some of them are applied to the suggestion of Subjects, and not to the King's command simply of its self; and that *per legem terra* in *Magna Charta*, cannot be understood for process of Law, and original Writs; for that in Criminal proceedings, no original Writ is usual at all, but every Constable, either for Felony, or breach of the Peace, or to prevent the breach of the Peace, may commit without Process or original Writ; it were very hard the King should not have the power of a Constable. They also argued, That the King was not bound to express the cause of Imprisonment, because there may be in it matter of State, not fit to be revealed for a time, lest the Confederates thereupon make means to escape the hands of Justice. Besides, that which the Commons do say, That the Party ought to be delivered or bailed, is a contradiction in it self; for Bailing doth signifie a kind of imprisonment still, Delivery is a total freeing: And besides, Bailing is a grace or favour of a Court of Justice, and they may refuse to do it.

To this it was replied, That the Statutes were direct in point, and though some of them speak of suggestions of the Subjects, yet they are in equal reason a commitment by command of the King, as when the King taketh notice of a thing himself. And for the words, *per legem terra* original Writs only are not intended, but all other legal Process, which comprehendeth the whole proceedings of the Law upon Cause other than trial by Jury, and the course of the Law is rendred by due process of the Law, and no man ought to be imprisoned by special Command without Indictment, or other due process to be made by the Law. And whereas it is said, there might be danger in revealing the Cause, that may be avoided, by declaring a general Cause, as for Treason, suspicion of Treason, misprision of Treason, Felony, without expressing the particulars, which can give no greater light to a Confederate, than will be conceived upon the very apprehension upon the imprisonment, if nothing at all were expressed.

And as for the bailing of the Party committed, it hath ever been the discretion of the Judges, to give so much respect to a Commitment, by the Command of the King or Privy-Council, which are ever intended to be done in just and weighty Cases, that they will not suddenly set them

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them free, but bail them to answer what shall be objected against them, on the King's behalf; but if any other inferior Officer do commit a man without shewing cause, they do instantly deliver him, as having no cause to expect their leisure; so that Delivery is applied to the imprisoned, by command of some mean Minister of Justice: Bailing, when it is done by command of the King, or his Council; and though Bailing is a grace and favour of the Court, in case of Felony and other Crimes, for that there is another way to discharge them in convenient time by their trial, but where no cause of imprisonment is returned, but the command of the King, there is no way to deliver such persons by trial or otherwise, but that of the *Habeas Corpus*; and if they should be then remanded, they might be perpetually imprisoned without any remedy at all, and consequently a man that had committed no offence, might be in a worse case than a greater Offender; for the latter should have an ordinary trial to discharge him, the other should never be delivered.

Mr. Selden.

MR. Selden of the Inner Temple argued next, first making this Introduction, 'Your Lordships have heard from the Gentleman that last spake, a great part of the grounds upon which the House of Commons, upon mature deliberation, proceeded to that clear resolution touching the right of the liberty of their persons: The many Acts of Parliament, which are the written Laws of the Land, and are expressly in the point, have been read and opened, and such Objections as have been by some made unto them; and Objections also made out of another Act of Parliament, have been cleared and answered: It may seem now perhaps (my Lords) that little remains needful to be further added, for the enforcement and maintenance of so fundamental and established a Right and Liberty belonging to every Freeman of the Kingdom.

The House of Commons taking into consideration, that in this Question, being of so high a nature, that never any exceeded it in any Court of Justice whatsoever, all the several ways of just examination of the Truth should be used, have also most carefully informed themselves of all former Judgments or Presidents concerning this great point either way; and have been no less careful of the due preservation of his Majesties just Prerogative, than of their own Rights. The Presidents here are of two kinds, either merely matter of Record, or else the former resolutions of the Judges, after solemn debate in the point.

This point that concerns Presidents, the House of Commons have commanded me to present to your Lordships, which I shall as briefly as I may, so I do it faithfully and perspicuously: to that end, my Lords, before I come to the particulars of any of those Presidents, I shall first remember to your Lordships; that which will seem as a general Key for the opening and true apprehension of all them of Record; without which Key, no man, unless he be vers'd in the Entries and Course of the King's Bench, can possibly understand.

In all Cases, my Lords, where any Right or Liberty belongs to the Subjects by any positive Law, written or unwritten, if there were not also a Remedy by Law, for enjoying or regaining

of this Right or Liberty, when it is violated, or taken from him, the positive Law were most vain, and to no purpose; and it were to no purpose for any man to have any Right in any Land or other Inheritance, if there were not a known Remedy; that is, an Action or Writ, by which in some Court of ordinary Justice, he might recover it. And in this Case of Right of Liberty of Person, if there were not a Remedy in the Law for regaining it when it is restrain'd, it were of no purpose to speak of Laws that ordain it should not be restrained.

The Writ of *Habeas Corpus*, or *Corpus cum causa*, is the highest Remedy in Law for any man that is imprisoned, and the only Remedy for him that is imprisoned by the special command of the King, or the Lords of the Privy Council, without shewing cause of the Commitment; and if any man be so imprisoned by any such Command, or otherwise whatsoever through England, and desire, by himself, or any other in his behalf, this Writ of *Habeas Corpus* for the purpose in the Court of King's Bench, that Writ is to be granted to him, and ought not to be denied, and is directed to the Keeper of the Prison, in whose custody the Prisoner remains, commanding him, That after a certain day he bring in the Body of the Prisoner, *cum causa detentionis*; and sometimes *cum causa captionis*; and he, with his Return, filed to the Writ, bringeth the Prisoner to the Bar at the time appointed, and the Court judgeth of the sufficiency or insufficiency of the Return; and if they find him bailable, *committitur Marefcallo*, the proper Prison belonging to the Court; and then afterward, *traditur in ball*. but if upon the return of the *Habeas Corpus* it appear to the Court, that the Prisoner ought not to be bailed, nor discharged from the Prison whence he is brought, then he is remanded and sent back again, to continue, till by due course of Law he may be delivered; and the Entry of this is, *Remittitur quousque secundum legem deliberatus fuerit*; or, *Remittitur quousque, &c.* which is all one, and the highest award of Judgment that ever was or can be given upon a *Habeas Corpus*.

Your Lordships have heard the Resolution of the House of Commons, touching the enlargement of a man committed by the command of the King, or the Privy Council, or any other, without cause shewed of such Commitment; which resolution, as it is grounded upon Acts of Parliament already shewn (the reason of the Law of the Land being committed to the charge of another to open unto you) so it is strengthened by many Presidents of Records.

He then produced twelve Presidents, full and direct in the point, to prove that persons so committed, ought to be delivered upon Bail, which were distinctly opened and read to their Lordships; then he also offered to their consideration other kind of Presidents, which were solemn Resolutions of Judges, things not of Record, but yet remain in Authentick Copies; which Presidents and Authorities hereafter follow at page 271.

He then proceeded, and said, 'The House of Commons desiring with all care to inform themselves fully of the truth of the resolution of the Judges in the 34 year of the Queen, cited in this Case of Sir John Heveningham; by the King's Council, as Arguments against his not being bailed, have got into their hands a Book of Select Cases,

Car. 4.

Cases, collected by the Reverend and Learned
 Judge, Chief Justice *Anderson*, all written with
 his own hand; which he caused to be read, being
 the same which hath been already mentioned in
 the Collections of this Parliament; which Pre-
 cedents, saith he, do fully resolve enough for the
 maintenance of the Ancient and Fundamental
 Point of Liberty of the Person, to be regained
 by *Habeas Corpus*, when any is imprisoned.

Then he concluding, 'That having thus gone
 through the Charge committed to him by the
 House of Commons, he should now, as he had
 leave and direction given him, lest their Lord-
 ships should be put to much trouble and expence
 of time, in finding and getting Copies at large
 of those things which he had cited, offer also to
 their Lordships, Authentick Copies of them all,
 and so left them, and whatsoever else he had said,
 to their Lordships further consideration.

Sir Edward Cooke.

At of all, Sir Edward Cooke took up the Argu-
 ment, as to the Rational part of the Law, and
 began with this Introduction; 'Your Lordships
 have heard seven Acts of Parliament in point, and
 Thirty one Precedents summarily collected, and
 with great understanding delivered, which I have
 perused, and understand them all throughly;
 Twelve of the Presidents are in *terminis termi-
 nantibus*, a whole Jury of Presidents, and all in
 the point: I am much transported with joy, be-
 cause of the hope of good success in this weighty
 business, your Lordships being so full of Justice,
 and the very Theme and Subject doth promise
 success, which was, *Corpus cum causa*, the freedom
 of an English man, not to be imprisoned with-
 out cause shewn, which is my part to shew, and
 the reason and the cause why it should be so,
 wherein I will not be prolix nor copious; for to
 gild Gold were idle and superfluous. And after
 he had cleared some doubts made of the Statute
 of *Westminster*, which saith, That the Sheriffs
 and others, in some cases, may not replevin men
 in Prison; he proceeded further and said, 'That
 all those Arguments offered unto your Lordships
 in this last Conference, are of a double nature:
 1. Acts of Parliament; 2. Judicial Presidents.
 For the first, I hold it a proper Argument for
 your Lordships, because you my Lords Temporal,
 and you my Lords Spiritual, gave your assent un-
 to those Acts of Parliament; and therefore if
 these cannot persuade you, nothing can. For the
 second, which are Judicial Presidents, it is Ar-
 gumentum ab Autoritate, and Argumentum ab Au-
 thoritate velut affirmativè; that is, I conceive,
 though it be no good Argument to say negative-
 ly, the Judges have no opinion in the point. 3. It
 is good Law, which I fortifie with a strong Axi-
 om, *Neminem oportet sapientiores esse legibus*. Now
 these two Arguments being so well pressed to
 your Lordships by my Colleagues, I think your
 Lordships may wonder what my part may be; it
 is short, but sweet; it is the Reason of all those
 Laws and Presidents; and Reason must needs be
 welcome to all men; for all men are not capable
 of the understanding of the Law, but every man
 is capable of Reason; and those Reasons I offer
 to your Lordships, in affirmance of the ancient
 Laws and Presidents made for the Liberty of the
 Subject, against Imprisonment without cause ex-
 pressed.

1. *Are ipsa*.

2. *A minori ad majus*.

3. From the remedies provided.

4. From the extent and universality of the same.

5. From the infiniteness of the time.

7. *A fine*.

The first general Reason is, *Are ipsa*, even
 from the nature of imprisonment, *ex visceribus
 cause*, for I will speak nothing but *ad idem*, be it
 close or other imprisonment; and this Argument
 is threefold, because an imprisoned man upon
 will and pleasure is,

1. A Bond-man.

2. Worse than a Bond-man.

3. Not so much as a Man; for *mortuus homo
 non est homo*, a Prisoner is a dead man.

1. No man can be imprisoned upon will and
 pleasure of any, but he that is a Bond-man and
 Villain, for that imprisonment and bondage are
Propria quarto modo to Villains; now *propria quar-
 to modo*, and the species, are convertible; who so-
 ever is a Bond-man, may be imprisoned upon
 will and pleasure; and whosoever may be im-
 prisoned upon will and pleasure, is a Bond-
 man.

2. If Freeman of England might be imprison-
 ed at the will and pleasure of the King or his
 Commandment, then were they in worse case
 than Bond-men or Villains; for the Lord of a
 Villain cannot command another to imprison his
 Villain without cause, as of disobedience, or re-
 fusing to serve, as is agreed in the Year-Books.
 And here he said, 'That no man should reprehend
 any thing that he said out of the Books or Re-
 cords; he said, he would prove a Freeman im-
 prisonable upon command or pleasure, without
 cause expressed, to be absolutely in worse case
 than a Villain: And if he did not make this plain,
 he desired their Lordships not to believe him in a-
 ny thing else. And then produced two Book-
 cases, 7 E. 3. fol. 50. in the new print, 348 old
 print. A Prior had commanded one to imprison
 his Villain, the Judges were ready to bail him, till
 the Prior gave his reason, that he refused to be
 Bailiff of his Mannor; and that satisfied the
 Judges. Second Case, 33 Ed. 3. Title *Tresp.* 253.
 in *Faux imprisonment*, it was of an Abbot, who
 commanded one to take and detain his Villain,
 but demanded his cause; he gives it, because he
 refused, being thereunto required, to drive his
 Cattle.

Ergo, Freeman imprisoned without cause
 shewn, are in worse case than Villains, that must
 have a cause shewn them why they are imprison-
 ed.

3. A Freeman imprisoned without cause, is
 so far from being a Bondman, that he is not so
 much as a man, but is indeed a dead man, and so
 no man: Imprisonment is in Law a Civil death,
perdis domum, familiam, vicinos, patriam, and is
 to live amongst wretched and wicked men, Male-
 factors, and the like. And that death and im-
 prisonment was the same, he proved by an Argu-
 ment *ab effectis*, because they both produce the
 like immediate effects; he quoted a Book for this:
 If a man be threatned to be killed, he may avoid
 Feoffment of Lands, Gifts of Goods, &c. so it is
 if he be threatned to be imprisoned; the one is an
 actual, the other is a civil death. And this is the
 first general Argument, drawn *Are ipsa*, from the
 nature of imprisonment, to which *res ipsa consili-
 um dedit*.

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The second general Reason he took also from his Books, for he said he hath no Law, but what by great pains and industry he learnt at his Book, for at ten years of age he had no more Law than other men of like age; and this second reason is, *A minori ad majus*; he takes it from Bracton, *minus pena corporalis, est major qualibet pecuniaria*.

But the King himself cannot impose a Fine upon any man, but it must be done judicially by his Judges, *per Justitiales in Curia, non per Regem in Camera*; and so it hath been resolved by all the Judges of England: he quoted 3 R. 2. fo. 11.

The third general Reason is taken from the number and diversity of remedies which the Laws give against Imprisonment, viz.

Brevé de homine replegiando.

De odio & mala.

De Habeas Corpus.

An Appeal of Imprisonment.

Brevé de mandamur.

The latter two of these are antiquated, but the Writ, *De odio & mala*, is revived, for that was given by the Statute of *Magna Charta*, chap. 26, and therefore though it were repealed by Statute of 42 E. 3. by which it is provided, that all Statutes made against *Magna Charta* are void; now the Law would never have given so many remedies, if the Freeman of England might have been imprisoned at free will and pleasure.

The fourth general Reason is from the extent and universality of the pretended power to imprison; for it should extend not only to the Commons of this Realm, and their Posterities, but to the Nobles of the Land, and their Progenies, to the Bishops and Clergy of the Realm, and their Successors. And he gave a cause why the Commons came to their Lordships, *Communis periculum commune requirit auxilium*. Nay, it reacheth to all persons, of what condition, or sex, or age soever; to all Judges and Officers, whose attendance is necessary, &c. without exception, and therefore an imprisonment of such an extent, without reason, is against reason.

The fifth general Reason is drawn from the indefiniteness of time, the pretended power being limited to no time, it may be perpetual during life; and this is very hard: to cast an old man into prison, nay, to close prison, and no time allotted for his coming forth, is a hard case, as any man could think that had been so used. And here he held it an unreasonable thing, that a Man had a remedy for his Horse or Cattle, if detained, and none for his Body thus indefinitely imprisoned; for a Prison without a prefixed time, is a kind of Hell.

The sixth and last Argument is a *Fine*; and *sapiens incipit a Fine*, and he wist he had begun there also; and this Argument he made threefold.

- Ab honesto.* This being less honourable.
- Ab utili.* This being less profitable.
- A tuto.* This Imprisonment by will and pleasure, being very dangerous for the King & Kingdom.

1. *Ab honesto.* It would be no honour to a King or Kingdom, to be a King of Bondmen or Slaves, the end of this would be both *Deditus & Dominum*, both to King and Kingdom, that in former times have been so renowned.

2. *Ab utili.* It would be against the profit of the King and Kingdom, for the execution of those Laws before remembered, *Magna Charta*,

5 Edw. 3. 24 Edw. 3. 28 Edw. 3. whereby the King was inhibited to imprison upon pleasure: *Cura.*

You see (quoth he) that this was *Magna Charta*, an old question, and now brought in again, after seven Acts of Parliament; I say, the execution of all these Laws are adjudged in Parliament to be for the common profit of the King and People; and he quoted the Roll, this pretended power being against the profit of the King, can be no part of his Prerogative.

He was pleased to call this a binding Reason, and to say, that the wit of man could not answer it, that great men kept this Roll from being printed, but that it was equivalent in force to the printed Rolls.

3. A Reason *a iure*. It is dangerous to the King for two respects; first, of loss; secondly, of destroying the endeavours of men. First, if he be committed without the expression of the cause, though he escape, albeit in truth he were for Treason or Felony, yet this escape is neither Felony nor Treason, but if the cause be expressed for suspicion of Treason or Felony, then the escape, though it be innocent, is Treason or Felony. He quoted a Cause in print like a Reason of the Law, not like *Remittitur* at the rising of the Court, for the Prisoner, *traditur in Bullam quod brevis non fuit sufficientis causa*. The Kings command. He quoted another famous Cause, The Commons in Parliament interdicted against the Duke of Suffolk, desire he should be committed: The Lords and all the Judges, whereof those great Worthies, *Prescor* and *Forscok*, were two, delivered a flat opinion, That he ought not to be committed without an especial cause. He questioned also the name and etymology of the Writ in question, *Corpus cum causa*; Ergo, The Cause must be brought before the Judge, else how can he take notice hereof?

Lastly, He pressed a place in the Gospel, *Mat. 23. last verse*, which *Festus* conceives is an absurd and unreasonable thing, to send a Prisoner to a Roman Emperor, and not to write along with him the Cause alledged against him: Send therefore no man a Prisoner, without his Causes along with him, *hoc fac & vivet*. And that was the first Reason, *A iure*, that it was not safe for the King, in regard of Loss, to commit men without a Cause.

The second Reason is, That such Commitments will destroy the endeavours of all men, who will endeavour to employ himself in any Profession, either of War, Merchandise, or of any Liberal Knowledge, if he be but Tenant at Will of his Liberty; for no Tenant at Will will support or improve any thing, because he hath no certain Estate; Ergo, to make men Tenants at Will of their Liberties, destroys all industry and endeavours whatsoever. And so much for these six principal Reasons:

- A iure.*
- A minori ad majus.*
- A remediis.*
- From the extent and universality.
- From the indefiniteness of the time.
- A fine.*

Honour.
Profit.
Security.
Industry.

These were his Reasons.

Here

Here he made another Protestation, 'That if remedy had been given in this Case, they would not have meddled therewith by no means; but now that remedy being not obtain'd in the King's Bench, without looking back upon any thing that hath been done or omitted, they desire some provision for the future only. And here he took occasion to add four Book Cases and Authorities, all in the point, saying, That if the Learned Council on the other side could produce but one against the Liberties, so pat and pertinent, Oh! how they could hug and cull it. 16 H. 6. *in memoranda de factis* 82. by the whole Court, the King in his presence cannot command a man to be arrested, but an action of false imprisonment lieth against him that arresteth: If not the King in his Royal Presence, then none others can do it. *Non per quod ad alia*. 1 Hen. 7. 4. Hully reports the opinion of Marham, Chief Justice to Edw. 4. that he could not imprison by word of mouth; and the reason, because the Party hath no remedy, for the Law leaves every man a remedy of cruell imprisonment. He added, that Marham was a worthy Judge, though he fell into adversities at last by the Lord Rivers his means. *Forsyth, chap. 8. Proprio ore nullus Regem ulu est*, to imprison any man, &c. 4 Eliz. Times blessed and approved for Justice and Religion, in Pl. 135. the Common Law hath so admeasured the King's Prerogative, as he cannot prejudice any man in his inheritance; and the greatest inheritance a man hath, is the liberty of his person, for all others are accessory to it; for thus he quoteth the Orator, *Major hereditas venit unicuique nostrum a Jure legibus quam a parentibus*.

And these are the four Authorities he cited in this point: Now he propounded and answered two Objections; First, in point of State; Secondly, in the Course held by the House of Commons.

Object. 1. 'May not the Privy Council commit, without cause shewed, in no matter of State where secrecy is required? would not this be an hinderance to his Majesties Service?

Ans. 'It can be no prejudice to the King by reason of matter of State, for the cause must be of higher or lower nature. If it be for suspicion of Treason, misprision of Treason or Felony, it may be by general words couched; if it be for any other thing of smaller nature, as contempt, and the like, the particular cause must be shewed, and no *individuum vagum*, or uncertam cause to be admitted.

Object. 2. 'Again, If the Law be so clear as you make it, why needs the Declaration and Remonstrance in Parliament?

Ans. 'The Subject hath in this Case sued for Remedy in the King's Bench by *Habeas Corpus*, and found none; therefore it is necessary to be cleared in Parliament. And here ends his Discourse: And then he made a recapitulation of all that had been offered unto their Lordships, that generally their Lordships had been advised by the most faithful Counsellors that can be; dead men, these can't be daunted by fear, nor muzzled by affection, reward or hope of preferment, and therefore your Lordships might safely believe them; particularly their Lordships had three several kinds of proofs.

1. Acts of Parliament, Judicial Precedents, good Reasons. First, you have had many ancient Acts of Parliament in the Point, besides *Magna Charta*, that is, seven Acts of Parliament, which indeed are thirty seven, *Magna Charta* be-

ing confirmed thirty times, for so often have the Kings of England given their Royal Assents thereunto.

2. Judicial Precedents of grave and reverend Judges, *in terminis terminantibus*, that long since departed the World, and they were many in number. Precedents being twelve, and the Judges four of a Bench, made four times twelve, and that is forty eight Judges.

3. You have, as he termed them, *viduae rationes*, manifest and apparent Reasons: Towards the conclusion he declareth to their Lordships, That they of the House of Commons have, upon great study and serious consideration, made a great manifestation unanimously, *Nullo contradicere*, concerning this great Liberty of the Subject, and have vindicated and recovered the Body of this fundamental Liberty, both of their Lordships and themselves, from shadows, which sometimes of the day are long, sometimes short, and sometimes long again; and therefore we must not be guided by shadows: and they have transmitted to their Lordships, not *capitulum rerum*, Heads or Briefs, for these *compendia* are *dispendia*; but the Records at large, *in terminis terminantibus*: and so he concluded, that their Lordships are involved in the same danger, and therefore *ex congrua & condigna* they desired a Conference, to the end their Lordships might make the like Declaration as they had done, *Commune periculum, commune requirit auxilium*; and thereupon take such further course, as may secure their Lordships and them, and all their Posterity, in enjoying of their ancient, undoubted, and fundamental Liberties.

The Argument which by command of the House of Commons was made at their first Conference with the Lords, touching the Liberty of the Person of every Freeman, out of Presedents of Records, and Resolutions of Judges in former times.

My Lords,

Your Lordships have heard from the Gentlemen that last spake, a great part of the grounds upon which the House of Commons, after mature deliberation, proceeded to that clear resolution touching the right of Liberty of their Persons: The many Acts of Parliament (which are the written Laws of the Land) and are expressly in the point, have been read and opened; and such Objections as have been by some made unto them, and some other Objections also made out of another Act of Parliament, have been cleared and answered: it may seem now perhaps (my Lords) that little remains needful to be further added, for the enforcement and maintenance of so fundamental and established a Right and Liberty belonging to every Freeman of the Kingdom; but in the examinations of Questions of Law or Right, besides the Laws or Acts of Parliament that ought chiefly to regulate and direct, every man's Judgment (whatsoever hath been put in practise to the contrary) there are commonly used also former Judgments or Presedents, and indeed have been so used sometimes, that the weight and reason of Law, and of Acts of Parliament, have been

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laid by, and Resolutions have been made, and that in this very point, only upon the interpretation and apprehension of the Presidents. But Presidents (my Lords) are good *media* or proofs of illustration or confirmation, when they agree with the express Law, but they can never be proof enough to overthrow any one Law, much less seven several Acts of Parliament, as the number of them is for this point: The House of Commons therefore taking into consideration, that in this Question (being of so high a nature) that never any exceeded in any Court of Justice whatsoever, all the several ways of just examination of the truth should be used, have also most carefully informed themselves of all former Judgments or Presidents concerning this great point, either way, and have been no less careful of his Majesties Prerogatives than of their own Rights.

The Presidents here are of two kinds, either merely matter of Record, or else the former Resolutions of the Judges after solemn debate in the point.

This part that concerns Presidents; the House of Commons hath commanded me to present to your Lordships, which I shall as briefly as I may, so I do it also faithfully and perspicuously.

To that end (my Lords) before I come to the particulars of any of these Presidents; I shall first remember to your Lordships that which will serve as a general Key for the opening and true apprehension of all them of Record, without which Key no man, unless he be versed in the Entries and course of the *King's Bench*, can possibly understand them.

In all cases (my Lords) where any Right or Liberty belongs to the Subject, by any positive Law written or unwritten, if there were not also a remedy by Law, for the enjoying or regaining of this Right or Liberty, when it was violated or taken from him, the positive were most vain; and it were to no purpose for any man to have Right in any Land, or other Inheritance, if there were not a known remedy, that is an Action or Writ, by which in some ordinary Court of Justice he might recover it. And in this Case of Right of Liberty of the Person, if there were not a remedy in the Law for regaining it when it is restrained, it were to no purpose to speak of Laws, that ordain it should not be restrained. Therefore in this Case, I shall first observe the remedy that every Freeman is to use for the regaining of his liberty, when he is against Law imprisoned, that so upon the legal course and form to be held in using that remedy, the Presidents or Judgments upon it; (for all Presidents of Record arise out of this remedy) may be easily understood. There are in Law divers remedies for enlargement of a Freeman imprisoned, as the Writs of *Odio & Asia*, and of *Homine replegiando*, besides the common and most known Writ of *Habeas Corpus*, or *Corpus cum Causa*, as it is called also.

The first two Writs are to be directed to the Sheriff of the County, and lye only in some particular Cases, with which it would be untimely for me to trouble your Lordships, because they concern not that which is committed to my charge; but that Writ of *Habeas Corpus*, or *Corpus cum Causa*, is the highest remedy in Law for any man that is imprisoned by the special command of the King, or of the Lords of the Privy Council, without shewing cause of the Commitment; neither is there in the Law any such thing, nor ever was there mention of any such thing in the Laws of this Land, as a Petition of Right to be used

in such Cases for Liberty of the Person; nor is there any other legal Course to be used for enlargement in such Cases, howsoever the contrary hath upon no ground or colour of Law been pretended.

Now (my Lords) if any man be imprisoned by any such Command, or otherwise in any Prison whatsoever through *England*, and desire either by himself, or any other in his behalf, this Writ of *Habeas Corpus* (for the purpose in the Court of the *King's Bench*) the Writ is to be granted to him, and ought not to be denied him, no more than any ordinary Original Writ in the *Chancery*, or other common Process of Law may be denied, which (among other things) the House of Commons hath resolved also upon mature deliberation, and I was commanded to let your Lordships know so much. This Writ is directed to the Keeper of the Prison, in whose custody the Prisoner remains, commanding him, That at a certain day he bring the Body of the Prisoner, *ad subjiciendum & recipiendum quod curia consideraverit, &c. una cum causa captionis & detentionis*, only *captionis* being omitted.

The Keeper of the Prison thereupon returns by what Warrant he detains the Prisoner, and with his Return filed to his Writ, brings the Prisoner to the Barr at the time appointed. When the return is thus made, the Court judgeth of the sufficiency or insufficiency of it, only out of the Body of it, without having respect to any other thing whatsoever; that is, they are to suppose the Return to be true whatsoever it be: if it be false, the party may have his remedy by Action on the Case against the Goaler that brought him. Now (my Lords) when the Prisoner comes thus to the Barr, if he desire to be bailed, and that the Court upon view of the Return think him in Law to be bailed, then he is always first taken from the Keeper of the Prison that brings him, and committed to the Marshal of the *King's Bench*, and afterwards bailed, and the Entry is *Committitur Marr' & postea tradit' in ballium*, for the Court never bails any man until he first become their own Prisoner, and be in custody of the *Marr'* of that Court.

But if upon Return of the *Habeas Corpus* it appear to the Court that the Prisoner ought not to be bailed, nor discharged from the Prison whence he is brought, then he is remanded or sent back again, there to continue until by due Course of Law he may be delivered; and the Entry in such Case is, *Remittitur quousque secundum Legem deliberatus fuerit*, or *Remittitur quousque, &c.* which is all one, and is the highest Award or Judgment that ever was, or can be given upon a *Habeas Corpus*. But if the Judges doubt only, whether in Law, they ought to take him from the Prison whence he came, or give a day to the Sheriff to amend his Return, (as they often do) then they remand him only during the time of their Debate, or until the Sheriff hath amended his Return; and the Entry upon that is, *Remittitur prisona predicta* without any more.

And so *Remittitur* generally is of far less moment in the Award upon the *Habeas Corpus*, than *Remittitur quousque, &c.* however vulgar opinions raised out of the Fame of the late Judgment be to the contrary. All these things are of most known and constant use in the Court of *King's Bench*, as it cannot be doubted but your Lordships will easily know from the grave and learned, my Lords the Judges.

Anno 1628. These two Courses, the one of the Entry of *Committitur Marefc' postea traditur in ballium*, and the other *Remittitur quousque*, and *Remittitur* generally, or *Remittitur prisona predict'*, together with the Nature of the *Habeas Corpus*, being thus stated, it will be easier for me to open, and your Lordships to observe whatsoever shall occur to this purpose in the Presidents of Record, to which I shall now come in the particular. But before I come to the Presidents, I am to let your Lordships understand the resolution of the House of Commons touching the enlargement of any man committed by the command of the King, or the Privy Council, or any other, without cause shewed of such Commitment, it is thus:

That if a Freeman be committed or detained in Prison, or otherwise detained, by the Command of the King, or any other, and no cause of such commitment expressed, for which by Law he ought to be committed, detained, or restrained, and the same be returned upon an *Habeas Corpus* granted for the Party, that then he ought to be delivered or bailed. This resolution, as it is grounded upon these Acts of Parliament already shewed, and reason of the Law of the Land which is committed to the charge of another, and anon to be also opened to you, is strengthened also by many Presidents of Record.

But the Presidents of Record that concern this point are of two kinds, for the House of Commons hath informed it self of such as concern either kind. The first that shew expressly that Persons committed by the command of the King, or of the Privy Council, without other cause shewed, have been enlarged upon bail when they prayed it; whence it appeareth clearly that by Law they were bailable, and so by *Habeas Corpus* to be set at liberty: for though they ought not to have been committed without cause shewed of their Commitment, yet it is true that the Reverend Judges of this Land in former Ages did give such respect to such Commitments by Command of the King, or of the Lords of the Council, (as also to the Commitments sometimes of inferiour persons) that upon the *Habeas Corpus* they rarely used absolutely to discharge the persons instantly, but to enlarge them only upon bail, which sufficiently secures and preserves the liberty of the Subject, according to the Laws that your Lordships have already heard; nor in any of these Cases is there any difference between such Commitments by the King, or by the Lords of the Council that are incorporated with him.

The second kind of Presidents of Record are such as have been pretended to prove the Law to be contrary, and that persons so committed ought not to be set at liberty upon bail, and are in the nature of Objections out of Record.

I shall deliver them summarily to your Lordships with all faith, and also the true Copies of them, out of which it shall appear clearly to your Lordships, that of those of the first kind there are no less than twelve most full and directly in the point, to prove that persons so committed are to be delivered upon bail; and among those of the other kind, there is not so much as one, not one that proves at all any thing to the contrary. I shall first (my Lords) go through them of the first kind, and so observe them to your Lordships, that such scruples as have been made upon them (by some that have excepted against them) shall be cleared also according as I shall open them severally.

The first of this first kind is of *Edw. 3.* time: It is in *Pasch. 18 E. 3. rot. 33. Rex*; the Case was thus:

King *Edw. 3.* had committed by Writ, and that under the Great Seal (as most of the King's Commands in those times were) one *John de Bildestone*, a Clergy man, to prison to the Tower, without any cause shewed of the Commitment. The Lieutenant of the Tower is commanded to bring him into the King's Bench, where he is committed to the Marshal. But the Court asks the Lieutenant if there were any cause to keep this *Bildeston* in prison besides the Commitment of the King; he answered No: whereupon (as the Roll says) *quid videtur curia breve predict'* (that is the King's Command, *sufficientem non esse causam, predictum Johannem de Bildestone in prisona Marr' Regis hic detinentum, idem Johannes dimittetur per manucaptionem Willelmi de Wakefeld*, and some others, where the Judgment of the Court is fully declared in the point.

The second of the first kind of Presidents of Record is, in the time of *H. 8.* one *John Parker* was committed to the Sheriffs of London, *pro securitate pacis*, at the Suit of one *Brimon*, *Ac pro suspicionem feloniam*, committed by him at *Cromwell* in *Glocestershire*, *ac per mandatu' Domini Regis*, he is committed to the Marshal of the King's Bench, & *postea isto eodem Termino traditur in Ball'*. Here were other causes of the Commitment, but certainly one was a Command of the King, signified to the Sheriffs of London, of which they took notice. But some have interpreted this as if the Commitment here had been upon suspicion of Felony by command of the King, in which Case it is agreed of all hands that the Prisoner is bailable. But no man can think so of this President that observes the Context, and observes the Grammar of it, wherein most plainly *ac per mandatum Domini Regis* hath no reference to any other cause whatsoever enumerated in the Return by it self, as the Record sheweth it is in *22 H. 8. rot. 37.*

The third is of the same King's time; it is *35 H. 8. rot. 33.* *John Binck's* Case, he was committed by the Lords of the Council, *pro suspicionem Feloniam, ac pro aliis causis illos moventibus, qui committitur Marr', &c. & immediat ex grac' Cur' special' tradit' in Ball'*: They committed him for suspicion of Felony and other causes them thereunto moving, wherein there might be matter of State or whatever else can be supposed, and plainly the cause of their Commitment is not expressed; yet the Court bailed him without having regard to any other of those unknown causes that moved the Lords of the Council; but it is indeed somewhat different from either of these other two that precede, and from the other nine also that follow: for it is agreed, that if a cause be expressed in the Return, inasmuch that the Court can know why he is committed, that then he may be bailed, but not if they know the cause. Now a man is committed for a cause expressed, & *pro aliis causis Dominos de Consilio moventibus*: certainly the Court can no more know in such a Case what the cause is than any other.

The fourth of these is in the time of Queen Mary, it is *Pasch. 2 & 3 Phil. & Mar. rot. 58.* *Overton's* Case. *Richard Overton* was returned upon a *Habeas Corpus* directed to the Sheriffs of London, to have been committed and detained *ad mandatum pranobilium duorum honorabilium Consilij Domini*

Anno 1628. minorum Regis & Regina qui committitur Marr' &c. & immediate traditur in Ball. In answer to this Presedent, or by way of Objection, against the force of it, it hath been said, That this *Overton* stood at that time Indicted of Treason; it is true, he was so Indicted, but that appears in another Roll; yet they that object this against the force of this Presedent, say, That because he was Indicted of Treason, therefore though he were committed by command of the Lords of the Council, without cause shewed, yet he wasailable for the Treason, and upon that was here bailed; than which Objection nothing is more contrary, either to Law or common Reason. It is most contrary to Law; for that clearly every Return is to be adjudged by the Court, out of the Body it self, and not by any other collateral or forreign Record whatsoever; therefore the matter of Indictment here, cannot in Law, because of the bailing the Petitioner, and it is so adverse to all common Reason, that if the Objection be admitted, it must of necessity follow, That whosoever shall be committed by the King, or Privy Council, without cause shewed, and be not Indicted of Treason, or some other Offence, may not be enlarged by the reason of the suspicion of matter of State, but that whosoever is so committed, and stands so Indicted, (though in another Record) may be enlarged, whatsoever the matter of State be for which he was committed. The absurdity of which Assertion needs not a word for further confutation; as if any of the Judgment in the last Judgment ought to have been the sooner delivered if he had been also Indicted of Treason; certainly if so, Traytors and Felons have the highest priviledge of personal Liberty, and that above all other Subjects of the Kingdom.

The fifth of the first kind is of Queen *Maries* time also; it is *Pasch. 4 & 5 P. & M. rot. 45.* the Case of *Edward Newport*, he was brought into the King's Bench by *Habeas Corpus* out of the Tower of London, *cum causa (viz.) quod Commiss' fuit per mandat' Consilij Domine Regine qui committitur Marr', &c. & immediate traditur in ball.*

To this the like kind of Answer hath been made, as to that other of *Overton's* next before cited; they say, That in another Roll of the same year it appears he was in question for suspicion of Coinage: and it is true, he was so; but the Return and this Return mentioned in it, have no reference to any such Offence, nor hath the bailment of him relation to any thing, but to the absolute Commitment of the Privy Council, so that the Answer to the like Objection made against *Overton's* Case, satisfies this also.

The sixth of these is of Queen *Elizabeths* time, *rot. 35.* the Case of *Thomas Lawrence*. This *Lawrence* came in by *Habeas Corpus*, returned by the Sheriffs of London, to be detained in prison, *per mandat' Consilij Domine Regine qui committitur Marr', &c. & super hoc traditur in ballium.*

An Objection hath been invented against this also: It hath been said, That this man was pardoned; and indeed it appears so in the Margin of the Roll, where the word *pardonatur* is entered; but clearly his enlargement by bail was upon the body of the Return, unto which that note of pardon, in the Margin of the Roll, hath no relation at all. And can a man think that a man pardoned (for what offence so ever it be) might not as well be committed for some *Arcanum* or matter of State, as one that is not pardoned, or out of his Innocency wants no pardon?

The Seventh of these is of the same year, and of Easter Term following; it is *Pasch. 9 Eliz. Rotl' 68.* *Robert Constables* Case, he was brought by *Habeas Corpus* out of the Tower; and by the Return it appeared, he was committed there *per mandat' privati Consilii dicta Domina Regine qui committitur Marr', &c. Et postea isto eodem Termino traditur in ballium.* The like Objection hath been made to this, as to that before of *Lawrence*, but the self same answer clearly answers for both of them.

The Eighth is of the same Queens time in *Pasch. 20 Eliz. Rotl' 72.* *John Browning's* Case; this *Browning* came by *Habeas Corpus* out of the Tower, whither he had been Committed, and was Returned to have been Committed *per privati Consilium Domina Regine qui committitur Marr' & postea isto eodem Termino traditur in Ballium.* To this it hath been said, that it was in my Lord Chief Justice *Wray's* Chamber, and not in Court. And thus the Authority of the President hath been lessened, or slighted; if it had been done at the Chamber, it would have proved at least thus much, That *Sir Christopher Wray*, then Chief Justice of the King's Bench (being a grave learned and upright Judge) knowing the Law to be so, did Bail this *Browning*, and so enlarged him, and even so far the Presidents were of value enough, but it is plain though the *Habeas Corpus* were Returnable indeed (as appears by the Record it self) at his Chamber in *Serjeants-Inn*; yet, he only Committed him to the King's Bench presently, and referred the consideration of enlarging him to the Court, who afterward did it, for the Record saies, *Et postea isto eodem Termino traditur in ballium*, which cannot be of an enlargement at the Chief Justices Chamber.

The Ninth of this first kind, is in *Hill' 40. Eliz. Rotl' 62.* *Edward Hartcourt's* Case, he was imprisoned in the Gate-house, and that *per Dominos de prefat' Consilio Domina Regine pro certis causis eos moventibus & ei ignotis*, and upon his *Habeas Corpus* was returned to be therefore detained, *Qui committitur Marr', &c. & postea isto eodem Termino traditur in ballium.*

To this not any colour of answer hath been yet offered.

The Tenth is *Catesbies* Case, in the Vacation after *Hillary* Term, *43 Eliz. Rotl' Robert Catesby* was Committed to the Fleet *per Warrant diversorum pre nobilium virorum de privati Consilij Domine Regine*, he was brought before Justice *Fenner*, one of the then Judges of the King's Bench by *Habeas Corpus* at *Winchester* House in *Southwark*; & *Commissus fuit per prefat' Edw. Fenner, & statim traditur in ballium.*

The Eleventh is *Richard Beckwithes* Case, which was in *Hillar' 12 Jac. rot. 153.* he was returned upon his *Habeas Corpus*, to have been committed to the Gate-house by divers Lords of the Privy Council, *qui committitur Marr', &c. & postea isto eodem Termino traditur in ballium.*

To this it hath been said by some, That *Beckwith* was bailed upon a Letter written by the Lords of the Council to that purpose to the Judges, which though it had been, would have proved nothing against the Record; for it was never before heard of, that Judges were to be directed in point of Law by Letters from the Lords of the Council;

Anno 1628. although it cannot be doubted, that by such Letters sometimes they have been moved to bail men that would not, or did not ask their enlargement without such Letters, as some examples do manifest, which I shall shew your Lordships among the Presedents of the second kind.

The Twelfth and last of these is of Sir Thomas Mounson's Case, it is *Mich. 14 Jac. rot. 147.* he was committed to the Tower per Warrant à diversis Dominis de prefato Consilio Domini Regis locum tenen' direct' ; and was returned by the Lieutenant to be therefore detained in prison, *Qui committitur Mar', &c. & super hoc traditur in ballium.*

To this it hath been answered, That every one knows by common Fame, that this Gentleman was committed for suspicion of the death of Sir Thomas Overblow, and that he was therefore bailable; a most strange interpretation: as if the Body of the Return, and the Warrant of the Privy Council should be understood and adjudged out of the Fame only. Was not there cause why the Gentlemen that were remanded in the late Judgment were committed, and might not the self same kind of reason have served to enlarge them, their offence (if any were) being, I think, much less than that for which this Gentleman was suspected?

And thus I have faithfully opened the number of Twelve Presedents most expresse in the point in question, and cleared the Objections that have been made against them.

And of such Presedents as are of Record of the first kind, and prove plainly the practise of former Ages, and Judgment of the Court of King's Bench, in the very point, in behalf of the Subject (my Lords) hitherto.

I come next to those of the second kind, or such as have been pretended to prove, that persons so committed are not to be enlarged by the Judges upon the Habeas Corpus, but ought to remain in prison still, at the pleasure of the King or of the Privy Council.

These are of two natures: the first of these is where some assent of the King, or of the Privy Council, appears upon the enlargement of a prisoner so committed, as if, because such assent appears, therefore the enlargement could not have been without such assent.

The second of this kind, are those which have been used, as expresse Testimonies of the Judges denying bail, and in such Cases I shall open these also to your Lordships, which being done, it will most clearly appear, there is nothing at all in any of these that make any thing against the Resolution of the House of Commons touching this point; nay, it is so far from their making against it, that some of them add good weight also to the proof of that Resolution.

For those of the first nature of this second kind of Presedents, they begun in the time of *Hen. 7.* Thomas Bragg and divers others were imprisoned in the King's Bench, *ad mandat. Domini Regis,* they never sought remedy by Habeas Corpus, or otherwise for ought appears. But the Roll says, *That Dominus Rex relaxavit mandat.* and so they were bailed: but can any man think that this is an Argument, either in Law or common Reason, that therefore they could not be bailed without such assent? It is common in Cases of common persons, that one being in prison for Surety of the Peace, or the like, at the Suit of another, is

bailed upon the release of the party Plaintiff; can it follow that therefore he could not have been bailed without such release? Nothing is more plain than the contrary; it were the same thing to say, that if it appear that a Plaintiff be Nonfuit, therefore unless he had been Nonfuit, he could not have been bailed in the Suit. The Cause last cited is *M. 7. H. 7. rot. 6.*

The very like is in the same year, *Hill. 7. H. 7. rot. 13.* the Cause of William Bartholomew, William Chace, and divers others, and the self same Answer that is given to the other, clears this.

So in the same year, *P. 7. H. 7. rot. 18.* John Beamond's Case is the same in substance with these other two, and therefore the self same answer also satisfies that, clears them.

The next is *Mich. 12. H. 7. rot. 8.* Thomas Tew's Case, he was committed *ad sectam pacis,* for surety of the Peace, at the Suit of one Freeman, and besides *ad mandat. Domini Regis,* and first Freeman relaxavit *sectam pacis,* and then Sir James Hubbard, the then King's Attorney General, relaxavit *mandat. Domini Regis,* and hereupon he is bailed. The release of the Kings Attorney no more proves here, that he could not have been enlarged without such release or assent, than he could not have been bailed without the release of the surety of the Peace by Freeman.

The very like is in *Hillary Term, 9 H. 7. rot. 14.* the Case of Humphrey Bloch, which proves no more here than the rest of this kind already cited.

Then for this part also Browns Case of Queen Elizabeths time, hath been cited. The Case is *Trinitat. Eliz. 6. rot. 118.* Lawrence Brown was committed to the Gate-house per *mandat. Dominorum Consilij Domina Regina,* and being returned so upon the Habeas Corpus, is first committed to the Marshalsey (as the course is) and he bailed by the Court, which indeed is an expresse Presedent that perhaps might well have been added to the number of the first Twelve, which so plainly shew the practise of enlarging persons in the Case by Judgment of the Court upon the Habeas Corpus: but it is true, that in the Scrowls of that year, where the Bails are entered (but not in the Record of the Habeas Corpus) there is a Note that this Brown was bailed per *mandat. prefat. Consilij super Habeas Corpus.* But plainly, this is not any kind of Argument, that therefore in Law he might not otherwise have been bailed.

The self same is to be said to another of this kind, in *Mich. 40 Eliz. rot. 37.* Windens Case. Thomas Winden was committed to the Gate-house by the Queen and Lords of the Council, *pro certis causis,* generally he is brought by Habeas Corpus into the Kings Bench, and bailed by the Court: But it is said that in the Scrowls of that year it appears that his enlargement was per *consensum Dominorum privati Consilij.* And it is true that the Queens Attorney did tell the Court that the Lords of the Council did assent to it; follows it therefore that it could not have been without such assent?

Next in *Hill. 4. 43 Eliz. rot. 89.* when divers Gentlemen of special quality were imprisoned by the command of the Privy Council, the Queen being graciously pleased to enlarge them, sends a Commandment to the Judges of the Kings Bench, that they should take such course for delivering them upon bail, as they should think fit; and they did so, and enlarged them upon Writs of Habeas Corpus: Follows it therefore that this might not have been done by Law, if the parties themselves had

Anno 1628. had desired it? So in *Trin. 1 Jac. rot. 30.* Sir John Brockett being committed to the *Gew-house*, is by *Habeas Corpus* returned to stand committed *per mandat. privati Consilij*, and he is enlarged *virtute Warrant. a Consilio praelati*. But the same answer that satisfies for the rest before cited, serves for this also.

The last of these is *Reyners Case*, in *M. 11 Jac. rot. 119.* he was committed to the *Gew-house* by the Lords of the Council, and being brought into the *Kings Bench* by *Habeas Corpus*, is enlarged upon bail. But this they say was upon a Letter written from the Lords of the Council to the Judges. It is true that such a Letter was written, but the answer to the former Prefedents of this nature, are sufficient to clear this also.

And in all these observe,

1. That it appears not that the party ever desired to be enlarged, or was denied it.
2. Letters, either of the Council, or from the King, cannot alter the Law in any case.

So that hitherto nothing that can be brought on the contrary part, hath any force or colour of reason in it.

We come now (my Lords) to those Prefedents of the other nature, cited against this Liberty of the Subject, that is, such as have been used to justify, that persons so committed may not be enlarged by the Court. They are in number eight, but there is not any one of them at all that proves any such thing as your Lordships will plainly see upon the opening them.

The first three of them are exactly in the same words, saving that the names of the persons, and of the prisons, do differ: I shall therefore cite them all one after another, and then clear them together.

The first is *Richard Everards Case*, *Hen. 7. rot. 18.* he and others were committed to the *Marshalsey* of the Household *per mandat. Domini Regis*, and so returned upon a *Habeas Corpus* into the *Kings Bench*, whereupon the Entry is only *Qui committitur Marr. &c.*

The second is *H. 8. H. 7. rot. 12.* *Richard Cheries Case*, he was committed to the Mayor of *Windsor* *per mandat. Domini Regis*, and so returned upon *Habeas Corpus*, and the Entry is only *committitur Marr. &c.*

The third is *H. 9. H. 7. rot. 14.* *Christopher Burions Case*, who was committed to the *Marshalsey* of the Household *per mandat. Domini Regis*, and so returned upon his *Habeas Corpus*, and the Entry is likewise, *Qui committitur Marr. &c.*

These three have been used principally as express Prefedents, to prove that a prisoner so committed cannot be enlarged. And perhaps at the first sight, to men that know not or observe not the Course and Entries of the Court of *Kings Bench*, they may be apprehended to prove as much, but in truth they rather prove the contrary, at least there is no colour in them of any such matter as they have been used for. To which purpose I beseech your Lordships to call to your memories that which I first observed to you, touching the course of that Court, where a prisoner is brought in by *Habeas Corpus*, he is (if not to be remanded) first to be committed to the Marshal of that Court, and then bailed, as his Case requires: this is so certain, as it can never be otherwise. Now these men being

thus committed by the express command of the King, are first (you see) taken from the Prisons *Car. 4.* whither they were committed; wherein you may observe by the way (my Lords) that if a general Supposition of matter of State were of force in such a Case, it were as needful in point of State to have the prisoner remain in the Prison, where the King by such an absolute command committed him, as to have at all committed; when then they have taken them from the Prisons where before they were, they commit them to the Marshal of their own Court, which is but the first step to bailing of them. Now it appears not indeed that they were bailed, for then *traditur in ballium* had followed; but nothing at all appears that they were denied; perhaps they never asked it, perhaps they could not find such as were sufficient to bail them. And in truth whensoever any man that is bailed (but removed from any Prison in England) though it be for Debt or Trespas only, into that Court, the Entry is but in the self same syllables, as in these three Cases.

And in truth, if these proceedings did prove that any of the prisoners named in them were not bailable, or had been thought by the Court to have been not bailable; it will necessarily follow, That no man living, that is ordinarily removed from any other Prison into the *Kings Bench*, or that is there upon any ordinary Action of Debt, or Action of Trespas, could be bailed; for every man that is brought thither, and not remanded, and every man that is Arrested, but for Debt or Trespas, is likewise committed to the Marshal of that Court, and by the self same Entry, and not otherwise. Yet these three have been much stood on, and have strangely missed the Judgment of some that either did not, or would seem not, to understand the course of that Court.

The fourth of this nature is *Edward Pages*, it is *Trin. 7. Hen. 8. rot. 33.* this might well have been reckoned with the former three, had not the Misentry only of the Clerk made it very far from them. *Edward Page* was committed to the *Marshalsey* of the Household, and that *per mandat. Domini Regis*, and returned to be therefore detained, and the Entry *qui committitur Marr. Hospitij Domini Regis*. And this word *Marr.* is written in the Margin of the Roll; this hath been used also to prove, that the Judges did remand this prisoner: if they had done so, the remanding had been only while they advised, and not any such Award which is given, when they adjudge him not bailable. But in truth; the very word *Committatur* shews, that it was not any remanding of him; nor doth that Court ever commit any man to the *Marshalsey* of the Household. And besides the word *Marr.* for *Marrescallo*, shews plainly that he was committed to the Marshal of the *Kings Bench*; and not remanded to the *Marshalsey* of the Household; for such Entry of that word in the Margin is perpetually in Cases of that nature; when they commit a man to their own Prison, and so gives him the first step to bailment, which he may have if he ask it, and can find bail: And doubtless these words of *hospitij* were added by the error of the Clerk, for want perhaps of instruction in his understanding of the name of the *Kings Bench* from the Marshal of the Household.

The fifth of these is *Thomas Casars Case*, in *8 Jac. Regis rot. 99.* *Thomas Casar* was committed to the *Marshalsey* of the Household, *per mandat. Domini Regis*, and returned to be therefore detained; and indeed a *Remittitur* is in the Roll, but not a *Remittitur*

Remittitur quousque, but only that kind of *Remittitur* which is used only whiles the Court advises; and in truth, this is far from proving any thing against the Resolution of the House of Commons, that it appears that the Opinion of the Reverend Judges of that time was, That the Return was insufficient, and that if it were not amended, the prisoner should be discharged; for in the Book of Rolls, of that Court, of *Michaelmas Term*, (when *Cesar's Case* was in question) they expressly ordered, that if the Steward and Marshal did not amend their Return, the prisoner should be absolutely discharged. The words of the Roll are,

Nisi Senescallus & Marrescallus hospitij Domini Regis sufficient, retournaverint breve de Habeas Corpus Tho. Cesar die Mercurij proximo post quindenam Sancti Martini Defendens exonerabitur.

And this is also the force of that *Presedent*, but yet there hath been an interpretation used upon this Rule. It hath been said, that the Judges gave this Rule, because the truth was, that the return was false, and that it was well known, that the prisoner was not committed by the immediate command of the King, but by the command of the Lord Chamberlain, and therefore (as it was said) they made this Rule: But this kind of Interpretation is the first that ever supposed that Judges should take any notice of the truth or falshood of any Return, otherwise than the body of the Return could inform them. And the Rule it self speaks plainly of the insufficiency only, and not of the truth or falshood of it.

The sixth of these is the Case of *James Demetrius* and some others that were Brewers, and were committed to the *Marshalsey* of the Household, *per mandat. Domini Regis*, and so returned upon *Habeas Corpus*. And it is that the Roll shews that they were remanded, but the remanding was only upon advisement. And indeed the grave and upright Judges of that time were so careful (least upon the entring of the remanding any such mistake might be, as might perhaps mislead Posterity in so great a point) that they would have the word *immediate* added to *remittitur*, that so all men that should meet with the Roll, might see that it was done for the present only, and not upon any debate of the question; and besides, there is no *quousque* to it, which is usually added, when the highest Award upon debate or resolution of this kind is given by them.

The seventh of these is the Case of *Saltenstall*, it is *H. 12 Jac.* Sir *Samuel Saltenstall* was committed to the *Fleet per mandat. Domini Regis*, and besides by the Court of *Chancery* for disobeying an Order of that Court, and is returned upon *Habeas Corpus*, to be therefore detained: and it is true, that a *remittitur* is entred in the Roll, but it is only a *remittitur*, in the nature of a *remittitur prison. predict.* without *quousque secundum Legem deliberatus fueris*; and indeed it appears in the Record, that the Court gave the Warden of the *Fleet* three several days, at several times, to amend his Return, and in the interim, *Remittitur prisona predict.* still, certainly if the Court had thought that the return had been good, they would not have given so many several days to have amended it; for if that *mandat. Domini Regis*, had been sufficient in the Case, why needed it to have been amended?

The eighth and last of these is *T. 13 Jac. rot. 71.*

The Case of the same Sir *Samuel Saltenstall*, he is returned by the Warden of the *Fleet*, as in the Case before, and generally *remittitur* is in the Roll, which proves nothing at all, that therefore the Court thought he might not by Law be enlarged. And besides in both Cases, he stood committed also for disobeying an Order in the *Chancery*.

These are all that have been pretended to the contrary in this great point, and upon the view of them, thus opened to your Lordships, it is plain that there is not one, not so much as one at all, that proveth any such thing, as that persons committed by the command of the King, or of the Lords of the Council, without cause shewed, might not be enlarged, but indeed the most of them expressly prove rather the contrary.

Now, my Lords, having thus gone through the *Presedents* of Record that concern this point on either side, before I come to the other kind of *Presedents*, which are the solemn resolutions of Judges of the former times, I shall (as I am also commanded by the House of Commons) represent unto your Lordships somewhat else, that they have thought very considerable, with which they have met, while they were in a most careful enquiry of whatsoever concerned them in this great question. It is (my good Lords) a draught of an Entry of a Judgment in that great Case lately adjudged in the Court of *Kings Bench*, when divers Gentlemen imprisoned *per mandat. special. Domini Regis*, were by the Award and Judgment of the Court, after solemn debate, sent back to Prison, because it was expressly said, they could not in Justice deliver them, though they prayed to be bailed. The Case is famous and well known to your Lordships, therefore I need not further mention it; as yet, indeed, there is no Judgment entred upon the Roll, but there is room enough for any kind of Judgment to be entred: But, my Lords, there is a form of a Judgment, a most unusual one, such a one, as never was in any such case used, (for indeed there was never before any Case so judged) and this drawn up by a chief Clerk of that Court, by direction of Mr. Attorney General (as the House was informed by the Clerk) in which the reason of the Judgment, and remanding of these Gentlemen, is expressed in such sort, as if it should be declared upon Record for ever, that the Laws were that no man could ever be enlarged from imprisonment that stood committed by any such absolute command. The draught is only in Sir *John Heveninghams Case*, being one of the Gentlemen that was remanded, and it was made for a form of all the rest; The words of it are after a usual Entry of in *Curia advisari vult* for a time, *visor. retorn. predict.*, *non diversis Antiquis Recordis in Curia hic remanentibus, consimiles causas concernentibus, maturaque deliberatione inde prius habita, eo quod nulla specialis causa captionis sive detentionis predict. Johannis exprimitur, sed generaliter, quod detentus est in prisona predict. per speciale mandatum Domini Regis, Ideo predict. Johannes remittitur prae. Custod. Marr. hospitij prae. salu. custodiend. quousque, &c.* that is, *quousque secundum Legem deliberatus fueris*. And if that Court, which is the highest for ordinary Justice, cannot deliver him *secundum Legem*, what Law is there, I beseech you my Lords, that can be sought for in any inferior Court to deliver him?

Now (my Lords) because this draught if it were entred in the Roll (as it was prepared for no other purpose) would be as great a declaration against the many Acts of Parliament already cited, contrary to all *Presedents* of former times, and

Anno 1628. and to all reason of Law, to the utter subversion of the greatest Liberty and Right belonging to every Freeman of the Kingdom. And for that especially also, it supposed that divers antient Records had been looked into by the Court, in like Cases, by which Records, their Judgment was directed, whereas in truth, there is not one Record at all extant, nor so much indeed as with any colour, warrants the Judgment. Therefore the House of Commons thought fit also, that I should (with the rest that hath been said) shew his draught also to your Lordships. I come now to the other kind of Precedents, that is solemn resolutions of Judges, which being not of Record, remain only in Authentick Copies, but of this kind, there is but one Case, that is a resolution of all the Judges of England, in the time of Queen Elizabeth: It was in the 34 of her Reign, when divers persons had been Committed by absolute Command, and delivered by the Justices of the one Bench or the other; whereupon it was desired, that the Judges would declare in what Cases persons Committed by such Command were to be enlarged by them. The resolution hath been variously cited, and variously apprehended.

The House of Commons therefore desiring with all care to inform themselves, as fully of the truth of it, as possibly they might, got into their hands from a Member of the House a Book of selected Cases, by a Learned and Reverend Chief Justice of the Common-Pleas, that was one of them that gave the Resolution, which is entered at large, I mean the Lord Chief Justice Anderson; it is written in that Book with his own hand, as the rest of the Book is, and however it hath been cited in that great Judgment given upon the Habeas Corpus in the King's Bench, as if it had been that upon such Commitments the Judges might not Bail the Prisoners; yet it is most plain that in the resolution it self, no such thing is contained, but rather expressly the contrary; I shall better represent it by reading it to your Lordships, then by opening it.

Then it was Read, (viz.)

Divers persons furent Commis a several temps a several Prisons ameson en Bank le Roy, & paria en le Common Bank accordant a le Roy de terre, nisi alarge & discharga de le Imprisonment, par & ascuns grand offence & procure un Commandement a les Judges & ils ne ferraissent apres ceo ment mens les Judges, ne surceale mes, par advice enter eux ils fesaient certains Articles le tenour, de quoy manifeste & deliver ent al Seigneurs Chancellor, & Tresorier, & eux subscribe tous leur mains, &c.

If this Resolution doth resolve any thing, it doth indeed upon the matter resolve fully the contrary to that which hath been pretended, and enough for the maintenance of this ancient and fundamental point of Liberty of the Person, to be regained by Habeas Corpus when any man is imprisoned: and I rather thought it fit now to read it to your Lordships, that it might be at large heard; because in the great Judgment in the Kings Bench, though it were cited at the Bar, as against this personal Liberty, as also at the Bench, yet though every thing else of Record that was used, were at large read openly: this was not read either at Bar or Bench; for indeed if it had, every hearer would easily have known the form of it to have been indeed contrary to the Judgment.

My Lords, having thus gone through the Charge committed to me by the House of Commons, and having thus mentioned to your Lordships, and opened the many Precedents of Records, and that draught of the Judgment in the like Case, as also this Resolution, I shall now (as I had leave and direction given me) least your Lordships should be put to much trouble and expence of time in the finding or getting Copies at large of these things, offer also to your Lordships authentick Copies of them all, and so leave them, and whatsoever else I have said, to your Lordships further consideration.

The true Copies of the Precedents of Record in one of the Arguments made at the first Conference with the Lords touching the Liberties of the Person of every Freeman.

Inter Record Domini Regis Car. in Thesaur. recepti Scaccarij sui sub custod. Domini Thesaurar. & Camerar. ibidem remanen. viz.

Placita coram Domino Rege apud Westm. de Termino Pasch. Anno Regis Ed. 3. post conquestum Angl. xvij. inter alia sic continetur ut sequitur.

Rot. 33. Rex.

Adhuc de Termino Pasch.

Dominus Rex mandavit dilecto & fideli suo Roberto de Dalcon Constabular. Turris sue London. Lond. II. vel locum ejus Tenent. per breve suum in hac verba, Edwardus Dei gratia Angl. Francia & Dominus Hibernie dilecto & fideli suo Roberto de Dalcon Constabular. Turris sue London. vel ejus locum tenent. salutem, mandamus vobis quod Johannem de Bildeston Capellam que vice committitur nostr. London. ad mandat. nostrum apud predict. Turrim, vobis Liberabunt ab eisdem recipienda, & in prisona nostra Tur. prae. salvo Custod. fac. quousque hec duxerimus demand. Teste meipso apud Turrim London. Tricesimo die Martij Anno Regni nostri Anglia decimo sexto, Regni vero nostri Francia tertio: & modo scilicet Domini Anno R. Regis nunc decimo octavo coram Domino Rege apud Westm. ven. J. barnes de Wyniche locum tenent. prae. Constabular. & addux. coram Justic. hic in Cur. prae. Johannem de Bildeston quem alio a prae. Vicecomitibus virtute brevis prae. recepit &c. & dicit quod ipse a Domino Rege hunc in mandat. duxend. & deliberand. Corpus ipsius Johannis de Bildeston prae. Justis hic, &c. & quassum est a prae. Johanne de Wyniche, si quam aliam descriptionem prae. Johannis de Bildeston habeat causam, qui dicit quod non, nisi brevis prae. sanum, & quia videtur Curia, brevis prae. sufficere non esse causam prae. Johannem de Bildeston prison. Adm. Regis hic retineri. &c. Idem Johannes disputetur per mandat. Willielmi de Wakefield Rectoris Ecclesie de Willingham, Johannis de Wynewiche, de Com. Rank, Johannis de Lakenham, & Johannis de Norton de Com. North, Nich. de Rainsford de Com. Midd. & Rogeri de Bromley de Com. Staff. qui cum manuceperunt habend. eum coram Domino Rege, in Octab. Sancte Trinitat. ubi canque &c. viz. corpora & corpora &c. Ad quae Octab. Sancte Trin. coram Domino Rege apud Westm. ven. predict. per mand. predict. & super hoc mandavit Justic. suis hoc quoddam brevis suum clausum in hac verba, Edwardus Dei gra. Rex Angl. & Franc. & Dominus Hibernie dilectis & fidelibus suis Willielmo

Anno 1628. elmo Scott, & sociis suis Justic^{is} ad placita coram nobis tenenda assignat^{is} salutem. Cum nuper mandaverimus dilecto & fideli nostro Roberto de Dalson Constabular^{is} Turris nostre London^{is}, vel ejus locum tenen^{is}, quod Johannem de Bildeston, Capellan^{is} capi^{is} & deteni^{is} in prisione nostra Turris predict^{is} per precept^{is} nostrum pro suspitione contra faction^{is} Magni Sigilli nostri cum Attach^{is} & alia causacapi^{is} & deteni^{is} pred^{is} tangentibus salvo & secure duci fac^{is}, Coram nobis in Crastino Ascension^{is} Domini ubicunque tunc fuisset in Angl^{is} prision^{is} Marr^{is} nostra coram nobis liberand^{is} in eadem quousque per quendam informator^{is} essemus plenius informat^{is} custod^{is}, & habita inde informat^{is} pred^{is} ulterius super hoc fieri fecerimus, quod fore viderimus, faciend^{is} secundum legem, & consuetudinem Regni nostri Angl^{is} nos in causa quod dictus informator^{is} non ven^{is} coram nobis, ad informand^{is} nos plenius super premissis nolentes, eundem Johannem ea de causa a Justiciari^{is} deferri, in hac parte vobis mandamus quod si pred^{is} informator^{is} in quindenam Sancte Trin^{is} proxim^{is} fuerit, vel citra non ven^{is} nec super hoc plenius informatur, tunc advenit^{is} ejusdem informator^{is} minime expectat^{is} eidem Johanni super fieri fac^{is} Justic^{is} Complemen^{is}, prout fore videritis faciend^{is} secundum legem & consuetudinem Regni nostri Angl^{is}, Teste me ipso apud Westm^{is} duodecimo die Maij Anno Regni nostri Angl^{is} decimo octavo, Regni vero nostri Franc^{is} quinto, quod quidem breve inspic^{is} fact^{is} est proclamac^{is}, quod si quis Dominum Regem super premissis informare, vel erga ipsum Johannem prosequi voluerit, quod veniat & super hoc ven^{is} pred^{is} Willielmus de Wakefeld, Nich. de Wandesford, Johannes Brinoyne, Johannes de Lancham, Johannes de Norton, & Rogerus de Bromley, omnes de Com^{is} Midd^{is}, & Man^{is} pred^{is} Johannem de Bildeston habendum eum coram Domino Rege, de die in diem usque prefat^{is} quinden^{is} Sancte Trin^{is} ubicunque &c. Ad quem diem Anno decimo coram Domino Rege apud Westm^{is}, venit predict^{is} Johannes de Bildeston per manus^{is} pred^{is}, & iterat^{is} fac^{is} proclamationem in forma qua superius &c. & nullus ven^{is} ad Dominum Regem informand^{is} &c. per quod concess^{is} est quod predict^{is} Johannes de Bildeston eat inde sine salva semper Actione Domini Regis si quam &c.

De Terminis Sancti Hillar^{is} Anno 22 H. 8. & per cont^{is} Rotl^{is} ejusdem rot. 37.

London Glouc^{is}. Johannes ut^{is} Parker per Richardum Chippin & Willielmum Daunsey, Vic^{is} London^{is}, virtute brevis Domini Regis de Laritat^{is} pro pace versus ipsum Johannem Parker, ad secl^{is} Johannis Brimton eis inde direct^{is} & coram Rege Ducl^{is} cum causa, viz. quod idem Johannes Parker capi^{is} fuit in Civitat^{is} predict^{is} pro securitate pacis pred^{is}, & pro suspitione felonie per ipsum apud Bromhall, in Com^{is} Glouc^{is} perpetrat^{is} per nomen Johannis Parker de Thornbury in Com^{is} Glouc^{is} Corfer, alias dict^{is} Johannes Charles de eodem Com^{is} Surgeon, ac per mandat^{is} Domini Regis nunciari^{is} Robertum Pecke de Cliffords Inne, qui committitur Marr^{is} &c. & postea isto Terminis tradito in ball^{is}. Tho. ut^{is} Atkins de Thornbury pred^{is} Weaver, & Willielmo ut^{is} not^{is} de eisdem Vill^{is} & Com^{is} Weaver, usque a die Pasche in unum mensem ubicunque &c. & quod idem Johannes Parker citra eundem diem personalit^{is} comperit^{is} coram Justic^{is} Domini Regis ad proximam generalem Gaolam deliberationis Com^{is} Glouc^{is} prox^{is} tenend^{is} ad subjiciend^{is} & recipiend^{is} ea omnia & singula quod prefat^{is} Justic^{is} de eo tunc ad ordinari^{is} contigerint &c. (viz.) Corpus pro corpore &c. Ad quem diem predict^{is} Johannes licet ipsi quarto die placiti solemniter exat^{is} ad comperend^{is} non ven^{is} Jo. Cap^{is} eum & pledg^{is}, Trin^{is} ad quem diem ex Octobr^{is}, Term. postea Trin^{is} 24 H. 8. ex no^{is} vo. Pasch. rot. ad quem diem breve eo Vic^{is} retorn^{is} quod ad Hastings ten^{is} apud London^{is}, die Luna prox^{is} post

Festum Sancti Scholastin Anno Regni Regis H. 8. 24. pred^{is} Johannes Parker, Thomas Atkins, & Willielm^{is} Carr^{is} note utlegat^{is} fuerunt prout patet per breve Regis de Terminis Pasch. Anno 25 Regis pred^{is}.

De Terminis Sancti Michaelis Anno 35 H. 8. & per cont^{is} ejusdem Rot. 33.

Johannes Bincks per Robertum Baker Ar^{is} Seneschall^{is} Surr^{is} Cur^{is} Marr^{is}, & Rad^{is}um Hopton Marr^{is} ejusdem Cur^{is} virtute brevis Domini Regis de Habeas Corpus, ad subjiciend^{is} & recipiend^{is} &c. eis inde direct^{is} coram Domino Rege ducl^{is} cum causa (viz.) quod ante advenit^{is} brevis predict^{is} pred^{is} Johannes Bincks capi^{is} fuit per mandat^{is} privati Sigilli Domini Regis pro suspitione Felonie, & aliis causis illos moventibus & ducl^{is} ad Gaolam Marr^{is} & ibidem deteni^{is} virtute per mandat^{is} predict^{is} qui committit^{is} Marr^{is} &c. Et immediate ex gratia Cur^{is} special^{is} pred^{is} Johannes Bincks de Magna Marlow in Com^{is} Bucks, Weaver, traditur in ball^{is}, Thome Bignum de London gen^{is}, & Johanni Woodward de Marlow pred^{is} Taylor, usque in crastino Sancti Martini ubicunque &c. utque pledg^{is} corpus pro corpore &c. Ad quem diem comperunt, & Robertus Drury Ar^{is} & Johannes Bosse gen^{is} duo Justic^{is} Domini Regis ad Pacem in Com^{is} Bucks virtute brevis Domini Regis eis direct^{is} Domino Regi certific^{is} quod nullum Indictment de aliquibus felonis & transgr^{is} versus ipsum Johannem Bincks de premissis eat inde sine die deliberat^{is} pro proclamation^{is} & Jur^{is} prout moris est.

De Terminis Pasche Anno secundo & tertio Ph. & Mar. Regis & Regine rot. 58.

Richardus Overton nuper de London^{is} gen^{is} per Thomam Leigh & Johannem Machell Vic^{is} London^{is} per virtutem brevis Dominorum Regis & Regine de Habeas Corpus ad stand^{is} reit^{is} &c. eis inde direct^{is} coram Willielmo Potman Mil^{is} Capital^{is} Justic^{is} &c. ducl^{is} cum causa (viz.) quod predict^{is} Richardus Overton nono die Octobr^{is} ult^{is} preterit^{is} commissus fuit prision^{is} de Newgate, & ibidem in eadem prision^{is} sub custodia dictor^{is} Vic^{is} deteni^{is}, ad mandat^{is} pranobilium Dominor^{is} honorabilis Consilij predictor^{is} Regis & Regine qui committit^{is} Marr^{is} &c. & immediate traditur in ball^{is}, Willielmo Overton de London^{is} gen^{is} & Johanni Taylor de paroch^{is} Sancti Martini apud London^{is} Mercer usque Octab^{is} Trin^{is} (viz.) interque Manucapi^{is} predict^{is} corpus pro corpore, & postea Trin^{is} 2 Eliz. Regina Cap^{is} Overton, & Plegios suos Octab^{is} Mich. ad quem diem ex mense Pasche, Vic^{is} retorn^{is} quod ad Hastings suum ten^{is} apud Guildhall Civitat^{is} London^{is} die Luna post Festum Sancti Gregorij Episcopi predict^{is} Willielmus ut^{is} est per breve Pasch. Anno sup^{is} predict^{is}.

De Terminis Sancti Michaelis Anno secundo & tertio Ph. & M. Regis & Regine Rot. 6.

Haberet Chart^{is} Allocat. Trin. secundo & tertio Ph. & M. Regis & Regine, &c.

Richardus Overton nuper de London^{is} gen^{is} capi^{is} Octab^{is} Hill. pro quibusdam alis predictiombus unde indictatus est. Ad quem diem quidem Pasch. ad quem diem ex crastino Animar.

Anno
1628.

De Termino Pasch. Anno quarto & quinto Ph.
& M. Regis & Reginae & per contr' ejusdem
Rotl' 45.

Turris
London.

Edwardus Newport gen' & Robertus Oxenbridge
Mil', Constabular' Turr' præd' virtute brevis
Domini Regis & Regina de Habeas Corpus ad subji-
ciend' &c. eis inde directi ad Bar' coram Domino Rege
& Regina ducti cum causa (viz.) quod ipse sibi com-
missus fuit per mandatu' consilij Domine Reginae qui
committitur Marr' & immediate traditur in ball'
prout &c. & postea sive per proclamationem virtute
brevis de gesta & fama prout præd' &c. Rotl. 17. istius
Anni & etiam patet super ball' inte scruct' finium istius
Termini affilui' &c.

De Termino Sancti Michaelis Anno quarto &
quinto Ph. & M. Regis & Reginae per contr' c-
jusdem Rotl. 17.

Midd'.

Mida' Quod decimo quarto die Octobr' Annis Reg-
norum Dominorum P. & M. nunc quarto &
quinto Edwardus Newport de Hawley in Com' Wigorn'
Capt. fuit apud Uxbridge in Com. præd. pro suspitione
contrafactionis quadrind. pecun. Aur. vocat. French
Crowns, per ipsum & alibi in Com. Wigorn. fieri suppo-
nitur & ea de causa per mandat. Consilij Dominorum
Regis & Reginae ad barr. ducti. fuit qui committitur
Marr' &c. & super hoc idem Edwardus Newport tra-
ditur in ball', Tho. Charde de Latten in Com. Essex
gen', Edwardo Hales de paroch. Sancti Olavi London'
gen', Johanni Baker Clerico Ordinari. London' Johanni
Gill de paroch' Sancti Thom' Apostoli London' Cloth-
worker, & Richardo Parkes de Bromesgrave in Com.
Wigorn. Teoman, usque Octab. Hillarij ubicunque &c.
(viz.) quilibet pleg. præd. sub pœna 100 l. & prædictus
Edwardus sub pœna 200 l. quas &c. ad quem diem
compernit & committitur Constabular. Turris London'
per mandat. Consil. Dominorum Regis & Reginae, ibi-
dem salvo custodiend. quousque &c. & postea quarto &
quinto Ph. & M. traditur in ball. prout patet per
scruct' finium istius Termini & postea Mich. quinto
& sexto Ph. & M. exoneretur per Cur', eo quod tam
per sac' duodecimor. & probor. & legal. hominum
de præd. Com. Midd', coram Domino & Regina hic
in Cur. in ea parte jur', & onerat. quoniam per sac'
duodecimorum probor. & legal. hominum de præd. Com.
Wigorn. coram Edwardo Saunders & Johanne Whid-
don Mil' & al' Justic. dictorum Dominorum Regis &
Reginae ad Pacem ac ad diversas felon. transer. & al'
malefacti, in eadem Com. perpetrare audient' & ter-
minand. assignat. virtute brevis dictor. Regis & Regi-
nae, eis inde directi. ea parte scilicet Jurat. & oneratur
ad inquirend. de gesta & fama ipsius Edwardi compe-
rit. existit quod Edwardus est de bona gesta & fama
Jo: proclamatio est inde fact', prout moris est, secun-
dum legem & consuetudinem Regni Angl. &c. concessum
est, quod præd. Edwardus eat inde sine die &c.

Delibe-
rat' per
procla-
mat' sine
die.

De Termino Pasch' Anno nono Eliz. Reginae
35.

London.

Thomas Lawrence per Christopherum Draper
Mayor Civitat. London', Ambrosium Nicholam
& Richardum Lambert ejusdem Civitat. virtute brevis
Domine Reginae de Habeas Corpus &c. ad prosequend.
&c. eis inde directi. & coram Domina Regina ducti.
cum causa (viz.) quod septimo die Novembr. Anno
Regni Domine Eliz. nunc Reginae Angl. Octavo, præ-
dicti Tho. Lawrence in dicto brevi nominat'. Capt.
fuit in Civitat. præd. & in prison. Domina Regina
sub custod. præd. Vic. detem. per mandat. Consilij Do-

mine Regina qui committitur Marr' &c. & super
hoc tradit. in ball. prout patet per scruct' finium istius
Termini.

Car. 4.

Marr'

Ball'

Pardon'.

De Termino Pasch. Anno nono Eliz. Reginae
Rotl' 68.

Robertus Constable Al', per Franciscum Jobson Turris
Mil' locum tenen. Turr' London' virtute brevis London.
Domina Regina de Habeas Corpus ei inde directi. & co-
ram Domina Regina ducti. cum causa (viz.) quod i-
dem Robertus Constable præfatus Francisco Jobson
commis' fuit per mandat. privat. Consil. dict. Domi-
nae Reginae salvo custodiend', qui committitur Marr'
&c. & postea isto eodem Termino ibidem Robertus tra-
ditur in ball. prout patet inter scruct' finium istius
Termini &c.

Pardon'

Marr'

Ball'

De Termino Pasch' Anno 30 Eliz. Reginae, & per
cont' ejusdem Rot. 72.

Johannes Browning per Owen Hopton Mil' locum Turris
tenen. Turr. London' virtute brevis Domine Re- London.
ginae de Habeas Corpus, ad subjiend. & recipiend. ei
inde directi, & coram dilecto & fideli Domina Regi-
nae Christophero Wray Mil' Capt. Justic. Domine Regi-
nae ad placita coram nobis tenenda, assignat. hospitium
suum in Serjeant's Inn in Fleetstreet, London, die Lu-
nae, viz. duodecimo die Maij ducti. cum causa (viz.)
quod prædict. Johannes Browning commis' fuit eidem
locum tenen', per mandat. privat. Consilij Reginae sal-
vo custodiend. &c. qui committitur Marr' &c. & po-
stea isto eodem Termino traditur in ball', prout patet
per scruct' finium istius Termini.

De Termino Sancti Hill' Anno 40 Eliz. Reginae
& per cont' ejusdem Rot. 42.

Edwardus Harecourt per Hugonem Parlour custod' Midd'
Domina Reginae, de le Gatehouse infra Civitat.
Westm. in Com. Midd', virtute brevis Domine Reginae
de Habeas Corpus ad subjiend. &c. & ei inde directi.
& coram Domina Regina apud Westm. ducti. cum causa
(viz.) quod ante advent. brevis præd', scilicet septimo
die Octobr', Anno dicti Domina Reginae nunc 39 cor-
pus Edwardi Harecourt per Dominos privat. Consil.
ducti. Domine Reginae, ei commissus fuit salvo & secur.
custodiend. certis de causis eis moventibus, & ei ignor.
qui committitur Marr' &c. & postea isto eodem Ter-
mino traditur in ball. prout patet per scruct' finium istius
Termini.

Marr'

Fall'

De Vacatione Hillar' Anno 43 Eliz. Reginae.

Robertus Catesbie per Johannem Phillips Guard' Fleet St.
de le Fleet virtute brevis Domine Reginae de
Habeas Corpus ad subjiend' &c. ei inde directi, et
coram Edwardo Fenner uno Justic' Domine Reginae
ad placita coram ipsa Regina tenend. assignat', apud
Winchester-house in Burgo de Southwark, in Com.
Surr', ducti. cum causa (viz.) quod prædictus Ro-
bertus, commissus prisonæ prædict', primo die Mar-
tij Anno 43. Reginae per Warran. diversorum præ-
nobilium Virorum de privat. Domina Regina in hac
verba.

M m

To

Anno
1628.

To the Warden of the Fleet, or his Deputy.

These shall be to will and require you to receive at the hands of the keeper of the Compter in Woodstreet, the person of Robert Catesbie Esquire, and him to detain and keep safely in that Prison under your Charge, until you shall have other direction to the contrary, wherein this shall be your Warrant.

Et prefat. Robertus Commissus fuit Marr. per prefat. Edwardum Fenner & statim traditur in ballium prout patet &c.

De Termino Sancti Hill' Anno 12 Jac. Regis Rotl. 153.

Prison
de le
Gate-
house in
Com'
Midd.

Richardus Beckwith gen. per Aquilam Weekes custod. prison. predict', virtute brevis Domini Regis de Habeas Corpus ad subjiciend. &c. ei inde direct. et coram Domino Rege duct. cum causa, (viz.) quod adventum brevis pred. scilicet decimo die Junij Anno Regni Domini Jac. Regis, Dei grat. Angl. Franc. et Hibern. fidei defensoris &c. undecimo ac Scotie 47. predictus Richardus Beckwith sibi commissus fuit prison. predict'. sub custod. sua virtute cujusdam Warrant. sibi facti. et direct. per Georgium Divina Providentia Archiepiscopum Cantuar. totius Angl. Primat. et Metropol'. Henricum Com. Northampton. Dominum Gardianum quinque portuum ac unum privat. Consilij Regie Majestatis. Thom. Com. Suffolk Dominum Camerar. Regie familia ac e Sacris Consiliis Regie Majestatis, Willielmum Dominum Knowles Thesaurar. Regie famil', et Johannem Dominum Stanhope Vicecamerar. Regie famil', cujus Warrant. tener. sequitur in hac verba.

To Aquila Weekes Keeper of the Gatehouse in Westminster, or his Deputy.

Whereas it is thought fit that Miles Ranere and Richard Beckwith be restrained of their Liberties, and be committed to the Prison of the Gatehouse, These shall be to will and require you, to receive the persons of the said Ranere and Beckwith into your charge and safe keeping, in that Prison there to remain until you shall have further Order from us in that behalf. Dated at Whitehall the Tenth day of July, 1613.

Marr'
Ball.

Et hac est causa detentionis dicti Richardi Beckwith in prisona predicta, Qui committitur Marr' &c. Et postea isto eodem Termino traditur in ballium, prout patet per scruct. istius Termin.

De Termino Sancti Michaelis Anno 18 Jac. Regis, & per cont' ejusdem Rot. 147.

Turris
London.

Thomas Mounson Mil. per Georgium Moore Mil. locum tenen. Turris Domini Regis London' virtute brevis Domini Regis de Habeas Corpus, Ad subjicienda &c. et inde direct. coram Domino Rege apud Westm. duct. cum causa (viz.) quod ante adventum brevis preu', pred. Thomas sibi commissus fuit per Warrant. de prefat. Consil. Domini Regis sibi direct. &c. qui committitur Marr' &c. & super hoc traditur in ball. prout patet per scruct. finium istius Termin.

Marr'
Ball.

De Termino Sancti Michaelis Anno 7 H. 7. & per cont' Rot. ejusdem Rot. 6.

Car.
4.

Thomas Bragg Junior utl. remissus nuper de Tvington in Com. Hereford gen. inde de felon. et murder. et recussus Johannes Rantus de Leominster in Com. pred. Teoman, Robertus Sherman recuss' nuper de Leominster in Com. pred. Tho. Hosier nuper de eadem Vill. et Com. Hosier recussus Tho. Ballard nuper de eadem, Smitha Cadwallader ap John Dom' nuper de Kerrey in Marchia Wallia in Com. Salop adjacen. gen. Reinaldus ap Breineham alias Sherman, et Tho. Tanner nuper de Kingland in Com. Hereford Cornesier sunt in custod. Marr. ad mandat. Domini Regis ac pro aliis certis causis prout patet alibi de Record. &c. per Record. istius Term. postea isto Termino Dominus Rex relaxavit mandat. suum, & pro recuss' pred. Cowper per Attorn. &c. Et quod utlegat' versus prefat. Thomam Bragge revocat. isto Termino, et pred. Johannes Rawlins pro felon. & murder. pred. traditur in ball. prout patet alibi &c. ideo hic Marr. de eis omnibus per Cur. exonerat. &c.

Angl'
Here-
ford

De Termino Sancti Hill. Anno 7 H. 7. & per cont' ejusdem Rot. 13.

Willielmus Bartholomew, Johannes Bartholomew, Willielmus Chace, Henry Carr (Ball. mort. est in prison' prout patet P. 7. H. 7. affilat.) Thomas Rollesby (mortuus est ut antea) Thomas Streete, Robertus Feldowe et Henr. Raven sunt in custod. Marr. ad mandat. Domini Regis &c. per receptum istius Termin. ac predictus Willielmus Chace pro pace Rad' Josselin, invenien. &c. Pasch sequen. petit post Trin. sequen. dictus Dominus Rex mandat. suum pra, quoad predictus Willielmus Chace relax. per Regis Attorn. & pro pace, & pro felon. & murder, traditur in ball. eodem.

Angl'
Essex.

De Termino Pasch. 7 H. 7. & per content' Rotl. ejusdem 18.

Johannes Beamond de Weddesburie in Com. Staff' A' Angl' est in custod. Marr. ad mandatum Domini Regis &c. per Record. istius Termin. postea scilicet Trin. 7 H. 7. sequen. pred. Johannes Beamond de mandat. Man' predicto exoneratus existit.

De Termino Sancti Mich. Anno 12 H. 7. Rot. 8.

Thomas Towe nuper de Vill. de Stafford in Com. Stafford Teoman, per Johannem Shawe & Richardum Haddon Vicecom. London' virtute brevis Domini Regis de Habeas Corpus ad secl. ipsius Regis eis inde direct. coram Rege duct. cum causa quod idem Tho. Towe Attach. fuit per Richardum Whittington Serjeant apud Baynards Castle Civitat. predict'. et prison. Domini Regis infra eandem Civitatem salvo custod. crim. pro suspitione feloniam apud Coventry in Com. Warr. perpetrat. ad suggestionem Willielmi King Inholder, ac insuper idem Thomas Towe detinet' in prison' pred. virtute cujusdam alterius querel. versus ipsum ad sectam Johannis Freeman Serjeant, de eo quod inveniat. sufficient. secur. pacis in dicta cur. Johannem Wanniger nuper Vic', ac ulterius idem Thomas Towe detent. est in dicta prison. pro 24 l. debt. et 2 s. 8 d. pro damnis & custagiis quas Robertus Carbell Mercet, ex cognitione ipsius defena', versus ipsum recuperavit in eadem cur', coram eodem Johanne Wanniger nuper Vic. ac etiam idem Tho. detinet. inducta prison. ad mandat. dicti Domini Regis, per Johannem Shawe Alderman' Civitat. London' qui committitur Marr. &c. postea scilicet Termin. Anno 19. Regis H. 7.

Lon-
don'

Anno
1628.

H. 7. *prad.* Johannes Freeman relax. secur. pacis ver-
sus eundem Thomam Towe & dictus Robertus Corbett
cogn. se fore satisfact. de debito et damnis *prad.*
ac Jacobus Hubbard general. Astorn. Domini Regis
nomine ipsius Regis relax. mandat. Domini Regis ac
pro suspitione felon. *prad.* traditur in ball. Simoni
Little Taylor, & Johanni Albe de London. Skinner,
usque octab. Trin. ubicunque &c. Ad quem diem compe-
ruit, et Robertus Throgmorton unus custod. pacis
prad. Com. Warr. retorn. quod null. Indictment de a-
liquis felonis sive transgressionibus versus *prad.*
Thomam Towe, coram eo, & sociis suis, *prad.* res-
idet, et ulterius virtute brevis Domini Regis, sibi et
sociis direct. per sac. proborum & legal. hominum
de Vill. de Coventry *prad.* de gestis et fama *prad.*
Thomae diligenter inquisitionem fecerunt, et nihil de eo
prater bonum coram eo et sociis suis compertum est, sed de
bono gestu et fama Jo. concessus est quod *prad.* Tho.
Towe eat inde sine die &c.

De Termino Sancti Hill. Anno 19 H. 7. & per
cont. Rotl. ejusdem rot. 14.

Surr. II.

Humfridus Botch nuper de Cant. in Cantabrig.
Scholier, per Robertum Willoughbie Domini
Brooke Mil. Seneschal. hospitij Domini Regis ac Jo-
hannem Digbie Mil. Marr. Cur. Marr. hospitij *prad.*
virtute brevis Domini Regis de Habeas Corpus ad stand.
recl. &c. ad secl. partis ulagat. cui inde direct. coram
Rege duct. cum causa (viz.) quod idem Humfridus
Botch commissus fuit Gaol. Marr. hospitij Domini Regis
prad. per mandat. Domini Regis *prad.* & hac de causa
& non alia, idem Humfridus in prison. *prad.* detinetur
qui commissus Marr. &c. postea Pasch. sequen. Do-
minus Rex relinquit mandat. suum capital. Justic. per
Tho. Mil. often. & pro ul. *prad.* traditur in ball. prout
patet alibi.

De Termino Sanctae Trin. Anno 39 Eliz. Regine,
& per contr. Rotl. ejusdem Rotl. 113.

LeGate-
house.

Lawrence Browne per Hugonem Parlour custod.
prisona Domina Regina de le Gatehouse virtute
brevis Domina Regina de Habeas Corpus ad subjiciend.
&c. ei inde direct. & coram Domina Regina apud
Westm. duct. cum causa (viz.) quod *prad.* Lawrence
Browne in arcta custod. sua remansit, per mandat. Do-
minorum serenissima dict. Domina Regina pro cert. cau-
sis eis movent, Qui commit. Marr. &c. & postea isto
eodem Termino tradit. in ball. prout patet per scruct.
finium istius Terminis.

Ball.

Per scruct. finium Terminis Sancti Trin. Anno 39
Eliz. Regine.

Essex II.

Lawrencius Browne de parva Badowe in Com.
prad. Husbandman traditur in ball. ad subji-
ciend. &c. per mandat. privat. Consil. Domina Regina
super Habeas Corpus.

Usque
Oct.
Mich.

Rad. Mayall de Harsfeld Peverell in Com. *prad.*
gen.
Henrico Odell de eodem gen.
Wilhelmo Erliden de Westm. Bricklayer.
Richardo Morgan de Westm. Labourer.
Uterque pleg. sub pena 40l. & Princ. sub
pena cent. mercar.
Pro suspitione pro discis cum Johanne Supt. Mil.

De Terminis Sancti Michaelis Anno 40 Regine
Eliz. & per contr. Rotl. ejusdem Rotl. 37.

Midd. II.

Thomas Wenden per Hugonem Parlour gen. custod.
prison. Domina Regina de le Gatehouse virtute
brevis Domina Regina de Habeas Corpus ad subjiciend.

&c. & inde direct. & coram Domina Regina apud
Westm. duct. cum causa (viz.) quod 18 die Junij An-
no Regni Domina Eliz. nunc Regina Angl. 38. cor-
pus infra nominat. Thomas Wenden exar. Cur. ejusdem
Domina Regina coram ipsa dict. Regina & Consil. suo
in Camer. Stedlar. prisona dicta Domina Regina,
de le Gatehouse, sub custod. suo pro cert. causis eisdem
Domina Regina & Consil. suam moventibus, & ei
ignot. commissus fuit salvo custodiend. donec aliud in-
de habuit preceptum. Et hac est causa detentionis
prad. Thomae in prison. *prad.* qui committitur Marr.
&c. postea traditur in ball. prout patet per scruct.
finium istius Terminis.

Car. 4.

Per scruct. finium de Terminis Sancti Michaelis
Anno 39 & 40 Eliz. Regine.

Tho. Wenden de Aldham in Com. Essex Yeoman Marr. II.
traditur in ball. super Habeas Corpus ad subjici-
end. & recipiend. &c.

Johanni Wenden de Calverwake in Com. *prad.* Yeoman. Usque
Wilhelmo Berriford de Aldham *prad.* gen. Oct.
Rad. Northen de Aldham & Com. *prad.* Hill.
Quilibet Pleg. sub pena 200 marc. &
Princeps sub pena 200l.

Idem Tho. Wenden traditur in ball. per consensum
Dominorum privat. Consil. per relationem Domina Re-
gina general.

Sub. r. capt. sibot. per Craffinum Martini de
Termino Sancti Hill. Anno 43 Eliz. Regine
Rotl. 89.

Domina Regina mandavit predilecto & fideli Con-
silar. suo Johanni Popham Mil. Capital. Justic.
Domina Regina ad placita coram ipsa Regina tenend.
Assign. Ac dilectis & fidel. suis, Johanni Clinch,
Francisco Gaudie & Edwardo Fenner, Justic. ipsius
Domina Regina ad placita *prad.* aut eorum alicui bre-
ve suum de privat. Sigill. manu sua propria sigillat. quod
sequitur in hac verba.

By the Queen.

Thous and welbeloved we greet you well,
Whereas William Constable late of London
Kt. Henry Carewe late of London Knight,
Henry Linsey late of London Knight, Ellis
Jones late of London Gent. Charles Ogle late
of London Gent. Robert Pitchfork late of Lon-
don Gent. John Wright late of London Gent.
Christopher Wright late of London Gent. and
Edmond Whitlock late of London Gent. for the
late treasonable attempt by the late Earl of
Essex, have been committed to several Places
and Prisons for their Offences committed,
some in one sort and some in another, and
stand among others Indicted of High Treas-
on for their several Offences, Forasmuch as
of our Princely Disposition, we are graciously
bent to extend our Grace and Favour unto
them, and that they shall be bailed, We will
and command you, That you or any of you,
do bail the above named persons, or any of
them, to appear before us in our Court, com-
monly called the King's Bench, at such time,
and in such manner and form, as to you or a-
ny of you shall seem fit, And this shall be your
sufficient Warrant and Discharge in that be-
half. Given under our Signet at our Palace
of Westminster the Twentieth of March, 1600.

M m 2

and

and in the Thre and fourtieth year of our
Anno Reign.

1628.

To our trusty and right well-beloved Counsellor Sir John Popham Kt. Chief Justice of our Pleas, to be holden before us. To our trusty and well-beloved John Clench, Francis Gaudie and Edward Finner Justices of the same Pleas, or to any of them.

De Vacatione Hillarij 43 Eliz. Reginae.

Gatehouse.

Robertus Vernon nuper de London' Mil. Henr. Lindsey nuper de London' Mil. & Carolus Ogle nuper de London' gen. per William Okey custod. prison. de le Gatehouse, virtute brevis Domina Regina de Habeas Corpus ad subjiend. &c. ei inde direct. & coram Francisco Gaudie uno Justic. Domina Regina ad placita coram ipsa Domina Regina tenend. assign. apud hospitium suum in Serjeants Inne in Chancery Lane, Londn', duct. cum causa (viz.) quod prad. Robertus Henr. & Car', sibi commissi fuerunt per mandat. privati Consilij Domina Regina pro quibusd. ultis prodicionibus per ipsos fieri suppon' qui traduntur in ball' pretextu brevis, &c.

De Vacatione Hilli 43 Eliz. Reginae.

Fleet ff.

Henric' Carewe nuper de London' Mil. per Johannem Philips Guardian' de le Fleet, virtute brevis Domina Regina de Habeas Corpus ad subjiend. &c. ei inde direct. & coram Francisco Gaudie uno Justic. Domina Regina ad placita coram ipsa Regina tenend. assign. apud hospitium suum in Serjeants Inne in Chancery Lane, duct. cum causa (viz.) quod Henr' commissus fuit prison. predict. 12 die Febr' Anno 43. Regina virtute cujusdam Warran. diversor. prae nobil. viror. de privat. Consil. in hac verba.

This shall be to require you to receive in to your Custody, from the Lord Mayor of London, the person of Sir Henry Carewe Kt. who was committed in the late Traitorous Rebellion, and to keep him safely close prisoner, until you shall receive order from us to the contrarie. Qui tradit' in ball' pretextu brevis.

De Termino Sanctae Trin' Anno 1 Jac' Regis Rot' 30.

Gatehouse.

Johannes Brockett Mil. per Willielmum Okey custod. prison' de le Gatehouse in Westm. in Com. prad. virtute brevis Domini Regis de Habeas Corpus ad subjiend. &c. ei inde direct. Et coram dicto Domino Rege apud Westm. duct. cum causa (viz.) quod ante adventum brevis prad. scilicet ultimo die Martij Anno Regni Domini Regis primo, prad. Johannes Brockett Mil. prefat. custod. de le Gatehouse, commissus fuit per Warran. de privat. Consil. Domini Regis cujus tenor sequitur in hac verba.

To William Okey Keeper of the Gatehouse in Westminster.

These are to will and require you to receive into your Charge and custody the person of John Brockett Kt. and him to retain in safe keeping under your charge until you shall have further Order for his Enlargement, whose Commitment being for some special matter concerning the Service of our Sovereign Lord the King, you may not fail to regard this our Warrant accordingly.

From the Kings Palace of Whitehall the last day of March, 1603.

Qua fuit causa detentionis prad. Johannis in prison' prad. Quis committitur Marr', & postea traditur in ball' prout patet per seruet' finium istius Terminij.

Car. 4

Mari' Ball.

De Termino Sancti Michaelis Anno 12 Jac' Regis rot. 119.

Milo Reynard per Aquilam Weekes custod' prison' prad. virtute brevis Domini Regis de Habeas Corpus ad subjiend. &c. coram Domino Rege duct. cum causa (viz.) quod ante adventum brevis prad. scilicet decimo die Julij Anno Domini 1613. prad. Milo Reynard commissus fuit prison. prad. & hucusque detent. virtute Warr. cujusdam sibi fact. & direct. per Georgium Archiepiscopum Cant. Henr. Comit. Northampton, Tho. Com. Suffolk, William Knowles, Ed. Dominum Wotton, Ed. Dominum Stanhope, cujus Warran. sequitur in hac verba.

Prison' de le Gatehouse.

To Aquila Weekes Keeper of the Gatehouse in Westminster, or to his Deputy.

Whereas it is thought met that Miles Reynard and Richard Beckwith be restrained of their Liberties, and committed to the Prison of the Gatehouse, These shall be to will and require you to receive the persons of the said Beckwith and Reynard into your charge and safe keeping, in that Prison there to remain until you have further Order from us in that behalf, for which these shall be your Warrant. Dated at Whitehall the Tenth day of July, 1613. Et hac est causa detentionis in prison' prad' qui committitur Marr' & postea isto eodem Termino tradit' in ball, prout patet per seruet' istius Terminij.

Mari' Ball.

De Termino Sancti Hilli Anno 5 H. 7. & cont' ejusdem rot. 18.

Midd. quod prad. Richardus Everard nuper de Colchester in Com. Essex Clericus, & Robertus White nuper de Norwich Smith, per Robertum Willoughbie Mil. Dominum de Broke Seneschal. hospitij Domini Regis & Johannem Turberville Mil. Marr. hospitij prad. virtute brevis Domini Regis de Habeas Corpus ad sectam ipsius Regis pro quibusdam prodicionibus & felonis, unde in dict. Com. Essex indict. scilicet eis inde direct. coram Domino Rege duct. cum causa (viz.) quod idem Richardus Everard & Robertus White commissi fuer. custod. Marr. Marechal. prad. per mandat. Domini Regis qui committitur Marr. &c.

Mari'

De Termino Sancti Hillari Anno 8 H. 7. & per cont' ejusdem Rot. 12 P. Regis H. 7. prout patet.

Inde deliberat'.

Rogerus Cherie nuper de nova Windsor in Com. Berks ff. prad. Teoman, alias dict. Rogerus Cherie nuper de eadem in eodem Com. Teoman per Johannem Baker Major' Vill. Domini Regis de nova Windsor, virtute brevis Domini Regis de Habeas Corpus ad sect. ipsius Regis pro quibusdam felonis & transg' unde in Com. Midda' indictat' est, sibi direct. coram Rege duct. cum causa (viz.) quod idem Rogerus commissus fuit Gaol. Domini Regis infra Vill. prad. per mandat. Domini Regis qui committit. Marr. &c.

Mari'

De

Anno 628. De Termino Sancti Hillarij Anno 9 H. 7. per cont' ejusdem Rot. 13.

Mort' est in prison' prout patet certific' inde Pac', & Hill' affilat'.

Chrisrophus Burton nuper de Rochester in Com' Kant' Hackneyman; per Robertum Willoughby Dominum Brooke Mil. Seneschal' hospitij Regis alias Johannem Digbie Mil' Marr', Cur' Marr', hospitij pradi' virtute brevis Domini Regis de Habeas Corpus ad scil' ipsius Regis ad subjicienda &c. eis inde directi' coram Domino Rege cum causa (viz.) quod idem Christopherus Burton commissus fuit Gaol' hospitij prae', per mandat' Domini Regis, & hac de causa, & cum al' committit' Marr' &c. & super quada' abjurac' infra Civitat' Roffen fact' isto Termino certis' ad saluum custodienda' sub pena 100 l. &c.

De Termino Pasche Anno 19 H. 7. & per cont' ejusdem Rot. 23.

Georgius Urswicke de London Mercer' per Alvered Wood locum tenen' prison' Domini Regis de le Fleet, virtute brevis Domini Regis de Habeas Corpus ad scil' ipsius Regis ad conservand. &c. ei inde directi' & coram Rege duct' cum causa (viz.) quod idem Georgius Urswicke 13 die Maij Anno 19 Regis Commissus fuit prison' de le Fleet prae' per mandat' ipsius Domini Regis salvo custod' sub pena 40 l. qui committitur Marr' &c.

De Termino Sancte Trin' Anno 7 H. 8. & per contr' ejusdem Rotl' 23.

Edwardus Page nuper de London' gen' per Georgium Com' Salop' Seneschal' hospitij Domini Regis, & Hem' Shranburne Marr' Cur' Marr' hospitij prae' virtute brevis Domini Regis ad conservanda' &c. eis directi' & coram Rege duct' cum causa (viz.) quod idem Edwardus capt' & detent' fuit in prison' Marr' prae' per mandat' Domini Regis ibidem salvo custodienda' &c. qui committit' Marr. hospitij Domini Regis.

De Termino Sancti Mich' Anno 8 Jac' Regis & per cont' ejusdem & per Rot' 89.

Thom' Cesar per Thom' Vavoser Mil' Marr' hospitij Domini Regis, ac Marr' Marechal' ejusdem hospitij virtute brevis Domini Regis de Habeas Corpus ad subjicienda' &c. ei inde directi' & coram dicto Domino Rege apud Westm' duct' cum causa (viz.) quod ante adventum brevis prae' scil' 8 die Julij Anno Regni Regis Domini nunc Angl' &c. hospitio, Tho' Cesar in breve prae' nominat' capt' fuit apud Whitehall in Com' Midd' per special' mandat' Domini Regis & per eundem Dominum Regem ad tunc & ibidem commissus fuit salvo custodienda' quousque, & ea fuit causa captionis & detentionis ejusdem Thom' Cesar qui remittitur prison' Marr' prae'.

De Termino Sancti Michaelis Anno 8 Jac' Regis.

Dies Mart' prox' post quind' Martini. **N**is prae' Seneschal' & Marr' hospitij Domini Regis sufficiens' retorn' breve de Habeas Corpus Tho' Cesar die Mercurij prox' post quinden' Sancti Martini, defena' exonatur. Marr' hospitij Domini Regis.

De Termino Sancti Hill' Anno 11 Jac' Regis Rot' 153.

Jacobus Desmaisters, Edwardus Emerson, Georg' Brockhall, & Willielmus Stephens per Thomam Va-

vasor Mil' Marr' Marechal' hospitij Domini Regis ad subjicienda' ei inde directi' &c. coram Domino Rege apud Westm' duct' cum causa (viz.) quod ante adventum brevis scilicet 2 die Janua' Anno Regni Domini nostri Jac' Dei grat' Angl' & Franc' & Hibernie Regis fidei defensor' &c. 12 & Scot' 48. prae' Jacobus Desmaisters, Edward' Emerson, Georg' Brockhall & Willielmus Stephens in breve huius schedul' annex' nominat' commissi fuit Gaol' Marr' hospitij Domini Regis Marechal' per consilium Domini Regis pro causis ipsam Regem & servicium suum tangen' & concernen'. & hac est causa captionis prae' Jac' Edw', Georgii & Willielmi & postea immediate remittuntur prae' Marr' hospitij prae' l.

Remittitur.

De Termino Sancti Hill' Anno 12 Jac' Regis.

Samuel Saltenstall Mil' per Johannem Wilkinson Prison' de le Fleet, virtute brevis de le Habeas Corpus ad subjicienda' &c. ei inde directi' & coram Domino Rege apud Westm' duct' cum causa (viz.) quod prae' Samuel' commissus fuit prae' 11 die Martij 1608. per Warrant' a Dominis de privar' Consil' Domini Regis, & quod detent' fuit etiam idem Samuel' in prison' prae' virtute ejusdem ordinis in Cur' Cancek' Domini Regis fact' cujus ordinis tenor pat' per Rot' Recora' istius Terminij, ad quem diem prae' Samuel' venit prison' prae' & secundus dies prox' Tern' dau' est prae' Guardian' prison' ad emenda' retorn' suum sufficiens' super breve de Habeas Corpus, & quod tunc attulerit hic in Cur' Corpus prae' Samuel Saltenstall Mil', Ad quem diem prae' Guardian' prison' prae' super breve pae' de Habeas Corpus, quod prae' Samuel commissus fuit prison' prae' 11 die Martij 1608. per Warrant' a Dominis privar' Consil' dicti' Domini Regis apud Whitehall tunc seden' & quod postea 11 die Febr' 1610. commissus fuit extra Cur' Cancellar' Domini Regis apud Westm' pro contemptu suo eidem Cur' illas & quod detent' idem Samuel' in prison' prae' per mandat' Dominorum Consilij Angl' super quo prae' Samuel iterum remittitur prison' prae' & ulterius dies Datus est prae' Guardian' ad emendenda' retorn' suum super Habeas Corpus versus defena', prout stare volueris usque diei Foris prox' post mensem Pasch' & tunc ad habenda' Corpus &c. ad quem diem prae' Guardian' habuit corpus hic in Cur' & retorn' super Habeas Corpus quod prae' Samuel commissus fuit prison' prae' 11 die Martij Anno Dom' 1608. virtute ejusdem Warrant' a diversis de privar' Consilio Domini Regis tunc seden' apud Whitehall & quod etiam commissus fuit idem Samuel' 11 die Febr' Anno 8 Jac' Regis per Cur' Cancellar' dicti' Domini Regis apud Westm' tunc existen' pro quodam contemptu per eundem Samuel' eidem Cur' illas & perpetrat' ibidem provide salvo custodienda', Qui remittitur prison' prae'.

Remittitur.

De Termino Sancte Trin' Anno 13 Jac. Regis & per cont' ejusdem Rot. 75.

Samuel Saltenstall Mil. per Johannem Wilkinson Guardian. prison. de le Fleet virtute brevis Dom. Regis de Habeas Corpus ad subjicienda' & recipienda' &c. ei inde directi' & coram dicto Domino Rege apud Westm. duct' cum causa (viz.) quod prae' Samuel Saltenstall commissus fuit prison. prae' 11 die Martij Anno Dom. 1608. Et Anno Regni Dom. Jac. nunc Regis Angl. &c. sexto, virtute & ejusdem Warrant. de privar. Consil. dicti. Dom. Regis tunc seden. apud Whitehall commissus fuit iterum idem Samuel Saltenstall Mil. prison. prae' 12 die Febr. 1610. & Anno Regni Dom. Jac. Angl. &c. 8. per considerationem Cur. Cancell. Dom. Regis apud Westm. pro contemptu eid. Cur. ad tunc per prae' Samuel. illas ibidem provide salvo custodienda'. Et hoc sunt causa captionis & detentionis prae' Samuel Saltenstall in prison. prae' cujus corpus tamen ad diem & locum infra nominat. parat. habeo prout mihi precipitur.

10

Anno
1628.

His Majesty's
Message for
upon recess.

IN regard all matters were at a stand in the House, and that nothing but complaints took up their time, *Thursday* the 10 of *April*, Mr. Secretary *Cook* delivered this Message from the King, 'That his Majesty desired this House not to make any recess these *Easter* Holidiaies, that the World may take notice how earnest his Majesty and we are for the publick Affairs in Christendom, the which, by such a recess, would receive interruption.

Sir Robert Phillips.

HEREUPON the Priviledge and Power of the House to Adjourn it self is took upon to be infringed by Sir Robert Phillips, who said, 'That in 12 and 18 *Jac.* upon the like intimation, the House resolved it was in their power to adjourn or sit: Hereafter, said he, this may be put upon us by Princes of less Piety. Let a Committee consider hereof, and of our right herein, and to make a Declaration. And accordingly this matter touching his Majesties pleasure about the recess, was referred to a Committee, and to consider the power of the House to adjourn it self; to the end, that it being now yielded unto in obedience to his Majesty, it might not turn to prejudice in time to come.

Sir Edward Cook.

SIR Edward Cook spoke to the same purpose, and said, I am as tender of the Priviledges of this House, as of my life, and they are the Heart-strings of the Common-wealth. The King makes a Prorogation, but this House adjourns it self. The Commission of Adjournment we never read, but say, This House adjourns it self. If the King write to an Abbot for a Corody, for a *Valler*, if it be *ex rogatu*, though the Abbot yields to it, it binds not. Therefore I desire that it be entred, that this is done *ex rogatu Regis*.

Hereupon a Message was sent to the King, That the House would give all expedition to his Majesties Service, notwithstanding their purpose of recess. To which Message, his Majesty returned this Answer, That the motion proceeded from himself, in regard of his engagement in the Affairs of Christendom, wished them all alacrity in their proceedings, and that there be no recess at all.

Secretary
Cook to
expedite
Subsidies.

FRIDAY the 11 of *April*, Secretary *Cook* moved the Expedition of Subsidies, and turning of the Votes into an Act: 'We have many Petitions to the King, said he, and they are Petitions of Right. We have freely and bountifully given five Subsidies, but no time is appointed, and Subsidy without time is no Subsidy: Let us appoint a time.

Sir Dudley Diggs.

SIR Dudley Diggs quickened his motion, and spoke roundly: 'We have (said he) freely concluded our Liberties, we have offered five Subsidies, his Majesty hath given us gracious Answers, we have had good by our beginnings, What have we hitherto done for the King? Nothing is done that the King can take notice of. The World thinks that this Parliament hath not expressed that resolution that it did at the first, how much doth it concern the King, that the

'World be satisfied with his Honour? Our success and Honour is the Kings. Princes want not those that may ingratiate themselves with them, by doing ill Offices: There is a stop, and never did a Parliament propound any thing, but it hath been perfected sooner than this is. May not the King say, What have I done? they grow cold. Have I not told them, I will proceed with as much grace as ever King did? He will settle our Proprieties and Goods. Have we not had a gracious Answer? are we hand in hand for his Supply? shall it be said that this day it was moved, but denied? it may put our whole business back; wherein can this disadvantage us? this binds us not, I dare say confidently, we shall have as much as ever any Subjects had from their King.

Sir Thomas Wentworth.

SIR Thomas Wentworth proposed a middle way, viz. 'That when we set down the time, we be sure the Subjects Liberties go hand in hand together; then to resolve of the time, but not report it to the House, till we have a Ground, and a Bill for our Liberties: this is the way to come off fairly, and prevent Jealousies.

Hereupon the House resolved, That Grievances and Supply go hand in hand.

Saturday 12 of April.

MR. Secretary *Cook* delivered another Message from the King, (viz.) 'His Majesty having given timely notice to this House, as well of the pressure of the time, as of the necessity of Supply, hath long since expected some fruit of that which was so happily begun; but finding a stop beyond all expectation after so good beginning, he hath commanded me to tell you, That without any further or unnecessary delay, he would have you to proceed in this business; for however he hath been willing and consenting, his affairs and ours should concur and proceed together; yet his meaning was not, that the one should give interruption to the other, nor the time to be spun out upon any pretence, upon which the common cause of Christendom doth so much depend: he bids us therefore take heed, that we force not him to make an unpleasing end of that which was so well begun.

I will discharge my duty, I shall humbly desire this Honourable House not to undervalue or overstrain this Message; if we conceive any thing in it to tend, as if his Majesty threatened to dissolve this Parliament, we are deceived; his Majesty intends the contrary, and to put us in such a way, that our business may have speedy success. His Majesty takes notice of a peremptory order, whereby he conceived, that his business was excluded, at least for a time, that which doth most press his Majesty is Time, believe that the affairs now in hand press his Majesties heart more than us. Let us remove delays that are more than necessary, let us awaken our selves, he intends a speedy dispatch. I must with some grief tell you, that notice is taken, as if this House pressed not upon the abuses of Power, but only upon Power it self; this toucheth the King and us, who are supported by that Power: Let the King hear of any abuses of Power, he will willingly hear us, and let us not bend our selves against the extension of his Royal Power, but

Anno 1628. contain our selves within those bounds, that we meddle only with pressures and abuses of Power, and we shall have the best satisfaction that ever King gave. I beseech you all concur this way, and use that moderation we have had the honor yet to gain.

Being moved to explain what he meant by the word [Power] which (he said) we did oppose, he answered,

'I cannot descend to particulars, or go from that his Majesty gave me warrant or Power to deliver.

Sir Robert Phillips.

SIR Robert Phillips said, he hoped their moderation would have given a right understanding to his Majesty of their Loyalty.

*O*thers proposed to find out a way, by God's Providence, to make this Message happy to King and People; it concerns the King's Honour abroad, and our safety at home, that this Parliament be happy, let us prevent (say they) these mischiefs, which by frequent Messages thus obstruct us: let those Gentlemen near the Chair see, that we have endeavoured to apply our selves to his Majesties service, notwithstanding this Message. In 12 Jac. a Message of this nature produced no good; nothing so endangers us with his Majesty, as that opinion that we are Antimonarchically affected, whereas such is, and ever hath been our Loyalty, if we were to chuse a Government, we would chuse this Monarchy of England above all Governments in the World.

Secretary Cook.

*A*Bout two daies after, Mr. Secretary Cook again did quicken the business of Supply, alledging, 'That all Negotiations of Embassadors are at a stop while the House sits, and that this stop is as a Frost upon the Earth; that hinders the sweet vapours between his Majesty and his Subjects; and that as matters stand, the Souldiers can neither be disbanded, nor put in Service.

Mr. Wandesford.

*T*his motion comes unexpectedly, but it is fit to receive some satisfaction, the proceeding now with our Grievances shall open the stop that hinders his Majesties Affairs.

Sir Humphrey May.

SIR Humphrey May added, 'That sweetness, trust, and confidence are the only Weapons for us to deal with our King; and that coldness, inforcement, and constraint will never work our ends: If we compass all we desire, and have not his Majesties heart, what will a Law or any thing else do us good?

*H*ereupon it was ordered, 'That a special Committee of eight persons shall presently withdraw themselves, and consult together upon some Heads, and upon the substance of a fair representation to his Majesty, which the Speaker shall deliver in his Speech to his Majesty, on Monday next, (if the King please to give access) and at the same time to deliver the Petition against Billenting of Souldiers.

Mr. Speakers Speech to the King on Easter Monday.

Most Gracious and Dread Sovereign,

*Y*our dutiful and loyal Commons here assembled, were lately humble Suitors to your Majesty for access to your Royal presence; the occasion that moved their desires herein, was a particular of importance, worthy your Princely consideration; which as it well deserves, should have been the only Subject of my Speech at this time.

Mr. Speakers Speech to the King at the delivery of the Petition for Billenting of Souldiers.

'But since your gracious Answer for this access, obtained by a Message from your Majesty, they they have had some cause to doubt, that your Majesty is not so well satisfied with the manner of their proceedings, as their hearty desire is you should be, especially in that part which concerns your Majesties present Supply, as if in the prosecution thereof, they had of late used some slackness or delay.

'And because no unhappiness of theirs can parallel with that which may proceed from a misunderstanding in your Majesty of their clear and loyal intentions, they have commanded me to attend your Majesty with an humble and summary Declaration of their proceedings since this short time of their sitting, which they hope will give your Majesty abundant satisfaction, that never people did more truly desire to be endeared in the favour and gracious opinion of their Sovereign; and wishal to let you see, that as you can have no where more faithful Counsel, so your great designs and occasions can no way be so speedily or heartily supported, as in this old and antient way of Parliament.

'For this purpose they humbly beseech your Majesty to take into your Royal consideration, that although by antient Right of Parliament, the matters there debated are to be disposed in their true method and order, and that their constant custom hath been to take into their considerations the common Grievances of the Kingdom, before they enter upon the matter of Supply; yet to make a full expression of that zeal and affection which they bear to your Royal Majesty, equalling at least, if not exceeding the best affections of their Predecessors, to the best of your Progenitors; they have in this Assembly, contrary to the ordinary proceedings of Parliament, given your Majesties Supply precedence before the common Grievance of the Subject, how pressing so ever, joyning with it only those fundamental and vital Liberties of the Kingdom, which give subsistence and ability to your Subjects.

'This was their original order and resolution, and was grounded upon a true discerning, that these two considerations could not be severed, but did both of them entirely concern your Majesties Service, consisting no less in enabling and encouraging the Subject, than in proportioning a Present suiting to your Majesties occasions and their abilities; nay, so far have they been from using any unnecessary delays, as though, of the two, that of Supply were the later proposition amongst them, the Grand Committee to which both were referred, hath made that of your Majesties Supply first ready for conclusion.

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And to be sure your Majesties supply might receive no interruption by the other, differing from usage and custom (in cases in this nature) sent up of those that concern the Subjects by parcels, some to your Majesty, and some to the Lords, to the end your Majesty might receive such speedy content, as suited with the largest and best extent of their first order.

Sir, You are the breath of our nostrils, and the light of our eyes, and besides those many comforts, which under you and your Royal Progenitors, in this frame of Government, this Nation hath enjoyed, the Religion we profess hath taught us whose Image we are; and we do all most humbly beseech your Majesty to believe, that nothing is or can be more dear unto us than the Sacred Rights and Prerogatives of your Crown: no person or Council can be greater lovers of you, nor be more truly careful to maintain them; and the preserving of those fundamental Liberties which concern the freedom of our persons, and propriety of Goods and Estates, is an essential means to establish the true glory of a Monarchy.

For rich and free Subjects, as they are best governed, so they are most able to do your Majesty service, either in Peace or War, which next under God hath been the cause of the happy and famous Victories of this Nation, beyond other Kingdoms of larger Territories and greater number of People.

What information soever contrary to this shall be brought unto your Majesty, can come from no other than such as for their own ends under colour of advancing the Prerogative, do indeed undermine and weaken Royal Power by impoverishing the Subjects, render this Monarchy less glorious, and the People less able to serve your Majesty.

Having (by this that hath been said) cleared our hearts and proceedings to your Majesty, our trust is, that in your Royal Judgment we shall be free from the least opinion of giving any necessary stop to our proceedings in the matter of your supply, and that your Majesty will be pleased to entertain belief of our alacrity and cheerfulness in your service, and that hereafter no such misfortune shall befall us to be misunderstood by your Majesty in any thing.

We all most humbly beseech your Majesty to receive no information in this or any other business from private relations, but to weigh and judge of our proceedings by those resolutions of the House that shall be represented from our selves.

This rightly and graciously understood, we are confident from the knowledge of your goodness and our own hearts, that the end of this Parliament shall be much more happy than the beginning, and be to all Ages styled the Blessed Parliament, for making perfect union between the best King and the best People, that your Majesty may ever delight in calling us together, and we in the comforts of your gracious favour towards us.

In this hope I return to my first Errand, which will best appear by that which I shall humbly desire you to hear, it being an humble Petition for the House of Commons for redressing of those many inconveniencies and distractions that have befallen your Subject by the Billenting of Souldiers in private mens Houses against their wills.

Your Royal Progenitors have ever held your Subjects hearts the best Garrison of this Kingdom, and our humble Suit to your Majesty is, that our faith and loyalty may have such place in your Royal thoughts, as to rest assured that all your Subjects will be ready to lay down their lives for the defence of your Sacred Person and this Kingdom.

Not going our selves into our Countries this Easter, we should think it a great happiness to us, as we know it would be a singular comfort and encouragement to them that sent us hither, if we might but send them the news of a gracious Answer from your Majesty in this particular, which the reason of the Petition we hope will move your most excellent Majesty graciously to vouchsafe us.

The Petition concerning the Billenting of Souldiers presented to the King's most Excellent Majesty.

I All humility complaining, sheweth unto your most excellent Majesty your loyal and duriful Commons now in Parliament assembled, That whereas by the fundamental Laws of this Realm every Freeman hath, and of right ought to have, a full and absolute propriety in his Goods and Estate, and that therefore the Billenting and placing the Souldiers in the house of any such Freeman against his will, is directly contrary to the said Laws under which we and our Ancestors have ben so long and happily governed; yet in apparent violation of the said ancient and undoubted right of all your Majesties Loyal Subjects of this your Kingdom in general, and to the grievous and insupportable vexation and detriment of many Counties and persons in particular, a new and almost unheard of way hath ben invented and put in practice, to lay Souldiers upon them, scattered in Companies here and there, even in the heart and bowels of this Kingdom; and to compel many of your Majesties Subjects to receive and lodge them in their own Houses, and both themselves and others to contribute toward the maintenance of them, to the exceeding great disservice of your Majesty, the general terror of all, and utter undoing of many of your People; inasmuch as we cannot sufficiently recount, nor in any way proportionable to the liberty lence that we have of our Miserics herein, are we able to represent unto your Majesty the innumerable mischiefs and most grievous vexations, that by this means alone we do now suffer, whereof we will not presume to trouble your sacred ears with particular instances, only most gracious Sovereign, we beg leave to offer to your most gracious view a compassionate consideration of a view of them in particular.

1. The service of Almighty God is hereby greatly hindered, the people in many places not daring to repair to the Church, lest in the mean time the Souldiers should rife their Houses.

2. The antient and good Government of the Country is hereby neglected, and almost contemned.

Anno 1628. 3. Your Officers of Justice in performance of their duties have been resisted and endangered.

4. The Rents and Revenues of your Country greatly and generally diminished; Farmers to secure themselves from the Soldiers insolence being by the Clamor and Solicitation of their fearful and injured Wives and Children, enforced to give up their wonted dwellings, and to retire themselves into places of more secure habitation.

5. Husbandmen, that are as it were the hands of the Country corrupted, by ill example of the Soldiers, and encouraged to idle life, give over work, and rather seek to live idly at another mans charges, than by their own labours.

6. Tradesmen and Artificers almost discouraged, and being enforced to leave their Trades, and to imploy their time in preserving themselves and their families from cruelty.

7. Markets unfrequented, and our waies grown so dangerous, that the people dare not pass to and fro upon their usual occasions.

8. Frequent Robberies, Assaults, Battering, Burglaries, Rapes, Rapines, Murders, Barbarous Cruelties, and other most abominable vices and outrages are generally complained of them from all parts where these Companies have been and had their abode, few of which insolencies have been so much as questioned, and fewer according to their demerit punished.

These and many other lamentable effects (most Dread and Dear Sovereign) have by the Billering of Soldiers already fallen upon us your loyal Subjects, tending no less to the disservice of your Majesty, than to their impoverishing and destruction, so that thereby they are exceedingly disabled to yield your Majesty those Supplies for your urgent occasions, which they heartily desire; and yet they are further perplexed with apprehension of more approaching danger, one in regard of your Subjects at home, the other of enemies from abroad; in both which respects it seems to threaten no small Calamity to the meaner sort of your People, being exceeding poor whereof in many places are great Multitudes, and therefore in times of more settled and more constant administration of Justice, not easily ruled, are most apt upon this occasion to cast off the Reins of Government, and by joining themselves with those disordered Soldiers are very like to fall into Mutiny and Rebellion; which in faithful discharge of our duties we cannot forbear most humbly to present to your high and excellent Wisdom, being pressed with probable fears that some such mischief will shortly ensue, if an effectual and speedy course be not taken to remove out of the Land, or otherwise to disband those unruly Companies.

For the second, we do most humbly beseech your Majesty to take into your Princely consideration, that many of those Companies, besides their dissolute dispositions and carriages, are such as do openly profess themselves Papists, and therefore to be suspected, that if occasion serve, they will rather adhere to a foreign Enemy of that Religion, than

to your Majesty, their Liege Lord and Sovereign, especially some of their Captains and Commanders, being as Popishly affected as themselves, and having served in the Wars on the part of the King of Spain, and Arch-Dutchess against your Majesties Allies; which of what pernicious consequence it may prove, and how prejudicial to the safety of your Kingdom, we leave to your Majesties high and Princely wisdom.

And now upon these, and many more which might be alledged, most weighty and important Reasons grounded on the maintenance of the Worship and Service of Almighty God, the continuance and advancement of your Majesties high honor and profit, the preservation of the ancient and undoubted Liberties of your People, and therein of Justice, Industry, Valour, which nearly concern the glory and happiness of your Majesty, and all your Subjects, and the preventing of calamity and ruin both of Church and Commonwealth:

We your Majesties most humble and loyal Subjects, the Knights, Citizens, and Burgeses of your House of Commons, in the name of the Commonalty of your Kingdom, who are upon this occasion most miserably disconsolate and afflicted, prostrate at the Throne of your Grace and Justice do most ardently beg a present remove of this insupportable Burden, and that your Majesty would be graciously pleased to secure us from the like pressure in the time to come.

To the Speakers Speech and this Petition on his Majesty made this Reply.

MR. Speaker and Gentlemen, When I sent you my last Message, I did not expect a Reply, for I intended it to hasten you, I told you at your first Meeting this time was not to be spent in words, and I am sure it is less fit for disputes, which if I had a desire to entertain, Mr. Speakers Preamble might have given me ground enough: The question is not now, what liberty you have in disposing of matters handled in your House, but rather at this time what is fit to be done.

Wherefore I hope you will follow my example, in eschewing Disputations, and fall to your important business. You make a Protestation of your affection and Zeal to my Prerogative, grounded upon such good and just Reasons, that I must believe you: But I look that you use me with the like charity, to believe what I have declared more than once since your meeting with us, that I am as forward as you for the necessary preservation of your true Liberties. Let us not spend so much time in this that may hazard both my Prerogative and your Liberties to our Enemies.

To be short, go on speedily with your business without any more Apologies, for time calls fast on you, which will neither stay for you nor me: Wherefore it is my duty to hasten, as knowing the weight of it, and yours to give credit to what I say, as to him that sits at the Helm.

For what concerns your Petition, I shall make Answer in a convenient time.

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At a Debate between the Houses, Sir Robert Heath, and Serjeant Ashley, were questioned for some words spoken, but they being recanted by the latter, the two Houses proceeded in the Conference,

Friday 25 of April.

The Lords had a Conference with the Commons, where the Lord Archbishop of Canterbury spake as followeth.

Gentlemen of the House of Commons,

Archbishop's
Speech at
a Conference
concerning
the Petition
of Right.

THE service of the King and safety of the Kingdom, do call on my Lords to give all speedy expedition, to dispatch some of these great and weighty Businesses before us. For the better effecting whereof my Lords have thought fit to let you know, that they do in general agree with you, and doubt not but you will agree with us, to the best of your powers to maintain and support the fundamental Laws of the Kingdom, and the fundamental Liberties of the Subject: For the particulars which may hereafter fall into Debate, they have given me in charge to let you know, That what hath been presented by you unto their Lordships, they have laid nothing of it by, they are not out of love with any thing that you have tendred unto them; They have Voted nothing, neither are they in love with any thing proceeding from themselves: For that which we shall say and propose, is out of an intendment to invite you to a mutual and free Conference, that you with a confidence may come to us, and we with confidence may speak with you; so that we may come to a conclusion of those things which we both unanimously desire.

We have resolved of nothing, designed or determined of nothing, but desire to take you with us, praying help from you, as you have done from us.

My Lords have thought of some Propositions, which they have ordered to be read here, and then left with you in Writing, That if it seem good to you, we may uniformly concur for the substance; and if you differ, that you would be pleased to put out, add, alter, or diminish, as you shall think fit, that so we may come the better to the end, that we do both so desirously embrace.

Then the Propositions following were read by the Clerk of the Upper House.

Propositions tendred to the Commons by the Lords, touching the Petition of Right.

THat his Majesty would be pleased graciously to Declare, That the good old Law called *Magna Charta*, and the six Statutes conceived to be Declarations and Explanations of that Law, do still stand in force to all intents and purposes.

2. That his Majesty would be pleased graciously to Declare, That according to *Magna Charta*, and the Statutes before named, as also according to the most antient Customs and Laws of this Land, every free Subject of this Realm hath a fundamental Propriety in his Goods, and a fundamental Liberty of his Person.

3. That his Majesty would be graciously pleased to Declare, That it is his Royal pleasure to ratifie and confirm unto all and every his Loyal and faithful Subjects, all their antient, several, just Liberties, Priviledges, and Rights, in as ample and beneficial manner to all intents and purposes, as their Ancestors did enjoy the same under the best of his most noble Progenitors.

4. That his Majesty would be further pleased graciously to Declare, for the good content of his Loyal Subjects, and for the securing them from future fear, That in all Cases within the Cognizances of the Common-Law concerning the Liberties of the Subject, his Majesty would proceed according to the Common-Law of this Land, and according to the Laws established in the Kingdom, and in no other manner or wise.

5. As touching his Majesties Royal Prerogative, intrinsical to his Sovereignty, and betruited him withal from God, *Ad communem totius populi salutem, & non ad destructionem*, That his Majesty would resolve not to use or divert the same, to the prejudice of any his loyal People in the propriety of their Good, or liberty of their Persons: And in case, for the security of his Majesties Royal Person, the common safety of his People, or the peaceable Government of this Kingdom, his Majesty shall find just cause for reason of State to imprison or restrain any mans Person, his Majesty would graciously Declare, That within a convenient time he shall, and will express the cause of the Commitment or restraint, either General or Special; and upon a cause so expressed, will leave him immediately to be tried according to the common Justice of the Kingdom.

After the reading of the Propositions, the Archbishop said,

THIS is but a Model to be added unto, altered, or diminished, as in your reasons and wisdoms ye shall think fit, after ye have communicated the same to the rest of the Members of the House.

To this Speech Sir Dudley Diggs, it being at a free Conference, made Reply.

MY Lords, it hath pleased God many waies to bless the Knights, Citizens, and Burghesses now assembled in Parliament, with great comfort and strong hopes, that this will prove as happy a Parliament as ever was in England. And in their Consultations for the service of his Majesty, and the safety of this Kingdom, our special comforts and strong hopes have risen from the continued good respect, which your Lordships so nobly from time to time have been pleased to shew unto them, particularly at this present in your so honourable profession to agree with them in general, and desiring to maintain and support the fundamental Laws and Liberties of England.

The Commons have commanded me in like sort to assure your Lordships they have been, are and will be as ready to propugn the just Prerogative of his Majesty, of which in all their Arguments, searches of Records, and Resolutions they have been most careful according to that which formerly was, and now again is protested by them,

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Anno 1628. Another noble argument of your honourable disposition towards them is expressed in this, That you are pleased to expect no present Answer from them, who are (as your Lordships in your great wisdoms, they doubt not have considered) a great Body that must advise upon all new Propositions, and resolve upon them before they can give answer, according to the antient Order of their House. But it is manifest in general (God be thanked for it) there is a great concurrence of affection to the same end in both Houses, and such good Harmony, that I intreat your Lordships leave to borrow a Comparison from Nature, or natural Philosophy: As two Lutes well strung and tuned brought together, if one be play'd on, little straws and sticks will stir upon the other, though it lie still; so though we have no power to reply, yet these things said and propounded cannot but work in our hearts, and we will faithfully report these Passages to our House, from whence in due time (we hope) your Lordships shall receive a contentful Answer.

The Commons were not satisfied with these Propositions, which were conceived to choak the Petition of Right, then under consideration, but demurred upon them.

Monday, 28 of April.

The Lord Keeper spake to both Houses of Parliament by the King's Command, who was then present.

The Lord Keeper's Speech to both Houses, concerning Supply, by the King's command. MY Lords, and ye the Knights, Citizens, and Burgesses of the House of Commons, ye cannot but remember the great and important Affairs, concerning the safety both of State and Religion, declared first from his Majesty's own mouth, to be the causes of the assembling of this Parliament; the sense whereof, as it doth daily increase with his Majesty, so it ought to do, and his Majesty doubts not but it doth so with you, since the danger increaseth every day, both by effluxion of time, and preparations of the Enemy.

Yet his Majesty doth well weigh, that this expence of time hath been occasioned by the Debate which hath arisen in both Houses touching the Liberty of the Subject; in which, as his Majesty takes in good part the purpose and intent of the Houses, so clearly and frequently professed, that they would not diminish or blemish his just Prerogative, so he presumes, that ye will all confess it a point of extraordinary Grace and Justice in him, to suffer it to rest so long in dispute without interruption: but now his Majesty, considering the length of time which it hath taken, and fearing nothing so much as any future loss of that, whereof every hour and minute is so precious; and foreseeing, that the ordinary way of Debate, though never so carefully husbanded, in regard of the Form of both Houses, necessarily takes more time than the Affairs of Christendom can permit; his Majesty, out of great Princely care, hath thought of this Expedient to shorten the business, by declaring the clearness of his own heart and intention: And therefore hath commanded me to let you know, That he holdeth the Statute of Magna Charta, and the other Six Statutes insisted upon for the Subjects Liberty, to be all in force, and assures you, that he will main-

tain all his Subjects in the just Freedom of their Persons, and safety of their Estates; and that he will govern according to the Laws and Statutes of this Realm; and that ye shall find as much security in his Majesty's Royal Word and Promise, as in the strength of any Law ye can make; so that hereafter ye shall never have cause to complain. The conclusion is, That his Majesty prayeth God, who hath hitherto blessed this Kingdom, and put into his heart to come to you this day, to make the success thereof happy, both to King and People: And therefore he desires, that no doubt or distrust may possess any man, but that ye will all proceed unanimously to the business.

The Commons being returned from the Lords House, Mr. Secretary Cook perswaded them to comply with the King.

His Majesty, said he, puts us in mind of the great important Affairs of the State, and of his sense thereof, that by effluxion of time increaseth in him, and he doubts not but that it doth increase in us. Ye see his Majesty's moderation in the interpretation of all our actions; he saith, that he hopes we have the same sense he hath, he is pleased to consider of the occasion of expence of time that grew from the Debates in both Houses. We see how indulgent he is, that however the Affairs of Christendom are great, yet he omits not this, nay, he takes in good part our Proceedings and our Declarations, that will not impeach the Prerogative: Also his Majesty presumes that we will confess, that he hath used extraordinary Grace, in that he hath endured dispute so long, he acknowledgeth it Justice to stand as we have done.

Further, out of a Princely care of the Publick, he is careful no more time be lost; and because he sees some extraordinary course to be taken to satisfy us, he observes, that in the form of Debate, such length is required, as the nature of the business will not endure. It is to be presumed, that his Government will be according to the Law: We cannot but remember what his Father said, *He is no King, but a Tyrant, that Governs not by Law*; but this Kingdom is to be governed by the Common-Law, and his Majesty assures us so much; the Interpretation is left to the Judges, and to his great Council, and all is to be regulated by the Common-Law; I mean not *Magna Charta* only, for that *Magna Charta* was part of the Common-Law, and the antient Law of this Kingdom; all our difference is in the Application of this Law, and how this Law, with difference, is derived into every Court. I conceive there are two Rules, the one of Brasse, that is rigid, and will not bend, and that is the Law of the King's Bench, this Law will not bend: and when it lights on Subjects sitting, if it do not bend, it is unjust: And there comes in the Law of Chancery and Equity; this is application of Law in private mens Causes, when it comes to *Menum & Turm*. And thus the general government of Cases, with relation to the common State of the Kingdom, is from the Council-Board, and there they are to vary from the Law of the Kingdom: Suppose it be in time of Dearth, Propriety of Goods may in that time be forced, and be brought to the Market: We saw the experience of it in Coals in London, and the Council-Board caused them to be brought forth and sold. In a time of Pestilence men may be restrained: If a Schism be like to grow in a Church, the State will inquire after the Favourers of it: If there be fear of Invasion, and it be encouraged by hope of a Party amongst us, it is in

the power of Government to restrain men to their Houses.

1628. In the composition of these things, there is great difference: What differences have been between the Courts of Chancery and King's Bench? It is hard to put true difference between the King's Prerogative and our Liberties. His Majesty saw experience of time would be prejudicial; it pleased God to move his Majesty by a Divine hand to shew us a way to clear all our difficulties, let us attend to all the parts of it; there be five Degrees, and there is more assurance than we could have by any Law whatsoever. His Majesty declares, That *Magna Charta* and the other Statutes are in force: This is not the first time that the Liberty of the Subject was infringed, or was in debate and confirmed; all times thought it safe, that when they came to a Negative of Power, it was hard to keep Government and Liberty together; but his Majesty stopped not there, but according to the sense of these Laws, That he will govern his Subjects in their just Liberties, he assures us our Liberties are just, they are not of Grace, but of Right; nay, he assures us, he will govern us according to the Laws of the Laws of the Realm, and that we shall find as much security in his Majesties Promise, as in any Law we can make; and whatsoever Law we shall make, it must come to his Majesties allowance; and if his Majesty find Cause in his Government, he may not put life to it: We daily see all Laws are broken, and all Laws will be broke for the Publick Good, and the King may pardon all Offenders; his Majesty did see, that the best way to settle all at unity, is to express his own heart: The King's heart is the best guider of his own promise, his promise is bound with his own heart. What Prince can express more care and wisdom?

Lastly, he saith, That hereafter ye shall never have the like cause to complain: May we not think the breach is made up? is not his Majesty engaged in his Royal word?

The conclusion is full of weight: and he prays God, that as God hath blessed this Kingdom, and put it into his heart to come amongst us, so to make this day successful. *The wrath of a King is like the roaring of a Lion*, and all Laws with his wrath are to no effect; but *the King's favour is like the Dew upon the Grass*, there all will prosper: and God made the Instruments to unite all hearts.

His Majesty having thus discharged himself, he prays us to proceed to the business that so much concerns him. As his Majesty hath now shewed himself the best of Kings, let us acknowledge his Majesties goodness, and return to that union which we all desire.

But this motion was not received with general acceptance; and Sir Benjamin Rudyard replied to it in these words,

Sir Ben.
Rudyard's
Speech
concern-
ing that
motion.

WE are now upon a great business, and the manner of handling it may be as great as the business it self. Liberty is a precious thing, for every man may set his own price upon it, and he that doth not value it, deserves to be valued accordingly: For my own part, I am clear without scruple, that what we have resolved, is according to the Law; and if any Judge in England were of a contrary opinion, I am sure we should have heard of him ere now; out of all question, the very scope and drift of *Magna Charta* was, to reduce the Regal to a Legal power, in

matter of Imprisonment, or else it had not been worthy so much contending for.

It is true, That the King ought to have a trust reposed in him, God forbid but he should, and I hope it is impossible to take it from him; for it lies not in the wit of man to devise such a Law, as shall comprehend all particulars, all accidents, but that extraordinary Causes may happen, which when they come, if they be disposed of for the common good, there will be no Law against them; yet must the Law be general, for otherwise, Admissions and Exceptions will fret and eat out the Law to nothing. God himself hath constituted a general Law of Nature, to govern the ordinary course of things, he hath made no Law for Miracles; yet there is this observation of them, that they are rather *præter naturam*, than *contra naturam*, and alwaies *propter bonos fines*: So the King's Prerogatives are rather besides the Law, than against it; and when they are directly to their ends for the publick good, they are not only concurring Laws, but even Laws in singularity and excellency.

But to come nearer, let us consider where we are now, what steps we have gone and gained; the King's Learned Council have acknowledged all the Laws to be still in force, the Judges have not allowed any Judgment against these Laws; the Lords also have confessed, that the Laws are in full strength; they have retained our resolutions intire, and without prejudice.

All this hitherto is for our advantage; but above all, his Majesty hath this day (himself being publicly present) declared by the mouth of the Lord Keeper, before both the Houses, That *Magna Charta*, and the other six Statutes, are still in force; That he will maintain his Subjects in the Liberties of their Persons, and Proprieties of their Goods; that he will govern them according to the Laws of this Kingdom; this is a solemn and binding satisfaction, expressing his gracious readiness to comply with his People in their reasonable and just desires. The King is a good man, and it is no diminution to a King to be called so; for whosoever is a good man, shall be greater than a King, that is not so. The King certainly is very tender of his present Honour, and of his Fame hereafter: he will think it hard to have a worse mark set upon him, than upon any of his Ancestors, by extraordinary restraints: His Majesty hath already intimated unto us by a Message, That he doth willingly give way to have the abuse of Power reformed; by which I do verily believe he doth very well understand, what a miserable Power it is, which hath produced so much weakness to himself, and to the Kingdom; and it is one happiness, that he is so ready to redress it.

For mine own part, I shall be very glad to see that old decrepit Law *Magna Charta*, which hath been kept so long, and lien Bed-ridden, as it were, I shall be glad to see it walk abroad again with new vigour and lustre, attended and followed with the other six Statutes: unquestionably it will be a great heartening to all the People. I doubt not, but upon a debating Conference with the Lords, we may happily fall upon a fair, fit accommodation, concerning the Liberty of our Persons, and Propriety of our Goods. I hope we may have a Bill, to agree in the point, against imprisonment for Loans or Privy Seals: As for intrinsical power and reason of State, they are matters in the Clouds, where I desire we may leave

Anno 1628. leave them, and not meddle with them at all, lest by the way of admittance, we may lose some what of that which is our own already: Yet this by the way I will say of Reason of State, That in the Latitude by which 'tis used, it hath eaten out almost, not only the Law, but all the Religion of Christendom.

Now I will only remember you of one Precept, and that of the wisest man, *Be not over wise, be not over just*: and he gives his reason, *for why wilt thou be desolate?*

If Justice and Wisdom may be stretch'd to desolation, let us thereby learn, that Moderation is the Virtue of Virtues, and Wisdom of Wisdoms. Let it be our Master-piece so to carry the business, that we may keep Parliaments on foot: For as long as they be frequent, there will be no irregular Power, which though it cannot be broken at once, yet in short time it will be made and mouldred away; there can be no total or final loss of Liberties, as long as they last; what we cannot get at one time, we shall have at another.

A Committee ordered to draw up a Bill in order to the Petition of Right.

Upon this Debate it was ordered, That a Committee of Lawyers do draw a Bill, containing the substance of *Magna Charta*, and the other Statutes, that do concern the Liberty of the Subject: which business took up two whole daies.

Thursday, the First of May.

Mr. Secretary Cook brings a Message to rely on the King's word.

Mr. Secretary Cook delivers a Message from his Majesty, viz. to know whether the House will rest on his Royal Word, or no, declared to them by the Lord Keeper; which, if they do, he assures them it shall be Royally performed.

Upon this there was a silence for a good space: Then Mr. Secretary Cook proceeded, 'This silence invites me to a further Speech, and further to address my self: Now we see we must grow towards an issue; for my part, how confident I have been of the good issue of this Parliament, I have certified in this place, and elsewhere, and I am still confident therein; I know his Majesty is resolved to do as much as ever King did for his Subjects: all this Debate hath grown out of a sense of our sufferings, and a desire to make up again those Breaches that have been made.'

'Since this Parliament begun, hath there been any dispencc made of that which hath formerly been done? when means were denied his Majesty, being a young King, and newly come to his Crown, which he found engaged in a War, what could we expect in such *Necessities*? His Majesty called this Parliament to make up the breach: his Majesty assures us we shall not have the like cause to complain: he assures the Laws shall be established, what can we desire more? all is, that we provide for Posterity, and that we do prevent the like suffering for the future; were not the same means provided by them before us? can we do more? we are come to the Liberty of the Subjects, and the Prerogative of the King, I hope we shall not add any thing to our selves, to depress him. I will not divine, I think we shall find difficulty with the King, or with the Lords, I shall not deliver my opinion as Counsellor to his Majesty, which I will not justify and say here, or at the Council-Board. Will we in this necessity strive to bring our selves into a better condition, and greater Liberty, than our Fathers

had, and the Crown into a worse than ever? I dare not advise his Majesty to admit of that: If this that we now desire be no Innovation, it is all contained in those Acts, and Statutes, and whatsoever else we would add more, is a diminution to the King's Power, and an addition to our own. We deal with a wise and prudent Prince, that hath a Sword in his hand for our good, and this good is supported by Power. Do not think, that by Cases of Law and Debate we can make that not to be Law, which in experience we every day find necessary: make what Law you will, if I do not discharge the place I bear, I must commit men, and must not discover the cause to any Jaylor or Judge; if I by this Power commit one without just cause, the burden falls heavy on me, by his Majesties displeasure, and he will remove me from my place. Government is a solid thing, and must be supported for our good.

Sir Robert Phillips hereupon spake thus:

'That if the words of Kings strike impressions in the hearts of Subjects, then do these words upon this occasion strike an impression into the hearts of us all: to speak in a plain language, we are now come to the end of our journey, and the well disposing of an Answer to this Message, will give happiness or misery to this Kingdom. Let us set the Common-wealth of England before the eyes of his Majesty, that we may justify our selves, that we we have demeaned our selves dutifully to his Majesty.'

The House being turned into a grand Committee, the matter of the liberty of the Subject was Debated of.

And Sir Edward Cook said, That that Royal Word had reference to some message formerly sent; his Majesties word was, That they may secure themselves any way, by Bill or otherwise, he promised to give way to it; and to the end that this might not touch his Majesties Honour, it was proposed, that the Bill come not from the House, but from the King: We will and grant for us and our Successors, and that we and our Successors will do thus and thus; and it is the King's Honour, he cannot speak but by Record.

Sir Thomas Wentworth.

Sir Thomas Wentworth concluded the Debate, saying, 'That never House of Parliament trusted more in the goodness of their King, for their own private, than the present; but we are ambitious that his Majesties goodness may remain to Posterity, and we are accountable to a publick trust: and therefore seeing there hath been a publick violation of the Laws by his Ministers, nothing will satisfy him but a publick amends; and our desires to vindicate the Subjects Right by Bill, are no more than are laid down in former Laws, with some modest Provision for Instruction, Performance and Execution.'

Which was agreed to, and a Message to be delivered by the Speaker is agreed to by the House.

Amidst those deliberations, another Message was delivered from his Majesty by Mr. Secretary Cook; 'That howsoever we proceed in this business we have in hand, which his Majesty will not doubt, but to be according to our constant profession, and so as he may have cause to give us thanks; yet his resolution is, that both his Royal care, and hearty and tender affection

The King gives notice to both Houses, that he intends shortly to end this Session.

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That the weight of the Affairs of the Kingdom, and Christendom, do press him more, and that the time is now grown to that point of maturity, that it cannot endure long debate or delay; so as this Session of Parliament must continue no longer than *Tuesday* come Seven-night at the furthest: In which time his Majesty, for his part, will be ready to perform what he promised; and if the House be not as ready to do that is fit for themselves, it shall be their own faults.

And upon assurance of our good dispatch and correspondence, his Majesty declareth, that his Royal intention is to have another Session of Parliament at *Michaelmas* next, for the perfecting of such things as cannot now be done.

This Message was Debated the next day, being *Saturday, May 30.* whereupon *Sir John Elliot* spake to this effect.

Sir John Elliot.

The King, saith he, will rank himself with the best of Kings, and therefore he would have us to rank our selves with the best Subjects; we will not incroach upon that Sovereignty that God hath put into his hands: This makes me fear his Majesty is mis-informed in what we go about, let us make some enlargement, and put it before him, that we will not make any thing new: As for the time of this Session, it is but short, and look how many Messages we have, so many interruptions, and mis-reports, and mis-representations to his Majesty produce those Messages.

Sir Miles Fleetwood continues the Debate, and said, That this business is of great importance, we are to accommodate this, The breach of this Parliament will be the greatest misery that ever befall us; the eyes of Christendom are upon this Parliament, the state of all our Protestant Friends are ready to be swallowed up by the Emperor's Forces, and our own Kingdom is in a miserable strait, for the defence of our Religion that is invaded by the *Romish* Catholicks, by the colour of a Commission, which is intolerable; the defence of our Realm by Shipping is decayed, the King's Revenue is sold and gone; where shall the Relief be obtained but in Parliament? Now we are in the way, let us proceed by way of Bill, in pursuance of the King's Message, to establish the Fundamental Laws in Propriety of our Goods, and Liberty of our Persons: It was declared to us, that courses by Loan and Imprisonment were not lawful; let us touch them in our Bill, and that all Precedents and Judgments seeming to the contrary, be

void; and that all Commitments against the Law be remedied, and that we be protected against the fear of Commitments.

The Speaker's Speech to the King, in Answer to several Messages.

Most Gracious and Dread Sovereign,

Your Loyal and Obedient Subjects, the Commons now assembled in Parliament, by several Messages from your Majesty, and especially by that your Declaration, delivered by the Lord Keeper before both Houses, have, to their exceeding joy and comfort, received many ample expressions of your Princely care and tender affections towards them, with a gracious promise and assurance, that your Majesty will govern according to the Laws of this Realm, and so maintain all your Subjects in the just freedom of their Persons, and safety of their Estates, that all their Rights and Liberties may be by them enjoyed with as much freedom and security in their time, as in any age heretofore by their Ancestors, under the best of your Progenitors: For this so great a favour enlarged, by a comfortable intimation of your Majesties confidence in the Proceedings of this House, they do, by me their Speaker, make a full return of most humble thanks to your Majesty, with all dutiful acknowledgment of your Grace and Goodness herein extended unto them.

And whereas in one of those Messages delivered from your Majesty, there was an expression of your desire to know, whether this House would rest upon your Royal Word and Promise, assuring them, that if they would, it should be Royally and really performed: As they again present their humble thanks for the seconding and strengthening of your former Royal expressions, so in all humbleness they assure your Majesty, that their greatest confidence is, and ever must be, in your Grace and Goodness, without which, they well know, nothing that they can frame or desire, will be of safety and value to them: Therefore are all humble Suitors to your Majesty, that your Royal Heart will graciously accept and believe the truth of theirs, which they humbly present as full of truth and confidence in your Royal Word and Promise, as ever House of Commons reposed in any of their best Kings.

True it is, they cannot but remember the Publick Trust, for which they are accountable to present and future times; and their desires are, That your Majesties Goodness, might, in Fruit and Memory, be the Blessing and Joy of Posterity.

They say also, That of late there hath been publick violation of the Laws, and the Subjects Liberties, by some of your Majesties Ministers, and thence conceive, that no less than a publick remedy will raise the dejected hearts of your loving Subjects to a chearful supply of your Majesty, or make them receive content in the proceedings of this House.

From those considerations, they most humbly beg your Majesties leave to lay hold of that gracious offer of yours, which gave them assurance, that if they thought fit to secure themselves in their Rights and Liberties, by way of Bill, or otherwise, so it might be provided with due respect to God's Honour, and the publick Good, you

The Speaker's Speech to the King in answer to several Messages.

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you would be graciously pleased to give way unto it. Far from their intentions it is any way to incroach upon your Sovereignty or Prerogative; nor have they the least thought of stretching or enlarging the former Laws in any sort, by any new Interpretations or Additions; the bounds of their desires extend no further, than to some necessary explanation of that which is truly comprehended within the just sense and meaning of those Laws, with some moderate provision for execution and performance, as in times past upon like occasion hath been used.

The way how to accomplish these their humble desires, is now in serious consideration with them, wherein they humbly assure your Majesty, they will neither lose time, nor seek any thing of your Majesty, but that they hope may be fit for dutiful and loyal Subjects to ask, and for a gracious and just King to grant.

His Majesties Answer was delivered by the Lord Keeper.

His Majesties Answer to the Speaker's Speech.

MR. Speaker, and you Gentlemen of the House of Commons, his Majesty hath commanded me to tell you, that he expected an Answer by your Actions, and not delay by Discourse: ye acknowledge this trust and confidence in your proceedings, but his Majesty sees not how you requite him by your confidence of his Word and Actions: For what need Explanations, if he doubted not the performance of the true meaning? For Explanations will hazard an incroachment upon his Prerogative. And it may well be said, What need a new Law to confirm an old, if you repose confidence in the Declaration his Majesty made by me to both Houses? and our selves acknowledge, that your greatest trust and confidence must be in his Majesties Grace and Goodness, without which nothing ye can frame will be of safety, or avail to you: Yet to shew clearly the sincerity of his Majesties intentions, he is content that a Bill be drawn for a confirmation of *Magna Charta*, and the other six Statutes insisted upon for the Subjects Liberties, if ye shall chuse that as the best way, but so as it may be without Additions, Paraphrases, or Explanations.

Thus if you please you may be secured from your needless fears, and this Parliament may have a happy wished for end; whereas by the contrary, if you seek to tie your King by new, and indeed impossible Bonds, you must be accomptable to God and the Country for the ill success of this Meeting. His Majesty hath given his Royal Word, that ye shall have no cause to complain hereafter: less than which hath been enough to reconcile Great Princes, and therefore ought much more to prevail between a King and his Subjects.

Lastly, I am commanded to tell you that his Majesties pleasure is, That without further Replies or Messages, or other unnecessary delays, ye do what ye mean to do speedily, remembering the last Message that Secretary Cook brought you in point of time: his Majesty alwaies intending to perform his promise to his power, and therefore adviseth the House to that purpose, saying, 'That he had rather follow others than begin to enter into this business: loss of time hath been the greatest complaint; the matter fallen now into consideration, is what way to take, whether to rely on his Majesties Word, or on a Bill: If we will consider the advantage we have in taking his

Majesties Word, it will be of the largest extent, and we shall chuse that that hath most Assurance; an Act of Parliament is by the consent of the King and Parliament, but this Assurance by Word, is that he will govern us by the Laws; the King promises that, and also that they shall be so executed, that we shall enjoy as much freedom as ever: this contains many Laws, and a grant of all good Laws; nay, it contains a confirmation of those very Laws, Assurance, which binds the King further than the Law can; First it binds his affection which is the greatest bond between King and Subject, and that binds his Judgment also, nay, his Honour, and that not at home but abroad; the Royal Word of a King is the Ground of all Treaty; nay, it binds his Conscience: this confirmation between both Houses is in nature of a Vow; for my part, I think it is the greatest advantage to rely on his Majesties Word. He further added, this Debate was fitter to be done before the House, and not before the Committee, and that it was a new Course to go to a Committee of the whole House.

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Whereunto Sir John Elliot replied, That the proceeding in a Committee, is more Honourable and advantageous to the King and the House, for that way leads most to Truth and it is a more open way, and where every man may add his reason, and make answer upon the hearing of other mens Reasons and Arguments.

Sir John Elliot.

This being the general Sense, the House was turned into a Committee to take into consideration what was delivered to the King by the Speaker, and what was delivered to them by the Lord Keeper, and all other Messages, and the Committee was not to be bounded with any former order: the Key was brought up, and none were to go out without leave first asked.

Sir Edward Cook argued as followeth,

WAs it ever known (said he) that general words were a sufficient satisfaction to particular Grievances? was ever a verbal Declaration of the King, *Verbum Regni*? When grievances be, the Parliament is to redress them. Did ever Parliament rely on Messages? They put up Petitions of their Grievances, and the King ever answered them: the King's Answer is very gracious, but what is the Law of the Realm, that is the Question. I put no diffidence in his Majesty, the King must speak by a Record, and in Particulars, and not in General. Did you ever know the King's Message come into a Bill of Subsidies? All succeeding Kings will say, Ye must trust me as well as ye did my Predecessors, and trust my Messages; but Messages of Love never came into a Parliament. Let us put up a Petition of Right: Not that I distrust the King, but that I cannot take his Trust, but in a Parliamentary way.

And on Thursday 8 Maii, the Petition of Right was finished, and the Clause of Martial Law was added unto it, and it was delivered to the Lords at a Conference for their Concurrence; the which Conference was managed by Sir Edward Cook, and the same day, as to the matter of Supply, ordered, that the two first Subsidies should be paid the 10 of July, one more the 12 of October, another on the 20 of December, and the last the 1 of March.

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AT the Conference, Sir Edward Cook thus expressed himself: 'My Lords, it is evident what necessity there is, both in respect of your selves, and your Posterities, to have good success in this business: We have acquainted your Lordships with the Reasons and Arguments, and after we have had some Conference, we have received from your Lordships Propositions; and it behoves me to give your Lordships some reasons, why you have not heard from us before now; for in the mean time, as we were consulting of this weighty business, we have received divers Messages from our great Sovereign the King, and they consisted of Five parts.

1. 'That his Majesty would maintain all his Subjects in their just freedom, both of their Persons and Estates.
2. 'That he will govern according to his Laws and Statutes.
3. 'That we should find much confidence in the Royal Word; I pray observe that.
4. 'That we shall enjoy all our Rights and Liberties, with as much freedom as ever any Subjects have done in former times.
5. 'That whether we shall think it fit, either by Bill or otherwise, to go on in this great business, his Majesty would be pleased to give way to it.

'These gracious Messages did so work upon our affections, that we have taken them into deep consideration. My Lords, when we had these Messages (I deal plainly, for so I am commanded by the House of Commons) we did consider what way we might go for our more secure way, nay yours; we did think it the safest way to go in a Parliamentary course, for we have a Maxim in the House of Commons, and written on the Walls of our House, That old waies are the safest and surest waies: And at last we did fall upon that, which we did think (if that your Lordships did consent with us) it is the most antient way of all, and that is, my Lords, *via sancta*, both to Majesty, to your Lordships, and to our selves: For, my Lords, this is the greatest Bond that any Subject can have in open Parliament, *Verbum Regis*, that is an high point of Honour, but this shall be done by the Lords and Commons, and assented to by the King in Parliament; this is the greatest obligation of all, and this is for the King's Honour, and our safety: Therefore, my Lords, we have drawn a form of a Petition, desiring your Lordships to concur with us therein; for we do come with an unanimous consent to all the House of Commons, and there is great reason your Lordships should do so, for your Lordships be involv'd in the same danger. And so I have done with the first part: And I shall now desire your Lordships leave, that I may read that which I have so agreed on.

Here the Petition of Right was read; but we forbear to insert it as yet, because there were Propositions for alteration; and it is not perfect, till the Royal assent be given to it.

On the 12 of May the Lords and Commons had a Conference, and the Lord Keeper spake as followeth,

Gentlemen of the House of Commons,

MY Lords, having a most affectionate desire to maintain that good concurrence, that in this Parliament and others have been of late between both Houses, desired this Conference, to acquaint you, how, and in what manner, they have proceeded in the Petition of Right that came from this House; and to let you know, that as soon as they have received themselves to consider thereof; and after good time spent in Debate in the whole House, they made a Committee to consider, whether retaining of the substance of the Petition, there might not be some words altered or put in to make it more sweet, to procure it a passable way to his Majesty; we know this must be Crowned by the King, and good must come to all the Kingdom by this course now taken. The Committee hath met, and hath propounded some small matters to be altered in some few words, to make it passable, and not in substance. And the Lords having this reported from their Committee, and heard it read in their House, resolved of nothing till they have your consent, yet they think it fitter to have it propounded to you, to consider whether there should be any alteration or no, and how the propounded alterations may stand with your liking.

'Concerning the Commitment by the King and the Council, without expressing the cause, it was resolved by the Lords to Debate it this morning, and as soon as they should have debated it, they purposed to have your concurrence with them before they resolved it; but at that instant when they thought to have debated it, they received a Letter from his Majesty, which, they conceive, will give a satisfaction to both Houses in the main point. My Lords, desiring to keep that good concurrence begun, desired to communicate that Letter unto you, that you might take the same into your considerations, as they mean to do themselves: This Letter is to be read unto you.

To the Right Trusty and Right Well-beloved, the Lords Spiritual and Temporal of the Higher House of Parliament.

Carolus Rex.

WE being desirous of nothing more than the advancement of the Peace and Prosperity of our People, have given leave to free Debate upon the highest Points of our Prerogative Royal, which, in the time of our Predecessors, Kings and Queens of this Realm, were ever restrained as matters that they would not have discussed; and in other things we have been willing so far to descend to the desires of our good Subjects, as might fully satisfy all moderate minds, and free them from all just fears and jealousies, which those Messages which we have hitherto sent into the Commons House, will well demonstrate unto the World; yet we find it still insisted upon, that in no case whatsoever, should it never so nearly concern matters of State or Government, we, or our Privy-Council, have no power to commit any man without the cause shewed; whereas it often happens, that should the

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Lord Keeper's Speech, communicating a Letter from the King.

Anno 1628. the cause be shewed, the service it self would thereby be destroyed and defeated, and the cause alledged must be such as may be determined by our Judges of our Courts of Westminster, in a legal and ordinary way of Justice, whereas the causes may be such, as those Judges have not capacity of Judicature, nor Rules of Law to direct and guide their Judgment in cases of that transcendent nature; which hapning so often, the very incroaching on that constant Rule of Government, for so many Ages, within this Kingdom practised, would soon dissolve the very Foundation and Frame of our Monarchy. Wherefore as to our Commons, we made fair Propositions, which might equally preserve the just Liberty of the Subject: so, my Lords, we have thought good to let you know, that without the overthrow of Sovereignty, we cannot suffer this Power to be impeached; notwithstanding, to clear our Conscience and just Intentions, this we publish, That it is not in our heart, nor will we ever extend our Royal Power, lent unto us from God, beyond the just Rule of Moderation, in any thing which shall be contrary to our Laws and Customs, wherein the safety of our People shall be our only Aim. And we do hereby declare our Royal pleasure and resolution to be, which, God willing, we shall ever constantly continue and maintain, That neither we, nor our Privy Council, shall or will, at any time hereafter, commit or command to Prison, or otherwise restrain the Person of any for not lending Money to us, nor for any just cause, which in our Conscience doth not concern the publick good and safety of us and our people, we will not be drawn to pretend any cause, wherein our Judgment and Conscience is not satisfied with; base thoughts, we hope, no man can imagine will fall into our Royal breast; and that in all cases of this nature, which shall hereafter happen, we shall, upon the humble petition of the party, or address of our Judges unto us, readily and really express the true cause of their Commitment or Restraint, so soon as with conveniency and safety the same is fit to be disclosed and expressed; and that in all Causes Criminal, of ordinary Jurisdiction, our Judges shall proceed to the Deliverance or Bailment of the Prisoner, according to the known and ordinary Rules of the Laws of this Land, and according to the Statutes of Magna Charta, and those other six Statutes insisted upon, which we do take knowledge stand in full force, and which we intend not to abrogate and weaken, against the true intention thereof. This we have thought fit to signify, the rather to shorten any long Debate upon this great question, the season of the year being so far advanced, and our great occasions of State not lending many more days for longer continuance of this Session of Parliament.

Given under our Signet at our Palace at Westminster 20 Maij, the Fourth year of our Reign.

The Letter was laid aside by the House of Commons, who go on in the Petition of Right, and the Lords at a Conference of both Houses, May 17. propose an Addition to that Petition by the Lord Keeper, who said,

The Lords Proposition at a Conference about an addition to the Petition of Right. **T**hat whereas at the last Conference of both Houses, there were some things propounded that came from their Lordships, out of a desire the Petition might have the easier passage with his Majesty, not Intending to violate in any manner the substance of the Petition, but it was then thought fit, that there was another part of the Petition, of as great importance and weight: My Lords, since the time of that Conference, have employ'd themselves wholly to reduce the

Petition to such a frame and order, that may give both to you and them hope of acceptance.

And after many deliberations, and much advice taken, my Lords have resolved to represent to you something which they have thought upon, yet not as a thing conclusive to them or you; and according to their desires (having mentioned it in the beginning) have held it fit to conclude of nothing, till that you be made acquainted with it, and that there may be a mature advisement between you and them, so that there may be the happier conclusion in all their business.

This being the determination of the Lords, that nothing that is now offered unto you should be conclusive, yet they thought it convenient to present it unto you.

This alteration (and not alteration, but addition) which they shall propound unto you, to be advised and conferred upon, which is no breach of the frame, they think it meet, if it shall stand with your liking, to be put in the conclusion of the Petition, which I shall now read unto you.

We present this our humble Petition to your Majesty, with the care not only of preserving our own Liberties, but with due regard to leave intire that Sovereign Power wherewith your Majesty is trusted for the protection, safety, and happiness of the People.

The Lords addition to the Petition of Right.

This is the thing the Lords do present unto you, this Subject of this Conference concerning the adding of this in the Conclusion of the Petition, and that they know that this is new, and that you cannot presently give an Answer to it; therefore they desire that you do with some speed consider of it, and their Lordships will be ready this afternoon.

Concerning this Addition several Members of the Lower House spake thus;

Mr. Alford.

Let us look (said he) into the Records, and see what they are, what is Sovereign Power? Bodin saith, That it is free from any Condition: by this we shall acknowledge a Regal as well as a Legal Power: Let us give that to the King that the Law gives him, and no more.

Mr. Hackwell.

WE cannot admit of those words with safety, they are applicable to all the parts of our Petition: It is in the nature of a Saving, and by it we shall imply, as if we had incroached on his Prerogative; all the Laws we cite are without a Saving: and yet now after the violation of them, we must add a Saving: Also I have seen divers Petitions, and where the Subject claimed a Right, there I never saw a Saving of this nature.

Sir Edward Cook.

This is *magnum in parvo*, this is propounded to be a conclusion of our Petition: It is a matter of great weight; and, to speak plainly, it will overthrow all our Petition; it trenches to all parts of it: It flies at Loans, and at the Oath, and at Imprisonment, and Billeting of Soldiers; this turns all about again. Look into all the Petitions of former times, they never petitioned, wherein there was a Saving of the Kings Sovereignty: I know that Prerogative is part of the Law, but Sovereign power is no Parliamentary word: In my opinion it weakens *Magna Charta*, and all our Statutes; for they are absolute, without any Saving of Sovereign Power: And shall

we now add it, we shall weaken the Foundation of Law, and then the Building must needs fall; take we heed what we yield unto, *Magna Charta* is such a Fellow, that he will have no Sovereign. I wonder this Sovereign was not in *Magna Charta*, or in the Confirmations of it: If we grant this, by implication we give a Sovereign Power above all these Laws: Power in Law, is taken for a Power with force: The Sheriff shall take the Power of the County, what it means here, God only knows: It is repugnant to our Petition, that is a Petition of Right, grounded on Acts of Parliament: Our Predecessors could never endure a *Salvo jure suo*, no more than the Kings of old could endure for the Church, *Salvo honore Dei & Ecclesie*: We must not admit of it, and to qualifie it is impossible: Let us hold our Privileges according to the Law; that Power that is above this, is not fit for the King and People to have it disputed further. I had rather, for my part, have the Prerogative acted, and I my self to lie under it, than to have it disputed.

Sir Thomas Wentworth.

IF we do admit of this Addition, we shall leave the Subject worse than we found him, and we shall have little thanks for our labour when we come home: Let us leave all Power to his Majesty to punish Malefactors, but these Laws are not acquainted with Sovereign Power, we desire no new thing, nor do we offer to trench on his Majesty's Prerogative, we may not recede from this Petition, either in part or in whole.

Mr. Noy.

TO add a Saving is not safe, doubtful words may beget ill construction; and the words are not only doubtful words, but words unknown to us, and never used in any Act or Petition before.

Mr. Selden.

Let us not go too hastily to the Question, said Mr. Selden: If there be any Objections, let any propound them, and let others answer them as they think good: If it hath no reference to our Petition, what doth it here? I am sure all others will say it hath reference, and so must we: how far it doth exceed all examples of former times, no man can shew me the like: I have made that search that fully satisfies me, and I find no other besides 28 of *Eliz.* We have a great many Petitions and Bills of Parliament in all Ages, in all which we are sure no such thing is added: That Clause of the 28 of *Edw. 1.* it was not in the Petition, but in the King's Answer.

In *Magna Charta* there were no such Clauses, the Articles themselves are to be seen in a Library at *Lambeth*, in a Book of that time, upon which the Law was made. There was none in the Articles in King *John's* time, for these I have seen, there is no Saving. In the Statutes of *Confirmatio Chartarum*, is a Saving, *les Antients Aids*, that is, for *file marier*, & *pur faire fize Chevalier*, and for ransome. And in the Articles of King *John* in the Original Charter, which I can shew, there those three Aids were named therein, and they were all known: In the 25 of *Edw. 3.* there is a Petition against Loans, there is no Saving, and so in others: As for that Addition in the 28 of

Edw. 1. do but observe the Petitions after *Magna Charta*, as 5 *Edw. 3.* they put up a Petition, whereas in *Magna Charta* it is contained, That none be imprisoned, but by due process of Law; those words are not in *Magna Charta*, and yet there is no Saving; and so in the 28 of *Edw. 3.* and 36 and 37 and 42 of *Edw. 3.* all which pass by Petition, and yet there is no Saving in them: And there are in them other words that are not in *Magna Charta*, and yet no Saving.

For that that Mr. Speaker said, The King was our heart, and ever shall be; but we then spake of the King's Prerogative by it self, and we are bound to say so: But speaking of our Rights, shall we say we are not to be imprisoned, saving but by the King's Sovereign Power? Say my Lands (without any Title) be seized in the King's hand, and I bring a Petition of Right, and I go to the King and say, I do by no means seek your Majesty's Right and Title; and after that, I bring a Petition or *Monstrance de droit*, setting forth my own Right and Title, and withal set down a Saving, that I leave intire his Majesty's Right, it would be improper. It was objected, That in the 28 of *Edw. 1.* in the end of *Articuli super Chartas*, which was a confirmation of *Magna Charta*, and *Charta de Foresta*, in the end there is a Clause, *Savant le droit & Signiory*; the words are extant in that Roll that is now extant, but the Original Roll is not extant.

In the 25 *E. 3.* there was a confirmation of the Charter in the 27 *E. 3.* The Parliament was called, and much stir there was about the Charter, and renewing the Articles; but then little was done. In 28 *E. 1.* the Commons, by Petition or Bill, did obtain the Liberties and Articles at the end of the Parliament, they were extracted out of the Roll, and proclaimed abroad; the addition was added in the Proclamation: in the Bill there was no *savant*, but afterwards it was put in: and to prove this, it is true, there is no Parliament Roll of that year, yet we have Histories of that time: In the Library at *Oxford* there is a Journal of a Parliament of that very year which mentions so much; also in the publick Library at *Cambridge* there is a Manuscript that belongeth to an Abby, it was of the same year 28 *E. 1.* and it mentions the Parliament and the Petitions, and *Articulos quos petierunt sic confirmaveris Rex ut in fine adderet, Salvo jure Corona Regis*, and they came by Proclamation in *London*. When the people heard this Clause added in the end, they fell into execration for that Addition; and the great Earls that went away satisfied from the Parliament hearing of this, went to the King, and after it was cleared at the next Parliament. Now there is no Parliament Roll of this of that time, only in one Roll in the end of *E. 3.* there is a Roll that recites it.

The Lords at a Conference gave in their Reasons for their Addition by the Lord Keeper.

That the Lords were all agreed to defend and maintain the just Liberties of the Subject, and of the Crown, and that the word (Leave) was debated amongst them; and thereby they meant to give no new, but what was before: for the words, Sovereign Power, as he is a King he is a Sovereign, and must have Power; and he said the words were easier than the *Prerogative*. As for the word (that) which is a Relative, and referred to that Power, that is for the safety of the People, and this, said he, can never grieve any man: being thus published, it is not Sovereign Power in general, but now in confutation of our Reasons, he saith,

Magna

Anno
1028.

Magna Charta was not with a Saving; but, said he, You pursue not the words in *Magna Charta*, and therefore it needs an Addition.

As for the 28 of E. 3. he said there was a Saving, and an ill exposition cannot be made of this, and both Houses have agreed it in substance already; the Commons did it in a Speech delivered by our Speaker, and that we say we have not a thought to incroach on the Kings Sovereignty; and why may you not add it in your Petition?

Upon the Report hereof to the House Mr. *Mason* spake thus:

IN our Petition of Right to the Kings Majesty, we mention the Laws and Statutes, by which it appeared, That no Tax, Loan, or the like, ought to be levied by the King, but by common assent in Parliament: That no Freeman ought to be imprisoned but by the Law of the Land; That no Freeman ought to be compelled to suffer Soldiers in his House. In the Petition we have expressed the breach of these Laws, and desire we may not suffer the like; all which we pray as our Rights and Liberties.

The Lords have proposed an addition to this Petition, in these words:

WE humbly present this Petition to your Majesty, not only with a care of our own Liberties, but with a due regard to leave intire that Sovereign Power wherewith your Majesty is intrusted for the Protection, Safety and Happiness of your People.

And whether we shall consent unto this Addition, is the subject of this days discourse: and because my Lord Keeper at the Conference declared their Lordships had taken the words of the Petition apart, I shall do so too. The word (Leave) in a Petition, is of the same nature as (Saving) in a Grant, or Act of Parliament; when a man grants but part of a thing he Saves the rest; when he petitions to be restored but to part, he Leaveth the rest: Then in the end of our Petition the word [Leave] will imply, that something is to be left of that, or at least with a reference to what we desire.

The word [Intire] is very considerable, a Conquerour is bound by no Law, but hath power dare *Leges*, his Will is a Law; and although William the Conquerour, at first, to make his way to the Crown of England the more easie, and the possession of it more sure, claimed it by Title; but afterward, when there were no powerful Pretenders to the Crown, the Title of Conquest (to introduce that absolute power of a Conqueror) was claimed, and that Statute of *Magna Charta*, and other Statutes mentioned in our Petition, do principally limit that Power. I hope it is as lawful for me to cite a Jesuite, as it is for Dr. *Mannering* to falsifie him; *Suares*, in his first Book, *de Legibus*, cap. 17. delivered his opinion in these words, *Amplius & restrictio potestatis Regum circa ea que per se mala vel injusta non sunt, pendet ex arbitrio hominum & ex ambigua conventionione vel pacto inter reges & regnum*. And he farther expresseth his Opinion, That the King of Spain was so absolute a Monarch that he might impose Tribute without consent of his People; until about two hundred years since, when it was concluded between him and his People, that without consent of his People by Proxies,

he should not impose any Tribute. And *Suares* opinion is, That by that agreement, the Kings of Spain are bound to impose no Tribute without content.

And this Agreement that Author calls a restraining of that Sovereign Power, the Statutes then mentioned in our Petition, restraining that absolute Power of Conqueror; if we recite those Statutes, and say, we leave the Sovereign Power entire, we do take away that restraint which is the vertue and strength of those Statutes, and set at liberty the claim of the Sovereign Power of a Conqueror, which is to be limited and restrained by no Laws: This may be the danger of the word [Intire].

The next word delivered by the Lords as observable, is the Particle [That] because it was said, That all Sovereign Power is not mentioned to be left, but only (That) with which the King is trusted for our protection, safety, and happiness: But I conceive this to be an exception of all Sovereign Power; for all Sovereign Power in a King, is for the protection, safety, and happiness of his People: If all Sovereign Power be excepted, you may easily judge the consequence, all Loans and Taxes being imposed by colour of that Sovereign Power.

The next word is [Trusted] which is very ambiguous, whether it be meant trusted by God only as a Conqueror, or by the People also, as King, which are to govern also according to Laws, *ex pacto*. In this point I will not presume to adventure further, only I like it not, by reason of the doubtful Exposition it admits. I have likewise considered the Proposition it self, and therein I have fallen upon the Dilemma, that this addition shall be construed either to refer unto the Petition, or not: If it do not refer unto the Petition, it is meerly useless and unnecessary, and unbefitting the judgment of this grave and great Assembly to add to a Petition of this weight. If it hath reference unto it, then it destroys not only the vertue and strength of our Petition of Right, but our Rights themselves; for the addition being referred to each part of the Petition, will necessarily receive this construction: That none ought to be compelled to make any Gift, Loan, or such like charge, without common consent or Act of Parliament, unless it be by the Sovereign Power, with which the King is trusted for the protection, safety, and happiness of his People.

That none ought to be compelled to sojourn or billet Soldiers, unless by the same Sovereign Power, and so of the rest of the Rights contained in the Petition: And then the most favourable construction will be, that the King hath an ordinary Prerogative, and by that he cannot impose Taxes, or Imprison; that is, he cannot impose Taxes at his will, to imploy them as he pleaseth; but that he hath an extraordinary and transcendent Sovereign Power for the protection and happiness of his people, and for such purpose he may impose Taxes, or billet Soldiers, as he pleaseth; and we may assure our selves, that hereafter all Loans, Taxes, and billeting of Soldiers, will be said to be for the protection, safety, and happiness of the People; certainly hereafter it will be conceived, that an House of Parliament would not have made an unnecessary addition to this Petition of Right, and therefore it will be resolved, That the Addition hath relation to the Petition, which will have such operation as I have formerly declared; and I the rather fear it, because the late Loan and Billeting have been declared

Anno 1628. declared to have been by Sovereign Power for the good of our selves; and if it be doubtful whether this Proposition hath reference to the Petition or not, I know who shall judge whether Loans or Imprisonments hereafter be by that Sovereign Power or not.

A Parliament, which is made a Body of several Writs, and may be dissolved by one Commission, cannot be certain to decide this Question. We cannot resolve that, that the Judges shall determine the words of the King's Letter read in this House, expressing the cause of Commitment may be such, that the Judges have not capacity of Judicature, no Rules of Law to direct and guide their Judgments in Cases of that transcendent nature, the Judges then, and the Judgments, are easily conjectured. It hath been confessed by the King's Counsel, that the Statute of *Magna Charta* binds the King, it binds his Sovereign Power; and here is an addition of Saving the Kings Sovereign Power: I shall endeavor to give some Answer to the Reasons given by the Lords.

The first is, That it is the intention of both Houses, to maintain the just Liberty of the Subject, and not to diminish the just Power of the King; and therefore the expression of that intention in this Petition, cannot prejudice us. To which I answer,

First, That our intention was, and is, as we then professed, and no man can assign any Particular in which we have done to the contrary; neither have we any way transgressed in that kind in this Petition: and if we make this Addition to the Petition, it would give some intimation, that we have given cause or colour of offence therein; which we deny, and which if any man conceive so, let him assign the Particular, that we may give answer thereunto.

By our Petition, we only desire our particular Rights and Liberties to be confirmed to us; and therefore it is not proper for us in it to mention Sovereign Power in general, being altogether impertinent to the matter in the Petition.

There is a great difference between the words of the Addition, and the words proposed therein, for reason, viz. between just Power which may be conceived to be limited by Laws, and Sovereign Power, which is supposed to be transcendent and boundless.

The second Reason delivered by their Lordships was, That the King is Sovereign; that as he is Sovereign, he hath Power, and that that Sovereign Power is to be left: for my part, I would leave it so, as not to mention it, but if it should be expressed to be left in this Petition, as it is proposed, it must admit something to be in the King of what we pray, or at least admit some Sovereign Power in his Majesty, in these Privileges which we claim to be our Right, which would frustrate our Petition, and destroy our Right, as I have formerly shewed.

The third Reason given for this Addition, was, That in the Statute of *Articuli super Chartas*, there is a saving of the Seigniorie of the Crown.

To which I give these Answers, That *Magna Charta* was confirmed above Thirty times, and a general Saving was in none of these Acts of Confirmation, but in this only; and I see no cause we should follow one ill, and not thirty good Precedents; and the rather, because that Saving produced ill effects, that are well known.

That Saving was by Act of Parliament; the conclusion of which Act is, That in all those Cases the King did well, and all those that were at

the making of that Ordinance did intend, that the Right and Seigniorie of the Crown should be saved: By which it appears, that the Saving was not in the Petition of the Commons, but added by the King; for in the Petition the King's will is not expressed.

In that Act the King did grant; and depart with, to his People, divers Rights belonging to his Prerogative, as in the first Chapter he granted, That the People might chuse three men, which might have power to hear and determine Complaints made against those that offended in any point of *Magna Charta*; though they were the King's Officers, and to Fine and Ransome them: And in the eighth, twelfth, and nineteenth Chapter of that Statute, the King departed with other Prerogatives; and therefore there might be some reason of the adding of that Sovereignty by the King's Council: But in this Petition we desire nothing of the King's Prerogative, but pray the enjoying of our proper and undoubted Rights and Privileges; therefore there is no cause to add any words which may imply a Saving of that which concerns not the matter in the Petition.

The fourth Reason given by their Lordships, was, That by the mouth of our Speaker we have this Parliament declared, That it was far from our intention to incroach upon his Majesties Prerogative, and that therefore it could not prejudice us, to mention the same resolution in an Addition to this Petition.

To which I answer, That that Declaration was a general Answer to a Message from his Majesty to us, by which his Majesty expressed, that he would not have his Prerogative streightened by any new Explanation of *Magna Charta*, or the rest of the Statutes: and therefore that expression of our Speaker was then proper, to make it have reference to this Petition, there being nothing therein contained but particular Rights of the Subject, and nothing at all concerning his Majesties Prerogative.

Secondly, That Answer was to give his Majesty satisfaction of all our proceedings in general, and no man can assign any particular, in which we have broken it; and this Petition justifies it self, that in it we have not offended against the Protestation: And I know no reason but that this Declaration should be added to all our Laws we shall agree on this Parliament, as well as to this Petition.

The last Reason given, was, That we have varied in our Petition from the words of *Magna Charta*; and therefore it was very necessary, that a Saving should be added to the Petition.

I Answer, That in the Statute 5 E. 3. 25 E. 3. 28 E. 3. and other Statutes, with which *Magna Charta* is confirmed, the words of the Statute of Explanation differ from the words of *Magna Charta* it self, the words of some of the Statutes of Explanation being, that no man ought to be apprehended, unless by Indictment, or due process of Law; and the other Statutes differing from the words of *Magna Charta*, in many other particulars, and yet there is no Saving in those Statutes, much less should there be any in a Petition of Right. These are the Answers I have conceived to the Reasons of their Lordships, and the Exposition I apprehend must be made of the proposed words, being added to our Petition. And therefore I conclude, that in my opinion we may not consent to this Addition, which I submit to better Judgments.

Another Conference was had with the Lords about

about the Addition, and it was managed by Mr. Glanville and Sir Henry Martin.

Anno
1628.

Mr. Glanville's Speech in a full Committee of both Houses of Parliament, 23 May, 1628. in the Painted-Chamber at Westminster.

Mr. Glanville's
Speech at
a Committee
of both
Houses,
concerning
Sovereign
Power.

MY Lords, I have in charge, from the Commons House of Parliament, (whereof I am a Member) to express this day before your Lordships some part of their clear sense, touching one point that hath occurred in the great Debate, which hath so long depended in both Houses.

I shall not need many words to induce or state the question, which I am to handle in this free Conference. The subject matter of our meeting is well known to your Lordships, I will therefore only look so far back upon it, and so far recollect summarily the proceedings it hath had, as may be requisite to present clearly to your Lordships considerations, the nature and consequence of that particular wherein I must insist.

Your Lordships may be pleased to remember, how that the Commons in this Parliament have framed a Petition to be presented to his Majesty, a Petition of Right rightly composed, relating nothing but truth, desiring nothing but Justice; a Petition justly occasioned, a Petition necessary and fit for these times, a Petition founded upon solid and substantial grounds, the Laws and Statutes of this Realm, sure Rocks to build upon; a Petition bounded within due limits, and directed upon right ends, to vindicate some lawful and just Liberties of the free Subjects of this Kingdom, from the prejudice of violations past, and to secure them from future innovations.

And because my following Discourse must reflect chiefly, if not wholly upon the matter of this Petition, I shall hear crave leave shortly to open to your Lordships the distinct parts whereof it doth consist, and those are four.

The first concerns Levies of Moneys, by way of Loans or otherwise, for his Majesties supply; declaring, that no man ought, and praying that no man hereafter be compelled to make or yield any Gift, Loan, Benevolence, Tax, or such like Charge, without common consent by Act of Parliament.

2. The second is concerning that Liberty of Person which rightfully belongs to the free Subjects of this Realm, expressing it to be against the Tenure of the Laws and Statutes of the Land, that any Free-man should be imprisoned without cause shewed; and then reciting how this Liberty, amongst others, hath lately been infringed, it concludeth with a just and necessary desire, for the better clearing and allowance of this Priviledge for the future.

3. The third declareth the unlawfulness of Bill-letting or placing Soldiers or Marriners to sojourn in Free Subjects Houses against their wills, and prayeth remedy against that grievance.

4. The fourth and last aimeth at redress touching Commissions, to proceed to the Trial and Condemnation of Offenders, and causing them to be executed and put to death by the Law-Marshal, in times and places, when and where, if by the Laws and Statutes of the Land they had deserved death, by the same Laws and Statutes also they might, and by none other ought to be adjudged and executed.

This Petition the careful House of Commons, not willing to omit any thing pertaining to their duties, or might advance their moderate and just ends, did heretofore offer up unto your Lordships consideration, accompanied with an humble desire, That in your Nobleness and Justice you would be pleased to joyn with them in presenting it to his Majesty, that so coming from the whole Body of the Realm, the Peers and People, to him that is the Head of both, our gracious Sovereign, who must crown the Work, or else all our labour is in vain; it might by your Lordships concurrence and assistance, find the more easie passage, and obtain the better Answer.

Your Lordships, as your manner is in cases of so great importance, were pleased to debate and weigh it well, and thereupon you propounded to us some few amendments (as you termed them) by way of alteration, alledging, that they were only in matters of form, and not of substance; and that they were intended to none other end, but to sweeten the Petition, and make it the more passable with his Majesty.

In this the House of Commons cannot but observe that fair and good respect which your Lordships have used in your proceedings with them, by your concluding or voting nothing in your House, until you had imparted it unto them; whereby our meetings about this business have been justly stiled Free Conferences, either party repairing hither disengaged to hear and weigh the others Reasons, and both Houses coming with a full intention, upon due consideration of all that can be said on either side, to joyn at last in resolving and acting that which shall be found most just and necessary for the honour and safety of his Majesty and the whole Kingdom.

And touching those propounded alterations, which were not many, your Lordships cannot but remember, that the House of Commons have yielded to an accommodation, or change of their Petition in two particulars, whereby they hope your Lordships have observed, as well as ye may, they have not been affected unto words or phrases, nor overmuch abounding in their own sense; but rather willing to comply with your Lordships in all indifferent things.

For the rest of your proposed amendments, if we do not misconceive your Lordships, as we are confident we do not, your Lordships, of your selves, have been pleased to relinquish them with a new overture, for one only Clause to be added in the end or foot of the Petition, whereby the work of this day is reduced to one simple Head, whether that Clause shall be received or not?

This yielding of the Commons in part unto your Lordships, of other points by you somewhat insisted upon, giveth us great assurance, that our ends are one; and putteth us in hope, that, in conclusion, we shall concur, and proceed unanimously to seek the same ends, by the same means.

The Clause propounded by your Lordships to be added to the Petition, is this:

WE humbly present this Petition to your Majesty, not only with a care for preservation of Liberties, but with a due regard to leave intire that Sovereign Power wherewith your Majesty is intrusted for the Protection, Safety and Happiness of your People.

Car. 4.

Anno 1628. A Clause specious in shew, and smooth in words, but in effect and consequence most dangerous, as I hope to make most evident; however, coming from your Lordships, the House of Commons took it into their considerations, as became them, and apprehending upon the first Debate, that it threatened ruin to the whole Petition, they did heretofore deliver some Reasons to your Lordships, for which they then desired to be spared from admitting it.

To these Reasons your Lordships offered some Answers at the last Meeting; which having been faithfully reported to our House, and there debated, as was requisite for a business of such weight and importance, I must say truly to your Lordships, yet with due reverence to your Opinions, the Commons are not satisfied with your Arguments; and therefore they have commanded me to recollect your Lordships Reasons for this Clause, and in a fair Reply to let you see the Causes why they differ from you in Opinion.

But before I come to handle the Particulars wherein we dissent from your Lordships, I will in the first place take notice yet a little further of that general wherein we all concur; which is, That we desire not (neither do your Lordships) to augment or dilate the Liberties and Privileges of the Subjects beyond the just and due Bounds; nor to incroach upon the Limits of his Majesties Prerogative Royal; and as in this your Lordships, at the last Meeting, expressed clearly your own senses, so were your Lordships not mistaken in collecting the concurrent sense and meaning of the House of Commons; they often have protested they do, and ever must protest, That these have been, and shall be the bounds of their desires, to demand and seek nothing, but that which may be fit for dutiful and loyal Subjects to ask, and for a gracious and just King to grant; for as they claim by Laws some Liberties for themselves, so do they acknowledge a Prerogative, a high and just Prerogative belonging to the King, which they intend not to diminish. And now, my Lords, being assured, not by strained inferences, or obscure collections, but by the express and clear Declarations of both Houses, that our ends are the same; it were a miserable unhappiness, if we should fail in finding out the means to accomplish our desires.

My Lords, the Heads of those particular Reasons which you insisted upon the last day, were only these:

First, You told us, that the word [Leave] was of such nature, that it could give no new thing to his Majesty.

2. That no just exception could be taken to the words [Sovereign Power] for that as his Majesty is a King, so he is a Sovereign; and as he is a Sovereign, so he hath Power.

3. That the Sovereign Power mentioned in this Clause, is not absolute, or indefinite, but limited and regulated by the Particle [That] and the word [Subsequent] which restrains it to be applied only for Protection, Safety, and Happiness of the People, whereby ye inferred, there could be no danger in the allowance of such Power.

4. That this Clause contained no more in substance, but the like expressions of our meanings in this Petition, which we had formerly signified unto his Majesty by the mouth of Mr. Speaker, that we no way intended to incroach upon his Majesties Sovereign Power or Prerogative.

5. That in our Petition we have used other words, and of larger extent touching our Liberties, than are contained in the Statutes whereon it is grounded: In respect of which Inlargement, it was fit to have some express, or implied Saving, or Narrative, Declaratory for the King's Sovereign Power, of which Narrative we alledge this Clause to be.

Lastly, Whereas the Commons, as a main Argument against the Clause, had much insisted upon this, that it was unprecedented, and unparalleled in a Petition from the Subject, to insert a Saving for the Crown: your Lordships brought for instance to the contrary the two Statutes of the 25 E. 1. commonly called *Confirmatio Chartarum*, and 28 E. 1. known by the name of *Articuli super Chartas*; in both which Statutes there are Savings for the Kings.

Having thus reduced to your Lordships memories, the effects of your own reasons; I will now, with your Lordships favour, come to the points of our Reply, wherein I most humbly beseech your Lordships to weigh the Reasons which I shall present, not as the sense of my self, the weakest Member of our House, but as the genuine and true sense of the whole House of Commons, conceived in a business there debated with the greatest gravity and solemnity, with the greatest concurrence of opinions and unanimity that ever was in any business maturely agitated in that House. I shall not peradventure follow the method of your Lordships recollected Reasons in my answering to them, nor labour to urge many Reasons. It is the desire of the Commons, that the weight of their Arguments should recompense (if need be) the smallness of their number. And, in conclusion, when you have heard me through, I hope your Lordships shall be enabled to collect clearly out of the frame of what I shall deliver, that in some part or other of my discourse there is a full and satisfactory Answer, given to every particular Reason or Objection of your Lordships.

The Reasons that are now appointed to be presented to your Lordships, are of two kinds, Legal and Rational, of which these of the former sort are allotted to my charge; and the first of them is thus.

The Clause now under question, if it be added to the Petition, then either it must refer, or relate unto it, or else not; if it have no such reference, is it not clear that it is needless and superfluous? and if it have such reference, is it not clear, that then it must needs have an operation upon the whole Petition, and upon all the parts of it?

We cannot think that your Lordships would offer us a vain thing, and therefore taking it for granted, that if it be added, it would refer to the Petition: let me beseech your Lordships to observe with me, and with the House of Commons, what alteration and qualification of the same it will introduce.

The Petition of it self, simply, and without this Clause, declareth absolutely the Rights and Privileges of the Subject, in divers points; and amongst the rest touching the Levies of Monies, by way of Loans or otherwise, for his Majesties Supply, That such Loans and other Charges of the like nature, by the Laws and Statutes of this Land, ought not to be made or laid without common consent by Act of Parliament: But admit this Clause to be annexed with reference (to the Petition) and it must necessarily conclude and have this Exposition, That Loans and the like

like Charges (true it is ordinarily) are against
 Anno 1628. the Laws and Statutes of the Realm, *unless they*
be warranted by Sovereign Power, and that they
 cannot be commanded or raised without assent
 of Parliament, *unless it be by Sovereign Power*:
 What were this but to admit a Sovereign power
 in the King above the Laws and Statutes of the
 Kingdom?

Another part of this Petition is, That the free
 Subjects of this Realm ought not to be imprison-
 ed without cause shewed: But by this Clause a So-
 vereign power will be admitted, and left en-
 tire to his Majesty, sufficient to controll the
 force of Law, and to bring in this new and dan-
 gerous Interpretation, That the free Subjects
 of this Realm ought not by Law to be impris-
 oned without cause shewed, *unless it be by Sove-*
reign Power.

In a word, This Clause, if it should be admit-
 ted, would take away the effect of every part of
 the Petition, and become destructive to the
 whole: for thence will be the Exposition touch-
 ing the Billenting of Soldiers and Mariners in Free-
 mens Houses against their wills; and thence will
 be the Exposition touching the Times and Places
 for Execution of the Law-Marshal, contrary to
 the Laws and Statutes of the Realm.

The scope of this Petition, as I have before
 observed, is not to amend our Case, but to re-
 store us to the same state we were in before;
 whereas, if this Clause be received, in stead of
 mending the condition of the poor Subjects,
 whose Liberties of late have been miserably vio-
 lated by some Ministers, we shall leave them worse
 than we found them; in stead of curing their
 wounds, we shall make them deeper. We have
 set bounds to our desires in this great business,
 whereof one is not to diminish the Prerogative
 of the King, by mounting too high; and if we
 bound our selves on the other side with this limit,
 not to abridge the lawful privileges of the Sub-
 ject, by descending beneath that which is meet,
 no man, we hope, can blame us.

My Lords, as there is mention made in the ad-
 ditional Clause of *Sovereign Power*, so is there like-
 wise of a Trust reposed in his Majesty, touching
 the use of Sovereign power.

The word *Trust* is of great latitude and large
 extent, and therefore ought to be well and wa-
 rily applied and restrained, especially in the Case
 of a King: there is a Trust inseparably reposed in
 the Persons of the Kings of England, but that
 Trust is regulated by Law; for example, when
 Statutes are made to prohibit things not *mala in*
se, but only *mala quia prohibita*, under certain
 forfeitures and penalties, to accrue to the King
 and to the Informers that shall sue for the breach
 of them: The Commons must, and ever will
 acknowledge a Royal and Sovereign Prerogative
 in the King, touching such Statutes, that it is in
 his Majesties absolute and undoubted power, to
 grant Dispensations to particular persons, with
 the Clauses of *Non obstante*, to do as they might
 have done before those Statutes, wherein his
 Majesty conferring grace and favour upon some,
 doth not do wrong to others; but there is a dif-
 ference between those Statutes, and the Laws
 and Statutes whereon the Petition is grounded:
 by those Statutes the Subject hath no interest in
 the penalties, which are all the Fruit such Statutes
 can produce, until by Suit or Information com-
 menced, he become intitled to the particular
 forfeitures, whereas the Laws and Statutes men-
 tioned in our Petition, are of another nature;

there shall your Lordships find us to rely upon
 the good old Statute called *Magna Charta*, which
 declareth and confirmeth the ancient Common
 Laws of the Liberties of England: There shall
 your Lordships also find us to insist upon divers
 other most material Statutes made in the time
 of King Edward the Third and Edward the
 Fourth, and other famous Kings, for explanation
 and ratification of the lawful Rights and Privi-
 ledges, belonging to the Subjects of this Realm:
 Laws not inflicting penalties upon Offenders, *in*
malis prohibitis; but Laws declarative or posi-
 tive, conferring or confirming *ipso facto*, an in-
 herent Right and Interest of Liberty and Freedom
 in the Subjects of this Realm, as their Birthrights
 and Inheritance descendable to their Heirs and
 Posterity; Statutes incorporate into the Body of
 the Common Law, over which (with reverence
 be it spoken) there is no Trust reposed in the
 Kings *Sovereign Power*, or *Prerogative Royal* to
 enable him to dispense with them, or to take
 from his Subjects that Birthright or Inheritance
 which they have in their Liberties, by virtue
 of the Common Law, and of these Sta-
 tutes.

But if this Clause be added to our Petition,
 we shall then make a dangerous overture to con-
 found this good destination touching what Sta-
 tutes the King is trusted to controll by dispensa-
 tions, and what not; and shall give an intima-
 tion to posterity, as it were the opinion both of
 the Lords and Commons assembled in this Par-
 liament, that there is a Trust reposed in the King,
 to lay aside by his *Sovereign Power* in some emer-
 gent Cases, as well of the Common Law, and
 such Statutes as declare or ratifie the Subjects Li-
 berty, or confer Interest upon their persons, as
 those other penal Statutes of such nature as I
 have mentioned before; which as we can by no
 means admit, so we believe assuredly, that it is
 far from the desire of our most Gracious Sove-
 reign, to affect so vast a Trust, which being trans-
 mitted to a Successor of a different temper, might
 enable him to alter the whole frame and fabrick
 of the Commonwealth, and to dissolve that Go-
 vernment whereby this Kingdom hath flourished
 for so many years and ages, under his Majesties
 most Royal Ancestors and Predecessors.

Our next Reason is, that we hold it contrary
 to all course of Parliament, and absolutely re-
 pugnant to the very nature of a Petition of
 Right, consisting of particulars, as ours doth,
 to clog it with a general *Saving* or Declaration,
 to the weakening of the Right demanded; and
 we are bold to renew with some confidence our
 Allegation, that there can be no Precedent shew-
 ed of any such Clause in any such Petitions in times
 past.

I shall insist the longer upon this particular,
 and labour the more carefully to clear it, be-
 cause your Lordships were pleased the last day
 to urge against us the Statutes of 25 and 28 of
 E. 1. as Arguments to prove the contrary, and
 seemed not to be satisfied with that which in this
 point we had affirmed. True it is, that in those
 Statutes there are such *Savings* as your Lord-
 ships have observed; but I shall offer you a
 clear Answer to them, and to all other *Savings*
 of like nature that can be found in any Statutes
 whatsoever.

First, In the general, and then I shall apply
 particular Answers to the particulars of those
 Statutes, whereby it will be most evident, that
 those examples can no ways suit with the matter
 now

Anno 1628. A Clause specious in shew, and smooth in words, but in effect and consequence most dangerous, as I hope to make most evident; however, coming from your Lordships, the House of Commons took it into their considerations, as became them, and apprehending upon the first Debate, that it threatened ruin to the whole Petition, they did heretofore deliver some Reasons to your Lordships, for which they then desired to be spared from admitting it.

To these Reasons your Lordships offered some Answers at the last Meeting; which having been faithfully reported to our House, and there debated, as was requisite for a business of such weight and importance, I must say truly to your Lordships, yet with due reverence to your Opinions, the Commons are not satisfied with your Arguments; and therefore they have commanded me to recollect your Lordships Reasons for this Clause, and in a fair Reply to let you see the Causes why they differ from you in Opinion.

But before I come to handle the Particulars wherein we dissent from your Lordships, I will in the first place take notice yet a little further of that general wherein we all concur; which is, That we desire not (neither do your Lordships) to augment or dilate the Liberties and Privileges of the Subjects beyond the just and due Bounds; nor to inroach upon the Limits of his Majesties Prerogative Royal; and as in this your Lordships, at the last Meeting, expressed clearly your own senses, so were your Lordships not mistaken in collecting the concurrent sense and meaning of the House of Commons; they often have protested they do, and ever must protest, That these have been, and shall be the bounds of their desires, to demand and seek nothing, but that which may be fit for dutiful and loyal Subjects to ask, and for a gracious and just King to grant; for as they claim by Laws some Liberties for themselves, so do they acknowledge a Prerogative, a high and just Prerogative belonging to the King, which they intend not to diminish. And now, my Lords, being assured, not by strained inferences, or obscure collections, but by the express and clear Declarations of both Houses, that our ends are the same; it were a miserable unhappiness, if we should fail in finding out the means to accomplish our desires.

My Lords, the Heads of those particular Reasons which you insisted upon the last day, were only these:

First, You told us, that the word [Leave] was of such nature, that it could give no new thing to his Majesty.

2. That no just exception could be taken to the words [Sovereign Power] for that as his Majesty is a King, so he is a Sovereign; and as he is a Sovereign, so he hath Power.

3. That the Sovereign Power mentioned in this Clause, is not absolute, or indefinite, but limited and regulated by the Particle [That] and the word [Subsequent] which restrains it to be applied only for Protection, Safety, and Happiness of the People, whereby ye inferred, there could be no danger in the allowance of such Power.

4. That this Clause contained no more in substance, but the like expressions of our meanings in this Petition, which we had formerly signified unto his Majesty by the mouth of Mr. Speaker, that we no way intended to inroach upon his Majesties Sovereign Power or Prerogative.

5. That in our Petition we have used other words, and of larger extent touching our Liberties, than are contained in the Statutes whereon it is grounded: In respect of which Inlargement, it was fit to have some express, or implied Saving, or Narrative, Declaratory for the King's Sovereign Power, of which Narrative we alledge this Clause to be.

Lastly, Whereas the Commons, as a main Argument against the Clause, had much insisted upon this, that it was unprecedented, and unparalleled in a Petition from the Subject, to insert a Saving for the Crown: your Lordships brought for instance to the contrary the two Statutes of the 25 E. 1. commonly called *Confirmatio Chartarum*, and 28 E. 1. known by the name of *Articuli super Chartas*; in both which Statutes there are Savings for the Kings.

Having thus reduced to your Lordships memories, the effects of your own reasons; I will now, with your Lordships favour, come to the points of our Reply, wherein I most humbly beseech your Lordships to weigh the Reasons which I shall present, not as the sense of my self, the weakest Member of our House, but as the genuine and true sense of the whole House of Commons, conceived in a business there debated with the greatest gravity and solemnity, with the greatest concurrence of opinions and unanimity that ever was in any business maturely agitated in that House. I shall not peradventure follow the method of your Lordships recollected Reasons in my answering to them, nor labour to urge many Reasons. It is the desire of the Commons, that the weight of their Arguments should recompense (if need be) the smallness of their number. And, in conclusion, when you have heard me through, I hope your Lordships shall be enabled to collect clearly out of the frame of what I shall deliver, that in some part or other of my discourse there is a full and satisfactory Answer, given to every particular Reason or Objection of your Lordships.

The Reasons that are now appointed to be presented to your Lordships, are of two kinds, Legal and Rational, of which these of the former sort are allotted to my charge; and the first of them is thus.

The Clause now under question, if it be added to the Petition, then either it must refer, or relate unto it, or else not; if it have no such reference, is it not clear that it is needless and superfluous? and if it have such reference, is it not clear, that then it must needs have an operation upon the whole Petition, and upon all the parts of it?

We cannot think that your Lordships would offer us a vain thing, and therefore taking it for granted, that if it be added, it would refer to the Petition: let me beseech your Lordships to observe with me, and with the House of Commons, what alteration and qualification of the same it will introduce.

The Petition of it self, simply, and without this Clause, declareth absolutely the Rights and Privileges of the Subject, in divers points; and amongst the rest touching the Levies of Monies, by way of Loans or otherwise, for his Majesties Supply, That such Loans and other Charges of the like nature, by the Laws and Statutes of this Land, ought not to be made or laid without common consent by Act of Parliament: But admit this Clause to be annexed with reference (to the Petition) and it must necessarily conclude and have this Exposition, That Loans and the like

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Another part of this Petition is, That the free Subjects of this Realm ought not to be imprisoned without cause shewed: But by this Clause a Sovereign power will be admitted, and left entire to his Majesty, sufficient to controll the force of Law, and to bring in this new and dangerous Interpretation, That the free Subjects of this Realm ought not by Law to be imprisoned without cause shewed, *unless it be by Sovereign Power*.

In a word, This Clause, if it should be admitted, would take away the effect of every part of the Petition, and become destructive to the whole: for thence will be the Exposition touching the Billeting of Soldiers and Mariners in Free-mens Houses against their wills; and thence will be the Exposition touching the Times and Places for Execution of the Law-Marshal, contrary to the Laws and Statutes of the Realm.

The scope of this Petition, as I have before observed, is not to amend our Case, but to restore us to the same state we were in before; whereas, if this Clause be received, in stead of mending the condition of the poor Subjects, whose Liberties of late have been miserably violated by some Ministers, we shall leave them worse than we found them; in stead of curing their wounds, we shall make them deeper. We have set bounds to our desires in this great business, whereof one is not to diminish the Prerogative of the King, by mounting too high; and if we bound our selves on the other side with this limit, not to abridge the lawful privileges of the Subject, by descending beneath that which is meet, no man, we hope, can blame us.

My Lords, as there is mention made in the additional Clause of *Sovereign Power*, so is there likewise of a Trust reposed in his Majesty, touching the use of Sovereign power.

The word *Trust* is of great latitude and large extent, and therefore ought to be well and warily applied and restrained, especially in the Case of a King: there is a Trust inseparably reposed in the Persons of the Kings of England, but that Trust is regulated by Law; for example, when Statutes are made to prohibit things not *mala in se*, but only *mala quia prohibita*, under certain forfeitures and penalties, to accrue to the King and to the Informers that shall sue for the breach of them: The Commons must, and ever will acknowledge a Regal and Sovereign Prerogative in the King, touching such Statutes, that it is in his Majesties absolute and undoubted power, to grant Dispensations to particular persons, with the Clauses of *Non obstante*, to do as they might have done before those Statutes, wherein his Majesty conferring grace and favour upon some, doth not do wrong to others; but there is a difference between those Statutes, and the Laws and Statutes whereon the Petition is grounded: by those Statutes the Subject hath no interest in the penalties, which are all the Fruit such Statutes can produce, until by Suit or Information commenced, he become intitled to the particular forfeitures, whereas the Laws and Statutes mentioned in our Petition, are of another nature;

there shall your Lordships find us to rely upon the good old Statute called *Magna Charta*, which declareth and confirmeth the ancient Common Laws of the Liberties of England: There shall your Lordships also find us to insist upon divers other most material Statutes made in the time of King Edward the Third and Edward the Fourth, and other famous Kings, for explanation and ratification of the lawful Rights and Privileges, belonging to the Subjects of this Realm: Laws not inflicting penalties upon Offenders, *in malis prohibitis*; but Laws declarative or positive, conferring or confirming *ipso facto*, an inherent Right and Interest of Liberty and Freedom in the Subjects of this Realm, as their Birthrights and Inheritance descendable to their Heirs and Posterity; Statutes incorporate into the Body of the Common Law, over which (with reverence be it spoken) there is no Trust reposed in the Kings *Sovereign Power*, or *Prerogative Royal* to enable him to dispense with them, or to take from his Subjects that Birthright or Inheritance which they have in their Liberties, by virtue of the Common Law, and of these Statutes.

But if this Clause be added to our Petition, we shall then make a dangerous overture to confound this good destination touching what Statutes the King is trusted to controll by dispensations, and what not; and shall give an intimation to posterity, as it were the opinion both of the Lords and Commons assembled in this Parliament, that there is a Trust reposed in the King, to lay aside by his *Sovereign Power* in some emergent Cases, as well of the Common Law, and such Statutes as declare or ratify the Subjects Liberty, or confer Interest upon their persons, as those other penal Statutes of such nature as I have mentioned before; which as we can by no means admit, so we believe assuredly, that it is far from the desire of our most Gracious Sovereign, to affect so vast a Trust, which being transmitted to a Successor of a different temper, might enable him to alter the whole frame and fabrick of the Commonwealth, and to dissolve that Government whereby this Kingdom hath flourished for so many years and ages, under his Majesties most Royal Ancestors and Predecessors.

Our next Reason is, that we hold it contrary to all course of Parliament, and absolutely repugnant to the very nature of a Petition of Right, consisting of particulars, as ours doth, to clog it with a general *Saving* or Declaration, to the weakening of the Right demanded; and we are bold to renew with some confidence our Allegation, that there can be no Precedent shewed of any such Clause in any such Petitions in times past.

I shall insist the longer upon this particular, and labour the more carefully to clear it, because your Lordships were pleased the last day to urge against us the Statutes of 25 and 28 of E. 1. as Arguments to prove the contrary, and seemed not to be satisfied with that which in this point we had affirmed. True it is, that in those Statutes there are such *Savings* as your Lordships have observed; but I shall offer you a clear Answer to them, and to all other *Savings* of like nature that can be found in any Statutes whatsoever.

First, In the general, and then I shall apply particular Answers to the particulars of those 2 Statutes, whereby it will be most evident, that those examples can no ways suit with the matter now

now in hand. To this end it will be necessary, *Anno* that we considerduly what that question is, which *1628.* indeed concerneth a Petition, and not an Act of Parliament: This being well observed, by shewing unto your Lordships the difference between a Petition for the Law, and the Law ordained upon such a Petition, and opening truly and perspicuously the course that was holden in framing of Statutes before 2 H. 5. different from that which ever since then hath been used, and is still in use amongst us, and by noting the times wherein these Statutes were made, which was about one hundred years before 2 H. 5. besides the differences between these *Savings* and this Clause; I doubt not but I shall give ample satisfaction to your Lordships, that the Commons, as well in this, as in all their other Reasons, have been most careful to rely upon nothing but that which is most true and pertinent.

Before the second year of King Henry the Fifth, the course was thus: When the Commons were Suiters for a Law, either the Speaker of their House by word of mouth from them, the Lords House joining with them, or by some Bill in writing, which was usually called their Petition, moved the King, to ordain Laws for the redress of such mischiefs or inconveniences as were found grievous unto the people.

To these Petitions the King made answer as he pleased, sometimes to part, sometimes to the whole, sometimes by denial, sometimes by assent, sometimes absolutely, and sometimes by qualification. Upon these Motions and Petitions, and the King's Answers to them, was the Law drawn up and ingrossed in the Statute-Roll to bind the Kingdom; but this inconvenience was found in this course, that oftentimes the Statutes thus framed, were against the sense and meaning of the Commons, at whose desires they were ordained; and therefore in the 2 H. 5. finding that it tended to the violation of their Liberty and Freedom, whose Right it was, and ever had been, that no Law should be made without their assent; they then exhibited a Petition to the King, declaring their Right in this particular, praying, that from thenceforth no Law might be made or ingrossed as Statutes, by additions or diminutions to their Motions, or Petitions, that should change their sense, or intent, without their assent; which was accordingly established by Act of Parliament: ever since then the Right hath been as the use was before, that the King taketh the whole, or leaveth the whole of all Bills or Petitions, exhibited for the obtaining of Laws.

From this course, and from the time when first it became constant and settled, we conclude strongly, that it is no good Argument, because ye find *Savings* in Acts of Parliament before the second of H. 5. that before those *Savings* were in the Petitions that begat those Statutes; for if the Petitions for the two Loans so must insisted upon (which Petitions, for any thing we know, are not now extant) were never so absolute, yet might the King according to the usage of those times, insert the *Savings* in his Answers, which passing from thence into the Statute-Roll, do only give some little colour, but are not proof at all that the Petitions also were with *Savings*.

Thus much for the general; to come now to the particular Statute of 25 of Edw. 1. which was a confirmation of *Magna Charta*, with some provision for the better execution of it, as

Common Law, which words are worth the noting.

It is true, that Statute hath also a Clause to this effect, That the King or his Heirs from thenceforth should take no Aids, Taxes, or Prices of his Subjects, but by common Assent of all the Realm, saving the ancient Aids and Prices due and accustomed.

This *Saving*, if it were granted (which is not, nor cannot be proved) that it was as well in the Petition as in the Act: yet can it no way imply, that it is either fit or safe, that the Clause now in question should be added to our Petition: for the nature or office of a *Saving*, or Exception, is to exempt particulars out of a general, and to ratify the Rule in things not exempted, but in no sort to weaken or destroy the general Rule it self.

The Body of that Law was against all Aids, and Taxes, and Prices in general, and was a confirmation of the Common Law, formerly declared by *Magna Charta*; the *Saving* was only of Aids and Prices in particular, so well described and restrained by the words, *Ancient and Accustomed*, that there could be no doubt what could be the clear meaning and extent of that Exception; for the King's Right to those ancient Aids, intended by that Statute to be saved to him, was well known in those days, and is not yet forgotten.

These Aids were three, from the Kings Tenants by Knights Service, due by the Common Law, or general Custom of the Realm; Aid to ransom the King's Royal Person, if unhappily he should be taken Prisoner in the Wars; Aid to make the King's eldest Son a Knight, and Aid to marry the King's eldest daughter once, but no more; and that those were the only Aids intended to be saved to the Crown by that Statute, appeareth in some clearness by the Charter of King John, dated the *Runningmade* the 15 of June, in the fifth year of his Reign, wherein they are enumerated with an exclusion of all other Aids whatsoever. Of this Charter I have here one of the Originals, whereon I beseech your Lordships to cast your eyes, and give me leave to read the very words which concern this point. These words (my Lords) are thus: *Nullum scutagium vel auxilium ponatur in Regno nostro, nisi per Commune Consilium Regni nostri, nisi ad Corpus nostrum redimendum, & primogenitum filium nostrum militem faciendum, & ad filiam nostram primogenitam semel maritandam, & ad hoc non fiat nisi rationabile auxilium.*

Touching Prices, the other thing excepted by this Statute, it is also of a particular Right to the Crown so well known, that it needeth no description, the King being in possession of it by every days usage.

It is to take one Tun of Wine before the Mast, and another behind the Mast, of every Ship bringing in above Twenty Tuns of Wine, and here discharge them by way of Merchandise.

But our Petition consisteth altogether of particulars, to which if any general *Saving*, or words amounting to one, should be annexed, it cannot work to confirm things not excepted which are none, but to confound things included, which are all the parts of the Petition; and it must needs beget this dangerous Exposition, that the Rights and Liberties of the Subject, declared and demanded by this Petition, are not theirs absolutely, but *sub modo*, not to continue alwaies, but only to take place when the King is pleased not to exercise that Sovereign Power, wherewith this Clause admitted

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ted he is trusted for the protection, safety, and happiness of his people. And thus that Birth-right and Inheritance, which we have in our Liberties, shall by our own assents, be turned into a meer Tenancy at will and sufferance.

Touching the Statute of 28 Edw. 1. *Articuli super chartas*, the scope of that Statute, among other things, being to provide for the better observing and maintaining of *Magna Charta*, hath in it nevertheless two *Savings* for the King; the one particular, as I take it, to preserve the ancient Prices, due and accustomed, as of Wines, and other Goods; the other general, Seigniorie of the Crown in all things.

To these two *Savings*, besides the former Answers, which may be for the most part applied to this Statute as well as to the former, I add these further Answers: The first of these two *Savings*, is of the same Privilege of Wines which is excepted in the 25 Edw. 1. but in some more clearness; for that here the word (*Wines*) is expressly annexed to the word (*Prices*) which I take for so much to be in Exposition of the former Law: And albeit these words (*and of other Goods*) be added, yet do I take it to be but a particular *Saving*, or exception, which being qualified with the words (*ancient, due, and accustomed*) is not very dangerous, nor can be understood of Prices or Levies upon Goods of all sorts at the King's will and pleasure, but only of the old and certain Customs upon Wool, Woollfells, and Leather, which were due to the Crown long before the making of this Statute.

For the latter of the two *Savings* in this Act, which is of the more unusual nature, and subject to the more exception; it is indeed general, and if we may believe the concurrent Relations of the Histories of those times, as well as those that are now Printed, as those that remain only in Manuscripts, it gave distaste from the beginning, and wrought no good effect, but produced such distempers and troubles in the State, as we wish may be buried in perpetual Oblivion; and that the like *Saving* in these and future times may never breed the like disturbance: For from hence arose a Jealousie, that *Magna Charta*, which declared the ancient Right of the Subject, and was an absolute Law in it self, being now confirm'd by a latter Act, with this addition of a general *Saving*; for the King's Right in all things by the *Saving* was weakened, and that made doubtful, which was clear before. But not to depart from our main ground, which is; that *Savings* in old Acts of Parliament, before 2 H. 5. are no proof that there were the like *Savings* in the Petitions; for those Acts, let me observe unto your Lordships, and so leave this point, That albeit this Petition, whereon this Act of 28 Edw. 1. was grounded, be perished; yet hath it pleased God, that the very Frame and Context of the Act it self, as it is drawn up, and entered upon the Statute-Roll, and Printed in our Books, doth manifestly impart, that this *Saving* came in by the King's Answer, and was not in the original Petition of the Lords and Commons; for it cometh in at the end of the Act after the words (*le Roy le veut*) which commonly are the words of the Royal assent to an Act of Parliament. And though they be mixed and followed with other words, as though the King's Council, and the rest who were present at the making of this Ordinance, did intend the same *Saving*; yet is not that Conclusive, so long as by the form of those times, the King's Answer working upon the materials of the Petition, might

be conceived by some to make the Law effectual, though varying from the frame of the Petition.

The next Reason which the Commons have commanded me to use, for which they still desire to be spared from adding this Clause to their Petition, is this: this offensive Law of 28 E. 1. which confirmed *Magna Charta*, with a *Saving*, rested not long in peace, for it gave not that satisfaction to the Lords or People, as was requisite they should have in a case so nearly concerning them: And therefore about thirty three, or thirty four of the same King's Reign, a latter Act of Parliament was made, whereby it was enacted, That all men should have their Laws, and Liberties, and free Customs, as largely and wholly as they had used to have at any time, when they had them best; and if any Statutes had been made, or any Customs brought in to the contrary, that all such Statutes and Customs should be void.

This was the first Law which I call now to mind, that restored *Magna Charta* to the original purity wherein it was first molded, albeit it hath since been confirmed above twenty times more by several Acts of Parliament, in the Reigns of divers most just and gracious Kings, who were most apprehensive of their Rights, and jealous of their Honours, and alwaies without *Savings*; so as if between 28 and 34 Edw. 1. *Magna Charta* stood blemished with many *Savings* of the King's Rights or Seigniorie, which might be conceived to be above the Law; that stain and blemish was long since taken away, and cleared by those many absolute Declarations and Confirmations of that excellent Law which followed in after Ages, and so it standeth at this day purged and exempted now from any such *Saving* whatsoever.

I beseech your Lordships therefore to observe the circumstance of time wherein we offer this Petition to be presented to your Lordships, and by us unto his Majesty: Do we offer it when *Magna Charta* stands clogged with *Saving*? No, my Lords, but at this day when latter and better confirmations have vindicated and set free that Law from all exceptions; and shall we now annex another and worse *Saving* to it, by an unnecessary Clause in that Petition, which we expect should have the fruits, and effects of a Law? Shall we our selves relinquish or adulterate that which cost our Ancestors such care and labour to purchase and refine? No, my Lords, but as we should hold our selves unhappy if we should not amend the wretched estate of the poor Subject, so let us hold it a wickedness to impair it.

Whereas it was further urged by your Lordships, That to insert this Clause into our Petition, would be no more than to do that again at your Lordships motion and request, which we had formerly done by the mouth of our Speaker; and that there is no cause why we should recede from that which so solemnly we have professed. To this I answer and confess, it was then in our hearts, and so it is now, and shall be ever, not to encroach on his Majesty's Sovereign Power. But I beseech your Lordships to observe the different occasion and reference of that Protestation, and of this Clause.

That was a general Answer to a general Message, which we received from his Majesty, warning us not to encroach upon his Prerogative; to which, like dutiful and loving Subjects, we answered at full, according to the integrity of our own hearts; nor was there any danger in making

Anno 1628. Such an Answer to such a Message, nor could we answer more truly or more properly: But did that Answer extend to acknowledge a *Sovereign Power* in the King, above the Laws and Statutes mentioned in our Petition, or controul the Liberties of the Subject therein declared and demanded? No, my Lords, it hath no reference to any such particulars; and the same words which in some cases may be fit to be used, and were unmannerly to be omitted, cannot in other Cases be spoken but with impertinency at the least, if not with danger; I have formerly opened my Reasons, proving the danger of this Clause, and am commanded to illustrate the impertinency of adding it to the Petition by a familiar Case, which was put into our House by a learned Gentleman, and of my own Robe: The Case is this, Two Mannors or Lordships lie adjoining together, and perchance intermixed, so as there is some difficulty to discern the true bounds of either; as it may be touching the Confines where the Liberty of the Subject, and the Prerogative of the Crown do border each upon the other; to the one of the Mannors the King hath clear right, and is in actual possession of it; but the other is the Subjects. The King being misinformed, that the Subject hath intruded upon his Majesties Mannor, asketh his Subject whether he doth enter upon his Majesties Mannor, or pretendeth any Title to it, or any part of it? The Subject being now justly occasioned, maketh answer truly to the King, That he hath not intruded, nor will intrude upon his Majesties Mannor, nor doth make any Claim or Title to it, or any part of it. This Answer is proper and fair; nay, it were unmannerly and ill done of the Subject not to answer upon this occasion. Afterwards the King, upon colour of some double or single matter of Record, seizeth into his Highness hands, upon a pretended Title, the Subjects Mannor: The Subject then exhibiteth his Petition of Right, to his Majesty, to attain Restitution of his own Mannor, and therein layeth down Title to his own Mannor only: Were it not improper and absurd in this Case for him to tell the King, that he did not intend to make any Claim or Title to his Majesties Mannors, which is not questioned? Doubtless it were. This Case rightly applied, will fit our purpose well, and notably explain the nature of our Petition.

Why should we speak of leaving entire the King's *Sovereign Power*, whereon we incroach not, while we only seek to recover our own Liberties and Priviledges, which have been seized upon by some of the King's Ministers? If our Petition did trench actually upon his Majesties Prerogative, would our saying that we intended it not, make the thing otherwise than the truth?

My Lords, there needeth no Protestation or Declaration to the contrary of that which we have not done; and to put in such a Clause, cannot argue less than a fear in us, as if we had invaded it; which we hold sacred, and are assured that we have not touched either in our words, or in our intentions. And touching your Lordships observation upon the word (*Leave*) if it be not a proper word to give any new thing to the King, sure we are, it is a word dangerous in another sense; for it may amount, without all question, to acknowledge an old Right of *Sovereign Power* in his Majesty, above these Laws and Statutes whereon only our Liberties are founded; a Doctrine which we most humbly crave your Lordships leaves freely to protest against. And

for your Lordships proffering, that some *Saving* should be requisite for preservation of his Majesties *Sovereign Power*, in respect our Petition runneth in larger words than our Laws and Statutes whereon we ground it; what is this but a clear confession by your Lordships, that this Clause was intended by you to be that *Saving*? for other *Saving* than this, we find not tendred by you: And if it be such a *Saving*, how can it stand with your Lordships other Arguments, that it should be of no other effect than our former expression to his Majesty by the mouth of our Speaker? But I will not insist upon Collections of this kind; I will only shew you the Reasons of the Commons, why this Petition needeth no such saving, albeit the words of these Statutes be exceeded in the Declaratory part of our Petition: Those things that are within the equity, and true meaning of a Statute, are as good Laws as those which are contained in the express Letter, and therefore the Statutes of the 42 *Edw. 3.* 36 *H. 3.* Rot. Par. N. 12. and other the Statutes made in this time of King *Edw. 3.* for the Explanation of *Magna Charta*, which hath been so often vouched in this Parliament, though they differ in words from *Magna Charta*, had no *Saving* annexed to any of them, because they enacted nothing more than was contained in effect: In that good Law under the words, *per legale iudicium parium suorum, aut per legem terra*, which by these latter Laws are expounded to import, that none should be put to answer without Presentment, or matter of Record, or by due process, or Writ Original, and if otherwise, it should be void, and holden for error.

It hath not been yet shewn unto us from your Lordships, that we have in any of our Expressions or Applications strained or mis-applied any of the Laws or Statutes whereon we do insist, and we are very confident and well assured, that no such mistaking can be assigned in any point of our Petition now under question: if therefore it do not exceed the true sense and construction of *Magna Charta* in the subsequent Laws of Explanation whereon it is grounded, what reason is there to add a *Saving* to this Petition, more than to those Laws? since we desire to transmit the fruits of these our labours to Posterity, not only for the justification of our selves in right of our present, and their future Liberties; but also for a brave expression and perpetual testimony of that Grace and Justice, which we assure our selves we shall receive in his Majesties speedy and clear Answer. This is the thing we seek for, and this is the thing we hoped for, and this is the thing only will settle such an unity and confidence betwixt his Majesty and us, and raise such a cheerfulness in the hearts of all his loving Subjects, as will make us proceed unanimously, and with all expedition to supply him for his great occasions in such measure, and in such way as may make him safe at home, and feared abroad.

Sir Henry Martin proceeded in the rational part thereof.

It is necessary to state the question rightly, and to set down the true difference between your Lordships and us. Now indeed there is no difference or question between your Lordships and us, concerning this additional Clause in the nature and quality of a Proposition; For so considered, we say it is most true, and to be received and embraced by us, *in toto & qualibet parte & qualibet syllaba*, yea, and were that the question,

Sir Hen. Martin's Speech, as to the rational part of the matter of the Conference.

Anno 1628. question, we should add to the addition, and instead of due regard, say we have had, and ever will have a special and singular regard, where to leave entire Sovereign power: but this were to intimate, as if we had first cropt it, and then left; but our regard was to acknowledge and confess it sincerely, and to maintain it constantly, even to the hazard of our Goods and Lives, if need be.

'To which purpose your Lordships may be pleased to remember that strict Oath every Member of our House hath taken this very Session, in these words, *I (A. B.) do utterly resist and declare in my conscience, That the Kings Highness is the Supreme or Sovereign Governour of this Realm in all Causes, &c. and to my utmost power will assist and defend all Jurisdictions, Priviledges, Preheminences and Authorities, granted or belonging to the King's Highness, or united, or annexed to the Imperial Crown of this Realm, &c.*

'So that your Lordships need not to borrow from our Protestations any Exhortations to us, to entertain a Writing in assistance of the King's Sovereign power, since we stand obliged by the most sacred Bond of a solemn Oath, to assist and defend the same, if cause and occasion so required; So that the only question between your Lordships and us, is, whether this Clause should be added to our Petition, and received into it as part thereof, which to do, your Lordships reasons have not perswaded us, because so to admit it, were to overthrow the Fabrick and substance of our Petition of Right, and to annihilate the Right pretended by us and the Petition it self in effect: For these words being added to our Petition (*viz.*) we humbly present this Petition, &c. with due regard to leave entire your Sovereign power, &c. do include manifestly an exception to our Petition, and an Exception being of the nature of the thing whereunto it is an Exception, *Exceptio est de regula*, must of necessity destroy the Rule or Petition, so far as to the case excepted; *Exceptio firmat regulam in casibus non exceptis, in casibus exceptis destruit regulam*: Then this construction followeth upon our Petition thus enlarged, that after we have petitioned, that no freeman should be compelled by imprisonment to lend or contribute Money to his Majesty without his assent in Parliament, nor receive against his will, Souldiers into his House, or undergo a Commission of Marshal Law, for Life or Member in time of Peace, we should add, except his Majesty be pleased to require our Monies, and imprison us for not lending, and send Souldiers into our Houses, and execute us by Marshal Law in time of Peace, by vertue of his Sovereign power: which construction, as it followeth necessarily upon this enlargement, so it concludeth against our Right in the Premises, and utterly frustrateth all our Petition; neither may it seem strange, if this clause additional (which of it self in quality of a proposition we confess) being added to our Petition (which also is true) should overthrow the very frame and fabrick of it, seeing the Logicians take knowledge of such a fallacy called by them, *Fallacia à bene divisio ad male conjuncta*. Horace the Poet giveth an instance to this purpose, in a Painter, who when he had painted the head of a man according to Art, would then joyn to it the neck of a horse, and so mar the one and the other; whereas each by it self might have been a piece of right good workmanship.

'The second Branch of my Lord Keepers rational part, was enforced out of the last words of

this addition, by which his Lordship said, that they did not leave intire all Sovereign power, but that wherewith his Majesty is trusted for the protection, safety, and happiness of the people; as if his Lordship would infer, that Sovereign power wherewith, &c. in this place to be *Terminus diminuentem*, a term of diminution or qualification, and in that consideration might induce us to accept it. But under his Lordships correction, we cannot so interpret it: For first we are assured, that there is no Sovereign power wherewith his Majesty is trusted, either by God, or man, but only that which is for the protection, safety, and happiness of his people; and therefore that limitation can make no impression upon us: but we conceive it rather in this place to have the force *Termini adaugentis*, to be a term of important advantage, against our Petition, a Term of restriction, and that wheresoever his Majesties Sovereign power should be exercised upon us; in all and every the particulars mentioned in the Petition, we should, without further enquiry, submit thereunto, as assuming and taking it *pro concessio*, it induced to our safety and happiness, &c. Since therefore (as the Petition is now conceived) it carrieth the form and face of a picture, which representeth to the life the pressures and grievances of the people, with the easie remedies; and therefore we hope that his Majesty, casting upon it a gracious eye, will compassionate his poor Loyal Subjects, and afford a comfortable Answer.

'I do humbly pray your Lordships not to mar or blemish the grace and face of this picture with this unnecessary Addition; and unnecessary I prove it to be, according to that Rule, *Expressio ejus quod tacite inest nihil operatur*. And Sovereign power, in cases where it hath place, ought to be used, is alwaies necessarily understood, and though not expressed, yet supplied by reasonable intendment, or by the opinion of all Learned men.

'And therefore, as it neither is, nor can be by us expressly included, especially in this Petition, where the Addition thereof would make such a confusion of the whole sense and substance.

'The King's Sovereign power and Prerogative is alwaies able to save it self, and if it were not, we must, without this Addition, save it to our utmost powers, if we will save our Oath, and save our selves. The true state of the cause thus standing between your Lordships and us, the House of Commons doth not a little marvel upon what grounds your Lordships are so earnest to urge upon them this addition to be inserted into their Petition, they nothing doubt, but the same proceeded out of a sollicitude and fear which your Lordships have, lest otherwise the simple and absolute passage of this petition might be construed hereafter in prejudice of his Majesties Sovereign power: And this your Lordships sollicitude and fear, proceedeth from your love, as the Poet saith,

Res est solliciti plena timoris Amor.

'But I humbly pray your Lordships to examine with us, the grounds of this your sollicitude and fear, which grounds must needs be laid either upon the words of the Petition, or the intention of the Petitioners.

'Upon the words there is no possibility to lay them, for therein is no mention made of the Sovereign power; and were the words doubtful, as thus, We pray the like things be not done hereafter, under pretext of your Majesties Sovereign power; yet in respect of the protestations preceding,

Anno 1628 ceding, concomitant and subsequent to the Petition, such doubtful words ought reasonably to be interpreted only of such Sovereign Power as was not applicable to the Cases wherein it was exercised; and of such Sovereign Power as should be justly practised: but there are no such doubtful words, and therefore it followeth, that your Lordships fear and sollicitude must be grounded upon the intention of the Petitioners. Now your Lordships well know, that the House of Commons is not ignorant, that in a Session of Parliament, though it continue so many weeks, as this hath done daies, yet there is nothing *prins & posterius*, but all things are held and taken as done at one time; if so, what a strange Collection was this, that at the same time the House of Commons should oblige themselves, by a fearful adjuration, to assist and defend all Priviledges and Prerogatives belonging to the King, and at the same time by a Petition (cautiously conveyed) endeavour or intend to divest and deprive the King of some Prerogatives belonging to his Crown? If therefore such fear and sollicitude can neither be grounded upon the words of the Petition, nor intention of the Petitioners, I humbly pray your Lordships to lay them aside: as we do believe that the Proposition of this Addition from your Lordships, was not only excusable, but commendable, as proceeding from your love: So now having heard our Reasons, your Lordships would rest satisfied, that our refusal to admit them into our Petition, proceedeth from the conscience of the integrity and uprightness of our own hearts, that we in all this Petition have no such end to abate or diminish the King's just Prerogative. And so much in reply to that Rational part, whereby my Lord Keeper laboured to perswade the entertainment of this Addition.

This being done, it pleased the House of Commons to instruct and furnish me with certain Reasons which I should use to your Lordships, to procure your absolute conjunction with us in presenting this Petition; which albeit I cannot set forth according to their worth, and the Instructions given me by the House; yet, I hope, their own weight will so press down into your Lordships Consciences and Judgments, that without further scruple, you will chearfully vouchsafe to accompany this Petition with your right noble presence.

A personis. The first Argument wherewith I was commanded to move your Lordships, was drawn from the consideration of the Persons which are Petitioners, the *House of Commons*; a House, whose temper, mildness, and moderation in this Parliament hath been such, as we should be unthankful and injurious to Almighty God, if we should not acknowledge his good hand upon our tongues, upon our hearts, procured, no doubt, by our late solemn and publick Humiliation and Prayers.

This moderation will the better appear, if, in the first place, we may be remembered, in what passion and distemper many Members of this House arrived thither, what bosoms, what pockets full of complaints and lamentable grievances the most part brought thither, and those every day renewed by Letters and Packets from all parts and quarters: You know the old Proverb, *Ubi dolor ibi digitus, ubi amor ibi oculus*; it is hard to keep our fingers from often handling the parts ill affected; but yet our Moderation

overcame our Passion, our Discretion overcame our Affection.

This Moderation also will the better appear, if in the second place it be not forgotten, how our Ancestors and Predecessors carried themselves in Parliaments, when upon lighter provocations, less would not serve their turns, but new severe Commissions to hear & determine offences against their Liberties, publick Ecclesiastical Curses, or Excommunications against the Authors or Actors of such violations, accusations, condemnations, executions, banishments. But what have we said all this Parliament? we only look forward, not backward: we desire amendment hereafter, no man's punishment for ought done heretofore; nothing written by us in blood, nay, not one word spoken against any man's person in displeasure. The conclusion of our Petition is, that we may be better intreated in time to come: And doth not this moderate Petition deserve your Lordships chearful conjunction, *ex congruo & condigno*? If a Worm being trodden upon, could speak, a Worm would say, Tread upon me no more, I pray you: Higher we rise not, lower we cannot descend; and thus much we think in modesty may well be spoken in our own commendation, thence to move your Lordships to vouchsafe us your noble company in this Petition, without surcharging it with this Addition.

A tempore. Our next Argument is drawn *à tempore*, from the unseasonableness of the time. The Wise man saith, *There is a time for all things under the Sun. Tempus suum*; and if, in the wise man's judgment, a word spoken in its due time be precious as Gold and Silver, then an unseasonable time detracts as much from the thing or word, done or spoken: We hold (under your favours) that the time is not seasonable now for this Addition; it is true, that of it self, Sovereign power is a thing alwaies so Sacred, that to handle it otherwise than tenderly, is a kind of Sacrilege, and to speak of it otherwise than reverently, is a kind of Blasphemy; but every vulgar capacity is not so affected, the most part of men; nay, almost all men, judge and esteem all things, not according to their own intrinsic vertue and quality, but according to their immediate effects and operations, which the same things have upon them: Hence it is, that Religion it self receiveth more or less credit or approbation, as the Teachers or Professors are worse or better; yea, if God himself send a very wet Harvest or Seed-time, men are apt enough to censure Divine Power: The Sovereign power hath not now, for the present, the antient amiable aspect in respect of some late sad influences, but by God's Grace it will soon recover.

To intermix with this Petition any mention of Sovereign power, *rebus sic stantibus*, when angry men say, Sovereign power hath been abused, and the most moderate wish it had not been so used, we hold it not seasonable, under your Lordships correction.

A loco. Our next Argument is drawn *à loco*: we think the place where your Lordships would have this Addition inserted (*viz.*) in the Petition, no convenient or seasonable place; your Lordships will easily believe, that this Petition will run through many hands, every man will be desirous to see and to read, what their Knights and their Burgeses have done in Parliament upon their complaints, what they have brought home

1628. home for their five Subsidies; If, in perusing of this Petition, they fall upon the mention of Sovereign power, they presently fall to arguing and reasoning, and descanting, what Sovereign power is, what is the Latitude, whence the Original, and where the Bounds? with many such curious and captious questions; by which course, Sovereign power is little advanced or advantaged; for I have ever been of opinion, that it is then best with Sovereign power, when it is had in reverence, not when it is profaned by publick hearings or examinations.

Our last Argument is drawn from our Duty and Loyalty to his Majesty, in consideration whereof, we are fearful at this time to take this Addition into our Petition, lest we should do his Majesty herein some disservice: with your Lordships we make the great Council of the King and Kingdom; and though your Lordships, having the happiness to be near his Majesty, know other things better, yet certainly the state and condition of the several parts for which we serve, their dispositions and inclinations, their apprehensions, their fears and jealousies, are best known unto us: and here I pray your Lordships to give me leave to use the Figure called *Retentia*, that is, to insinuate and intimate more than I mean to speak: Our chief and principal end in this Parliament is, to make up all Rents and Breaches between the King and his Subjects, to draw them, and knit them together, from that distance, whereof the World abroad takes too much notice, to work a perfect union and reconciliation: how improperly and unapt at this time this Addition will be in respect of this end, we cannot but foresee, and therefore shun it, and do resolve, that it is neither agreeable to the persons of such Counsellors, of whom we are, nor answerable to that Loye and Duty which we owe to his Majesty, to hazard an end of such unspeakable consequence, upon the admittance of this Addition into our Petition, whereof (as we have shewed) the omission at this time can by no means harm the King's Prerogative, the expression may produce manifold inconveniences: and therefore since the admittance of your Lordships Addition into our Petition, is incoherent and incompatible with the body of the same; since there is no necessary use of it for the saving of the King's Prerogative; since the moderation of our Petition deserveth your Lordships cheerful conjunction with us; since this Addition is unreasonable for the time, and inconvenient in respect of the place where your Lordships would have it inserted; and lastly, may prove a disservice to his Majesty: I conclude with a most affectionate prayer to your Lordships, to conclude with the House of Commons, in presenting this Petition to his Sacred Majesty, as it is, without this Addition.

Monday 26. of May, the Lord Keeper at a Conference of both Houses said as followeth:

Gentlemen,

The Lords and Commons agree touching the Petition of Right.

YE that are Knights, Citizens, and Burgessees of the House of Commons, I have many times this Parliament by command from my Lords, declared the great zeal and affection which my Lords have to maintain and nourish

the good concurrence and correspondency which hath hitherto continued between both Houses, that there might be a happy issue in this great business, for the common good of the King and Kingdom. Now that which I have to say this day from my Lords, is, to let you know, this fair proceeding is not a profession of words only, but really and indeed concerning the Petition, which hath been long in agitation, as the weight of the cause required: since the last Conference, my Lords have taken it into their serious and instant consideration, and at length are fallen upon a Resolution, which I am to acquaint you with.

The Lords have unanimously agreed with you in omnibus, and have voted, that they will joyn with you in your Petition, with the only alteration of the word [means] to be put instead of the word [pretext] and for the word [unlawful] to be put out, and in place thereof to add [not warrantable by the Laws and Statutes of the Realm.] Which two alterations your selves consented unto.

So that concerning this business there remains nothing now, but that having the Petition in your hands, ye will (if ye have not already) vote it as they have done, and so prepare it for his Majesty; and my Lords will take order, that the King be moved for a speedy access to present the same to his Majesty.

And, after some pause, he said, 'There rests one thing which my Lords have commanded me to add, that in regard this Petition toucheth upon certain Charges raised by the Lords Lieutenants, and other Persons, many times for good use, for the service and safety of the Kingdom; That ye take it into your care and consideration, and to provide a Law for Assessing of such Charges, as the occasion of the time shall require.'

The Lords and Commons at last agreed, and the Petition was passed in the Lower-House, and a Conference had with the Lords about the manner of delivery, wherein his Majesties answer thereto was desired in full Parliament.

About this time Mr. Rouse brought in a Charge against Dr. Edward Manwaring, which some daies after was seconded with a Declaration; this Charge is here fully set down (not in the least to justify Dr. Manwaring) but to give you a taste of the Speakers temper, a notorious Member of the late Rump Parliament.

Mr. Speaker,

I Am to deliver from the Committee a Charge against Mr. Manwaring, a Preacher in Divinity; but against Dr. a man so criminous, that he hath turned his Tules into Accusation; for the better they are, the worse is he that dishonours them.

Here is a great Charge that lies upon him, it is great in it self, and great, because it hath many great Charges in it; Serpens qui serpentem devorat fit draco, his Charge having digested many Charges into it, becomes a Monster of Charges.

The main and great one in this Plot and Practise, to alter and subvert the Frame and Fabrick of this Estate and Common-wealth.

This is the great one, and it hath others in it that give it more light. To this end,

1. He labours to infuse into the Conscience of his Majesty, the persuasion of a Power not bounding it self with Laws, which King James of famous memory,

Car. 4.

calls, in his Speech to the Parliament, Tyranny, yea, Anno Tyranny accompanied with Perjury.

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2. *He endeavours to perswade the Conscience of the Subjects, that they are bound to obey Commands illegal; yea, he damns them for not obeying them.*

3. *He robs the Subjects of the Propriety of their Goods.*

4. *He brands them that will not lose this Propriety with most scandalous Speech, and odious Titles, to make them both hateful to Prince and People; so to set a division between the Head and the Members, and between the Members themselves.*

5. *To the same end, not much unlike to Faux and his Fellows, he seeks to blow up Parliaments, and Parliamentary Powers.*

'The Fifth being duly viewed, will appear to be so many Charges, and they make up all the great and main Charge, a mischievous Plot to alter and subvert the Frame and Government of this State and Common-wealth.

'And now, though you may be sure, that Mr. *Manwaring* leaves us no propriety in our goods, yet he hath an absolute propriety in this Charge; here himself making up his own Charge. Here he read several passages out of his Book, and then proceeded and said; 'You have heard his Charge made up by his own words, and withal I doubt not but you seem to hear the voice of that wicked one [*Quid dabitur?*] what will you give me, and I will betray this State, Kingdom, and Common-wealth?

'But there are two Observations (I might add a third, which is like unto a three-fold Cord, which cannot easily be broken) will draw the Charge more violently upon him.

'The first is of the Time when this Doctrine of destruction was set forth; it was preached in the heart of the Loan, and it was Printed in the beginning of that Term which ended in a Remission: So that you might guess there might be a double Plot, by the Law and Conscience, to set on fire the frame and estate of this Common-wealth: And one of these entailed Foxes was Mr. *Manwaring*.

'Another note may be taken of the time, that is, the unseasonableness of it; for this Doctrine of the Loan (in case of necessity) was the year after an assent in Parliament to Four Subsidies and Three Fifteens, which might serve for a sufficient stopple for the Doctors mouth, to keep in his Doctrine of Necessity.

'A second observation may be of the means by which he seeks to destroy this Common-wealth; his means are Divinity, yea, by his Divinity he would destroy both King and Kingdom.

'The King: for there can be no greater mischief to a Prince, than to put the opinion of Deity into his ears; for if from his ears it should have passed to his heart, it had been mortal: You know how *Herod* perished. Now this man gives a participation of Divine Omnipotence to Kings; and though a part may seem to qualify, yet all doth seem again to fill up that qualification, and very dangerously, if we remember that God saith of himself, *I am a jealous God*.

'He goes about to destroy the Kingdom and Common-wealth by his Divinity; but do we find in Scripture such a destroying Divinity? Surely I find there, that God is a God of order, and not of confusion: and that the Son of God came to save, and not to destroy. By which it seems he hath not his Divinity from God, nor from the Son of God: And that we may be sure he went to Hell

for Divinity, he names sundry Jesuites and Fryars, with whom he consulted and traded for his Divinity. But not to bely Hell it self, the Jesuites are honestier than he: for if he had not brought more Hell unto them than he found with them, he had not found this Divinity in them which he hath brought forth; yea, in his quotations he hath used those shifts and fallhoods, for which Boys are to be whipt in Schools, and yet by them he thinks to carry the Cause of a Kingdom.

'But, for a conclusion, to give the true Character of this man, whom I never saw, I will shew it you by one whom I know to be contrary to him: *Samuel* we know all to be a true Prophet; now we read of *Samuel*, that he writ the Law of the Kingdom in a Book, and laid it up before the Lord. And this he did, as one of Mr. *Manwaring*'s own Authors affirms, that the King may know what to command, and the People what to obey; but Mr. *Manwaring*, finding the Law of this Kingdom written in Books, tears it in pieces, and that in the presence of the Lord in a Pulpit, that the King may not know what to command, nor the People what to obey.

'Thus Mr. *Manwaring* being contrary to a true Prophet, must needs be a false one, and the Judgment of a false Prophet belongs to him.

'I have shewed you an evil Tree, that bringeth forth evil fruit; and now it rests with you to determine, whether the following Sentence shall follow, *Cut it down, and cast it into the fire*.

Monday 2. June, at the passing the Petition of Right, the King came to the Parliament, and spake thus in brief to both Houses.

Gentlemen,

'I Am come hither to perform my duty, I think no man can think it long, since I have not taken so many daies in answering the Petition, as ye spent weeks in framing it: And I am come hither to shew you, that as well in formal things as in essential, I desire to give you as much content as in me lies.

After this, the Lord Keeper spake as followeth.

'MY Lords, and ye the Knights, Citizens, and Burgesses of the House of Commons, his Majesty hath commanded me to say unto you, That he takes it in good part, that in consideration of settling your own Liberties, ye have generally professed in both Houses, that ye have no intention to lessen or diminish his Majesties Prerogative; wherein as ye have cleared your own intentions, so now his Majesty comes to clear his, and to subscribe a firm League with his People, which is ever likely to be most constant and perpetual, when the Conditions are equal, and known to be so: These cannot be in a more happy estate, than when your Liberties shall be an ornament and a strength to his Majesties Prerogative, and his Prerogative a defence of your Liberties; in which his Majesty doubts not, but both he and you shall take a mutual comfort hereafter; and, for his part, he is resolved

resolved to give an example, in the using of his power for the preservation of your Liberties, that hereafter ye shall have no cause to complain. This is the sum of that which I am to say to you from his Majesty: And that which farther remains, is, That you hear read your own Petition, and his Majesties gracious Answer.

The Petition exhibited to his Majesty by the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, concerning divers Rights and Liberties of the Subjects, with the King's Majesties Royal Answer thereunto in full Parliament.

To the King's most Excellent Majesty.

Humbly shew unto our Sovereign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament Assembled, That whereas it is Declared and Enacted by a Statute made in the time of the Reign of King Edward the First, commonly called, Statutum de Tallagio non concedendo, That no Tallage or Aid shall be laid or levied, by the King or his Heirs, in this Realm, without the good will and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other the Framen of the Commonalty of this Realm: And by Authority of Parliament holden in the Fife and twentieth year of the Reign of King Edward the Third, it is Declared and Enacted, That from thenceforth no person shall be compelled to make any Loans to the King against his will, because such Loans were against Reason, and the Franchise of the Land; and by other Laws of this Realm it is provided, That none should be charged by any Charge or Imposition, called a Benevolence, nor by such like Charge, by which the Statutes before-mentioned, and other the good Laws and Statutes of this Realm, your Subjects have inherited this freedom, That they should not be compelled to contribute to any Tax, Tallage, Aid, or other like Charge, not set by common consent in Parliament.

Yet nevertheless, of late, divers Commissions, directed to sundry Commissioners in several Counties, with instructions, have issued, by means whereof, your people have ben in divers places assembled, and required to lend certain sums of money unto your Majesty, and many of them, upon their refusal so to do, have had an Oath administered unto them, not warrantable by the Laws or Statutes of this Realm, and have ben constrained to become bound to make appearance, and give attendance before your Privy Council, and in other places, and others of them have ben therfore imprisoned, confined, and sundry other waies molested and disquieted: And divers other Charges have ben laid and levied upon your people in several Counties, by Lords Lieutenants, Deputy-Lieutenants, Commissioners for Musters, Justices of Peace, and others, by command and direction from your Majesty, or your Privy Council, against the Laws and free Customs of this Realm.

And where also by the Statute called, The great Charter of the Liberties of England, it is

Declared and Enacted, That no Freeman may be taken or imprisoned, or be disseised of his Freehold or Liberties, or his free Customs, or be Out-lawed or Exiled, or in any manner destroyed, but by the lawful Judgment of his Peers, or by the Law of the Land.

And in the eight and twentieth year of the Reign of King Edward the Third, it was Declared and Enacted by Authority of Parliament, That no man, of what estate or condition that he be, should be put out of his Lands or Tenements, nor taken, nor imprisoned, nor disseised, nor put to death, without being brought to answer by due process of Law.

Nevertheless, against the tenor of the said Statutes, and other the good Laws and Statutes of your Realm, to that end provided, divers of your Subjects have of late ben imprisoned, without any cause shewed; and when for their deliverance they were brought before your Justices, by your Majesties Writs of Habeas Corpus, there to undergo and receive as the Court should order, and their Keepers commanded to certify the causes of their detainer; no cause was certified, but that they were detained by your Majesties Special Command, signified by the Lords of your Privy Council, and yet were returned back to several Prisons, without being charged with any thing to which they might make answer according to the Law.

And whereas of late great Companies of Souldiers and Harriners have been dispersed into divers Counties of the Realm, and the Inhabitants against their wills have been compelled to receive them into their Houses, and there to suffer them to sojourn, against the Laws and Customs of this Realm, and to the great grievance and vexation of the people.

And whereas also by Authority of Parliament, in the 24th year of the Reign of King Edward the Third, it is Declared and Enacted, That no man shall be fore-judged of life or limb against the form of the great Charter, and the Law of the Land; and by the said great Charter, and other the Laws and Statutes of this your Realm, no man ought to be adjudged to death, but by the Laws established in this your Realm, either by the Customs of the same Realm, or by Acts of Parliament: And whereas no offender of what kind soever, is exempted from the proceedings to be used, and punishments to be inflicted by the Laws and Statutes of this your Realm; Nevertheless of late, divers Commissions under your Majesties Great Seal have issued forth, by which, certain persons have been assigned and appointed Commissioners with Power and Authority to proceed within the Land, according to the Justice of Martial Law against such Souldiers and Harriners, or other dissolute persons joining with them, as should commit any Murder, Robbery, Felony, Mutiny, or other Out-rage or Misdemeanor whatsoever; and by such summary Course and Order, as is agreeable to Martial Law, and is used in Armies in time of War, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death, according to the Law Martial.

Car. 4.

28 Ed. 3. 3.

37 Ed. 3. 18.

38 Ed. 3. 9.

42 Ed. 3. 2.

17 R. 2. 5.

25 Ed. 3. 9.

9 H. 3. 29.

25 Ed. 3. 4.

28 Ed. 3. 3.

Anno 1628. By pretext whereof, some of your Majesties Subjects have been by some of the said Commissioners put to death, when and where, if by the Laws and Statutes of the Land they had deserved death, by the same Laws and Statutes also they might, and by no other ought to have been, adjudged and executed.

And also sundry grievous offenders by colour thereof, claiming an exemption, have escaped the punishments due to them by the Laws and Statutes of this your Realm, by reason that divers of your Officers and Ministers of Justice have unjustly refused, or forbore to proceed against such offenders according to the same Laws and Statutes, upon pretence, that the said offenders were punishable only by Martial Law, and by Authority of such Commissions as aforesaid; which Commissions, and all others of like nature, are wholly and directly contrary to the said Laws and Statutes of this your Realm.

The Petition.

They do therefore humbly pray your most excellent Majesty, That no man hereafter be compelled to make or yield any Gift, Loan, Benevolence, Tax, or such like charge, without common consent by Act of Parliament; and that none be called to make answer, or take such Oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same, or for refusal thereof: And that no Freeman, in any such manner as is before-mentioned, be imprisoned or detained: And that your Majesty will be pleased to remove the said Soldiers and Barriners, and that your People may not be so burdened in time to come: And that the foresaid Commissions for proceeding by Martial Law, may be revoked and annulled; And that hereafter no Commissions of like nature may issue forth to any person or persons whatsoever, to be executed as aforesaid, lest by colour of them, any of your Majesties Subjects be destroyed or put to death, contrary to the Laws and Franchise of the Land.

All which they most humbly pray of your most excellent Majesty, as their Rights and Liberties, according to the Laws and Statutes of this Realm: And that your Majesty would also vouchsafe to declare, That the awards, doings, and proceedings, to the prejudice of your People, in any of the premises, shall not be drawn hereafter into consequence or example: And that your Majesty would be also graciously pleased, for the farther comfort and safety of your People, to declare your Royal will and pleasure, That in the things aforesaid, all your Officers and Ministers shall serve you, according to the Laws and Statutes of this Realm, as they tender the Honour of your Majesty, and the Prosperity of this Kingdom.

Which Petition being read the 2 of June, 1628. the King's Answer was thus delivered unto it.

The King willeth, that Right be done according to the Laws and Customs of the Realm; and that the Statutes be put in due execution, that his Subjects may have no cause to complain of any wrong or oppressions, contrary to their just Rights and Liberties, to the preservation whereof, he holds himself in conscience as well obliged, as of his Prerogative.

The King's Answer how full soever (as we shall afterward find) satisfied not the Commons; before therefore we come to entreat any further concerning the Petition, I think it may be very material to give our Reader a more perfect account of Mr. Littleton's Argument at the free Conference of both Houses than is yet extant, together with the Objections made by the Attorney General on the Kings part to the Commons Arguments made at that Conference; and also the Answers and Replies of the Commons thereto.

The Argument made by Command of the House of Commons out of the Acts of Parliament and Authorities of Law, expounding the same at the first Conference with the Lords concerning the Liberty of the Person of every Freeman.

My Lords,

UPON the Occasions delivered by the Gentlemen, your Lordships have heard the Commons have taken into their serious consideration the matter of personal Liberty; and after long Debate thereof on divers days, as well by solemn Arguments as single Propositions of Doubts and Answers; To the end no scruple might remain in any man's breast unsatisfied, they have upon a full search and clear understanding of all things pertinent to the Question, unanimously declared, That no Freeman ought to be committed or detained in Prison, or otherwise restrained by the Command of the King or the Privy Council, or any other, unless some cause of the Commitment, Detainer, or Restraint be expressed, for which by Law he ought to be committed, detained, or restrained. And they have sent me with others of their Members, to represent unto your Lordships the true grounds of such their Resolutions, and have charged me particularly (leaving the Reasons of Law and Presidents for others) to give your Lordships satisfaction that this Liberty is established and confirmed by the whole State, the King, the Lords Spiritual and Temporal, and the Commons, by several Acts of Parliament, the Authority whereof is so great, that it can receive no Answer save by Interpretation or Repeal by future Statutes. And those that I shall mind your Lordships of, are so direct to the point, that they can bear no other Exposition at all, and sure I am, they are still in force. The first of them is, the grand Charter of the Liberties of England, first granted in the Seventeenth year of King John, and renewed in the Nineteenth year of Henry the Third, and since confirmed in Parliament above thirty times: the words are these, cap. 29. *Nullus liber homo capiatur, vel imprisonetur, aut disseisetur de libera tenimento suo, vel libertatibus, vel liberis consuetudinibus suis, aut utlagetur aut exulet, aut aliquo modo destruetur, nec super eum ibimus, nec super eum missemus, nisi per legale iudicium parium suorum, vel per legem terra.* These words, *Nullus liber homo*, &c. are expressed enough, yet it is remarkable that Matthew Paris, an Author of special credit, doth observe fol. 432. that the Charter of 19 H. 3. was the very same as that of the Seventeenth of King John, *in multis dissimilis*, are his words; and that of King John be-
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Anno 1628. setteth down *verbatim*, fol. 343. and there the words are directly, *nec enim in Carcerem mittimus*, and such a corruption as is now in the present, might easily happen betwixt the 9 H. 3. and 21 E. 1. when this Charter was first exemplified. But certainly there is sufficient in that which is extant, to decide this Question: for the words are, *That no Freeman shall be taken or imprisoned, but by the lawful Judgment of his Peers*; which is, by a Jury of Peers, for Peers; ordinary Jurors for others, who are their Peers: or by the Law of the Land must of necessity be understood, in this notion, to be by due Process of Law, and not the Law of the Land generally; or otherwise it would comprehend Bondmen (whom we call Villains) who are excluded by the word (*liber*) for the general Law of the Land doth allow their Lords to imprison them at their pleasure, without cause, wherein they only differ from the Freeman in respect of their persons, who cannot be imprisoned without a Cause. And that this is the true understanding of the words, *per Legem terra*, will more plainly appear by divers other Statutes that I shall use, which do expound the same accordingly. And though the words in this grand Charter be spoken in the third person, yet they are not to be understood betwixt party and party, at least not of them alone, but even of the King's Suits against his Subjects, as well appears by the occasion of getting that Charter, which was by reason of the differences betwixt those Kings and their People, and therefore properly to be applied to their power over them, and not to ordinary questions betwixt Subject and Subject. Secondly, the words *per legale iudicium parium suorum*, immediately preceeding the other of *per legem terra*, are meant of Trials at the King's Suit, and not at the prosecution of a Subject. And therefore if a Peer of the Realm be Arreigned at the Suit of the King, upon an Indictment of Murther, he shall be tried by his Peers, that is, his Nobles; but if he be appealed of Murther by a Subject, his Trial shall be by an ordinary Jury of Twelve Freeholders, as appears in 10 E. 4. 6. 33 H. 6. Brooke title Trials, 142. Stamford's Pleas of the Crown, lib. 3. cap. fol. 152. And in 10 E. 4. it is said such is the meaning of Magna Charta. By the same reason therefore as *Parium suorum* extends to the King's Suit, so shall these words *per Legem terra*. And in 8 E. 2. Parliament, membr. 7. there is a Petition, That a Writ under the Privy Seal went to the Guardians of the Great Seal, to cause Lands to be seized into the King's hands, by force of which there went a Writ out of the Chancery to the Escheator to seize against the form of the great Charter, That the King nor his Minister shall out any man out of his Freehold, without reasonable Judgment; and the party was restored to his Land: which sheweth the Statute did extend to the King. There was no invasion upon this personal liberty until the time of King Edward the Third, which was afterwards revented by the Subject; for in 5 E. 3. cap. 9. it is ordained in these words, It is enacted that no man from thenceforth shall be attached by any Accusation, nor foringed of Life or Limb, or his Lands, Tenements, Goods, nor Chattels seized into the King's hands against the form of the great Charter and the Law of the Land. 25 E. 3. cap. 4. is more full, and doth expound the words of the grand Charter; which is thus.

Whereas it is contained in the Grand Charter of the Franchises of England, that none shall be imprisoned or put out of his Freehold, nor of his Franchise or Free custom; unless it be by the Law of the Land it

is awarded, assented, established, that from henceforth none shall be taken by Petition or Suggestion made to our Lord the King, or to his Council, unless it be by Indictment or Presentment of his good and lawful people of the same Neighbourhood; where such Deeds be done in due manner, or by Process made by Writ Original at the Common Law; nor that none be outed of his Franchises, nor of his Freeholds, unless he be duly brought in answer and foringed of the same, by the course of the Law; and if any thing be done against the form of the same, it shall be redressed and holden for none.

Out of this Statute I observe, that what in Magna Charta; and the Preamble of this Statute, is termed the Law of the Land, is in the Body of this Act expounded to be by Process made by Writ Original, at the Common Law, which is a plain interpretation of the words, *Law of the Land*, in the Grand Charter. And I note, that this Law was made upon the Commitment of divers to the Tower, no man yet knoweth for what.

28 Edw. 3. ca. 3. is yet more direct; this liberty being followed with fresh suit by the Subject, where the words are not many, but very full and significant. *That no man of what Condition or Estate that he be, shall be put out of his Lands or Tenements, nor taken or imprisoned; nor disinherited, nor done to death, without he be brought in answer by due Process of Law.*

Here your Lordships see the usual words of the Law of the Land, are rendred by due Process of the Law.

36 E. 3. Roll¹ pl¹ no. 9. amongst the Petitions of the Commons, one of them being translated out of French into English, is thus, First, *that the great Charter, and the Charter of the Forest, and the other Statutes made in his time, and in the time of his Progenitors, for the profit of him, and his Commonalty, be well and firmly kept, and put in due execution, without putting disturbance, or making arrest contrary to them, by special Command, or in any other manner.*

The Answer to the Petition, which makes it an Act of Parliament, is,

Our Lord the King, by assent of the Prelates, Bishops, Earls, Barons, and the Commonalty, hath ordained and established that the Statutes and Charters be held, and put in execution according to the said Petition.

It is observable, that the Statutes were to be put in execution according to the said Petition; which is, that no Arrests should be made contrary to the said Statutes, not by special Command: this concludes as much, as if it were printed; for the Parliament Roll is the true Warrant of an Act; and many are omitted out of the Books which are extant.

36 Ed. 3. Roll¹ Parl¹ no. 12. explaineth it further; for there the Petition is, Item as it is contained in the Grand Charter, and other Statutes, that no person be taken or imprisoned by special Command without Indictment, or other Process made by the Law upon them, as well of things done out of the Forest of the King, as for other things; That it would please our Lord to command those to be delivered that are so taken against the form of the Charters and Statutes as fore said.

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The Answer is,

The King is well pleased, that if any man find himself grieved, he come and make his complaint, and right shall be done unto him.

37 E. 3. chap. 18. agreeth in substance, when it saith, Though, that it be contained in the Great Charter, that no man be taken nor imprisoned, nor put out of his Freehold, without Process of the Law; Nevertheless divers people make false suggestions to the King himself, as well for malice as otherwise, whereof the King is often grieved, and divers of the Realm put in damage, against the form of the same Charter, wherefore it is ordained, That all they that make suggestion, shall be sent with the same suggestion before the Chancellor, Treasurer, and his Grand Council: And that they there find Sureties to pursue their suggestions, and incur the same pain that the other should have had, in case that the suggestion be found evil; and that then Process of the Law be made against them without being taken and imprisoned against the form of the said Charter, and other Statutes. Here the Law of the Land in the Grand Charter, is explained to be without Process of the Law.

42 E. 3. cap. 3. at the Request of the Commons by their Petition, put forth in this Parliament divers of the Commons, by false Accusers, which oftentimes have made their Accusations more for revenge and singular profit, than for the profit of the King, or of his people; which accused persons some have been taken, and caused to come before the King's Council, by Writ and otherwise, upon grievous pains against the Law. It is assented to, and accorded for the good Government of the Commons, that no man be put to answer without Presentment before Justices, or matter of Record, or by due Process or Writ Original, according to the old Law of the Land. And if anything from henceforth be done to the contrary, it shall be void in the Law, and holden for Error.

But this is better in the Parliament Roll, where the Petition and Answer, which make the Act, are set down at large. 42 E. 3. Roll^d Parl^o no. 12.

The Petition.

Item, Because that many of your Commons are hurt and destroyed by false Accusers, who make their Accusations, more for revenge and particular gain, than for the profit of the King or his People; and those that are accused by them, some have been taken, and others are made to come before the King's Council, by Writ or other Commandment of the King, upon grievous pains, contrary to the Law, That it would please the Lord our King, and his good Council, for the just government, to ordain, That if hereafter any Accuser purpose any matter for the profit of the King, that the same matter be sent to the Justices of the one Bench or the other, or the Assizes, to be enquired and determined according to the Law. And if it concern the Accuser or Party, that he take his Suit at the Common Law, and that no man be put to Answer without Presentment before Justices, or matter of Record, and by due Writ, according to the ancient Law of the Land. And if anything henceforward be done to the contrary, that it be void in Law, and held for Error.

Here by due Process and Original Writ, according to the ancient Law of the Land, is meant

the same thing as per *Legem terræ* in *Magna Charta*. And the like abuse was, that they were put to answer to the Commandment of the King.

The Kings Answer is thus:

Because that this Article is an Article of the Grand Charter, the King wills that this be done, as the Petition doth Demand.

By this appeareth, that per *Legem terræ* in *Magna Charta*, is meant by due Process of the Law.

Thus your Lordships have heard Acts of Parliament in the point, but the Statute of Westminster, cap. 15. is urged to disprove this Opinion, where it is expressly said, That a man is not repleviable, who is committed by the command of the King. Therefore the Command of the King, without any Cause shewed, is sufficient to commit a man to Prison. And because the strength of the Argument may appear, and the Answer be better understood, I shall read the words of the Statute, which are thus;

And forasmuch as Sheriffs and others, which have taken and kept in Prison persons detested for Felony, and oftentimes have left out by Replevin such as were not repleviable, and kept in Prison such as were repleviable, because they would gain by the one, and grieve the other: And forasmuch as before this time, it was not certainly determined what persons were repleviable, and what not, but only those that were taken for the death of a man, or by the commandment of the King, or of his Justices, or for the Forest, it is provided, and by the King commanded, That such persons as were before outlawed, and they which have abjured the Realm, Provers and such as be taken with the Manner; and those which have broken the King's Prison, Thieves openly defamed and known, and such as be appealed by Provers, so long as the Provers be living, if they be not of good name; and such as be taken for burning of Houses, feloniously done; or for false Money, or for counterfeiting the King's Seal; or persons excommunicate taken at the request of the Bishop, or for manifest Offences, or for Treason, or for Treason touching the King himself, shall be in no wise repleviable, by the Common Writ, or without Writ, but such as be Indicted of Larcenie, by Inquests taken before Sheriffs or Bailiffs by their Office, or of light suspicion, or for petty Larcenie, that amounteth not above the value of Twelve pence, if they were not guilty of some Larcenie beforetime, or guilty of receipt of Felons, or of Commandment, or of Force, or of Aid in Felony done, or guilty of some other Trespass, for which one ought to lose life or member, and a man appealed by a Prover, after the death of the Prover, if he be no common Thief nor defamed, shall from henceforth be let out by sufficient Surety, whereof the Sheriff will be answerable, and that without giving any of their Goods; and if the Sheriff, or any other, let any go at large by Surety that is not repleviable, if he be Sheriff or Constable, or any other Bailiff, or such as have Fee, which hath keeping of Prisons, and thereof be attained, he shall lose his Office and Fee for ever.

And if the Under-Sheriff, Constable or Bailiff, or such as have Fee for keeping of Prisons, do it contrary to the will of his Lord, or any other Bailiff being not of Fee, they shall have three years Imprisonment, and make a Fine at the King's pleasure. And if any withheld Prisoners repleviable, after they have offered sufficient Surety, he shall pay a grievous Amercement to the King; and if he take any Reward for the deliv-

rance

ance of such, he shall pay double to the Prisoner, and also shall be in the great mercy of the King.

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The Answer.

IT must be acknowledged, that a man taken by the Command of the King, is not repleviable, for so are the express words of this Statute. But this maketh nothing against the Declaration of the House of Commons: for they say not, That the Sheriff may reprieve such a man (*scilicet Mancaptors*) but that he isailable by the King's Courts of Justice; for the better apprehending whereof it is to be known, that there is a difference betwixt Repleviable, which is alwaies by the Sheriff, upon Pledges or Sureties given, andailable, which is by a Court of Record, where the Prisoner is delivered to his Bail, and they are his Gaolers and may imprison him, and shall suffer for him, Body for Body, as appeareth 33 and 36 Edw. 3. in the Title of Mainprise, *placita* 12, 13. where the difference between Bail and Mainprise is expressly taken. And if the words of the Statutes themselves be observed, it will appear plainly, that it extends to the Sheriff, and other inferiour Officers, and doth not bind the hands of the Judges. The Preamble, which is the Key that openeth the entrance into the meaning of the makers of the Law, is, [Forasmuch as Sheriffs, and others, which have taken and kept in Prisons, persons detected of Felony.] Out of these words, I observe that it nominateth Sheriffs. And then if the Judges should be included, it must be under the word (*other*) which doth not use to extend to those of a higher rank, but to inferiours; for the best, by all course is first to be named; and therefore, if a man bring a Writ of Customs and Services, and name Rents, and other things, the general shall not include Homage, which is a personal Service, and of an higher nature. But it shall extend to ordinary annual Services, 31 E. 1. *droit* 67. see the Statute of Eliz. 13. cap. 10. which beginneth with Colledges, Deans and Chapters, Parsons, Vicars, and concludes with these words, and others, having Spiritual Promotions shall not comprehend Bishops that are of an higher degree. As appears in the Arch-bishop of Canterbury's Case reported by Sir Edward Cook, lib. 2. fol. 46. B. and thus much is explained in this very Statute, towards the end, when he doth enumerate those who were meant by the word *other*, namely, Under-Sheriffs, Constables, Bailiffs. Again, the words are [Sheriffs, and others, which have taken and kept in Prison.] Now every man knoweth Judges do neither Arrest, or keep men in Prison, That is the Office of Sheriffs, and other inferiour Ministers: Therefore this Statute meant such only and not Judges. The words are further, *That they let out by Replevin, such as were not Repleviable.* This is the proper language for a Sheriff; nay, more express in the Body of the Statute afterwards, that such as is there mentioned, shall be in no wise repleviable by the common Writ (which is the *Honorem replegiando*) and is directed to the Sheriff, nor without Writ which is by the Sheriff *Ex Officio*: but that which receives no answer is this, that the Command of Justices, who derive their Authority from the Crown, is there equalled, as to this purpose with the Command of their King, and therefore by all reasonable Construction, it must relate to Officers that be subordinate to both, as Sheriffs, Under-Sheriffs, Constables, Bailiffs, and the like; and it were an

harsh exposition to say, That the Justices might not discharge their own Command, and yet that reason would conclude as much, that this was meant of the Sheriffs, and other Ministers of Justice; by the recital, 27 E. 1. Cap. 3. And likewise by *Fleta*, a Manuscript so called, because he lay in the Fleet when he made the Book, for he lib. 2. Cap. 52. in his Chapter of Terms, and the Views of the Hundred Courts in the Country, setteth down the Articles of the Charges that are there to be enquired of; amongst which, one of them is *De Replegiabilibus injuste detentis, & irreplegiabilibus dimissis.* which cannot be meant of not Bailing by the Justices, for what have the inferiour Courts of the Country, to do with the Acts of the Justices? and to make that more plain, he setteth down in this Chapter that concerns Sheriffs only, the very Statute of Westminster, Cap. 15. which he translates *verbatim* out of the French into Latin, saving, that he renders [taken by the Command of the Justices,] *Per Judicium Justiciariorum.* And his Preface to the Statute plainly sheweth that he understood it of Replevine by Sheriffs, for he saith, *Qui debet per plegios dimitti qui non declarat hoc Statutum.* And *per plegios* is before the Sheriff: But for direct Authority, it is the Opinion of Newton, the Chief Justice in 22 H. 6. 46. where his words are these, *It cannot be intended that the Sheriff did suffer him to go at large, by Mainprise, for where one is taken by the Writ of the King, or the Commandment of the King, he is irrepleviable, but in such Cases his Friends may come to the Justices for him, if he be Arrested and purchase a Superfedeas.* This Judge concludes, that the Sheriff cannot deliver him, that is taken by the Command of the King, for that he is irrepleviable, which is the very word of the Statute. But (saith he) *his Friends may come to the Justices and purchase a Superfedeas;* so he declares the very Question, that the Sheriff had no power, but that the Justices had power to deliver him that is Committed by the King's Command. And both the antient and modern practise manifests as much, for he that is taken for the Death of a man, or for the Forest, is not Repleviable by the Sheriff, yet they are ordinarily Bailed by the Justices, and were by the King's Writs directed to the Sheriff in the times of Edward the First, and Edward the Second, as appears in the close Rolls, which could not be done if they were notailable, and it is every daies experience, that the Justices of the King's Bench do Bail for Murder, and for offences done in the Forest, which they could not do if they were Irrepleviable. In Westminster the 1. were meant as well of the Justices, as the Sheriff, for the Authorities that have been offered to prove the contrary, are in number Three; the First is, 21 E. 1. *Roi* 2. *in suo*, which also is in the Book of Pleas in Parliament at the Tower, fol. 44. It is not an Act of Parliament, but a Resolution in Parliament, upon an Action there brought, which was usual in those times: and the Case is, That Stephen Rabar, the Sheriff of the Counties of Leicester and Warwick, was questioned, for that he had let at large by Sureties, amongst others, one William, the Son of Walter le Parsons, against the Command of the King, whenas the King had Commanded him by Letters under the Privy-Seal, that he should do no favour to any man that was Committed by Command of the Earl of War, as that man was: whereunto the Sheriff answered, that he did it at the request of some upon their Letters. And because the Sheriff did acknowledge the Receipt of the King's Letters, thereupon

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Anno 1628. on he was Committed. To this I Answer, That the Sheriff was justly punished, for that he is expressly bound by the Statute of *Westminster* 1. which was agreed from the beginning; but this is no proof, that the Judges had not power to Bail this man.

The next Authority is 33 *H.* 6. in the Court of Common-Pleas, fol. 28. 6. 29. where *Robert Poyneings*, Esquire, was brought to the Bar upon a *Capias*, and was Returned, that he was Committed *Per Dominos de Consilio* (I believe) it is misprinted, for *Dominos*, *id est*, *Dominos de Consilio* (which is strongest against what I maintain) *pro diversis Causis Regem tangentibus*; and he made an Attorney in the Action, whence is inferred, That the Return was good, and the party could not be delivered. To this the Answer is plain one way or other upon the Return; neither is there any Testimony whether he were delivered, or Bailed or not.

Secondly, It appears directly, that he was brought thither, to be charged in an Action of Debt, at another man's Suit, and no desire of his own to be delivered or Bailed. And then if he were remanded, it is no waies material to the question in hand. But that which is most relied upon, is the opinion of *Stamford* in his Book of Pleas of the Crown, *Lib. 2. Cap. 18. fol. 72, 73.* in his Chapter of Mainprise, where he citeth the Statute of *Westminster* the 1. *Cap. 15.* and saith thus; By this Statute it appears, that in four Cases at the Common-Law, a man was not Replevisable, to wit, those that were taken for the Death of a man, by the Command of the King or of his Justices, or for the Forest. Thus far he is most right. Then he goeth on and saith, As to the Command of the King, that is understood of the Command of his own mouth, or his Counsel which is incorporate to him, and speak with his mouth, or otherwise every Writ or *Capias* to take a man, which is the King's Command, would be as much; and as to the Command of the Justices, that is meant their absolute Commandment, for if it be their ordinary Commandment, he is Replevisable by the Sheriff, if it be not in some of the Cases prohibited by the Statute.

The Answer that I give unto this, is, that *Stamford* had said nothing, whether a man may be Committed without cause by the King's Command, or whether the Judges ought not to Bail him in such Cases. But only that such a man is not Replevisable, which is agreed for that belongs to the Sheriffs, and because no man should think, he meant any such thing, he concludes his whole sentence touching the Command of the King and the Justices, that one Committed by the Justices ordinary Command, is Replevisable by the Sheriff, so either he meant all by the Sheriff, or at least, it appears not that he meant, that a man Committed by the King or Privy-Council without cause, is notailable by the Justices. And then he hath given no opinion in this Cause. What he would have said if he had been asked the Question, cannot be known, neither doth it appear by any thing he hath said, that he meant any such thing as would be enforced out of him.

My Lords, I have performed the Command of the Commons; and as I conceive shall leave the Declaration of personal Liberty an ancient and undoubted truth, fortified with seven Acts of Parliament; and not opposed by any Statute or Authority of Law whatsoever.

The Objections of the King's Council, with the Answers thereto at the other two Conferences touching the same matters.

Car. 4

It was agreed by Mr. Attorney General, That the seven Statutes urged by the Commons, were in force, and that *Magna Charta* did extend most properly to the King; But he said, First, That some of them are in general words, and therefore conclude nothing, but are to be expounded by the Presidents; and others, that be more particular, are applied to the suggestions of Subjects, and not to the King's Command simply of it self.

Hereunto was Answered, that the Statutes were as direct as could be, which appeareth by the reading of them, and though they speak of suggestions of the Subjects, yet they are in equal reason to a Commitment by Command of the King, and are as effectual, for that they are in equal reason a Commitment by the Command of the King, being of as great force when it moveth by a suggestion from a Subject, as when the King taketh notice of the cause himself; The rather, for that Kings seldom intermeddle with matters of this nature, but by Information from some of their People.

Secondly, Mr. Attorney Objected, That *Per Legem Terre* in *Magna Charta* (which is the foundation of this Question) cannot be understood for Process of the Law, and original Writs, for that in all Criminal proceedings, no original Writ is used at all. But every Constable either for Felony or breach of the Peace, or to prevent the breach of Peace, may Arrest without Process or original Writ; it is used, and it were hard the King should not have the power of a Constable; and the Statute cited by the Commons, makes Process and Original Writ to be all one.

The Answer of the Commons to this Objection.

That they do not intend Original Writs only by the Law of the Land, but all other legal Process, which comprehends the whole proceedings of Law upon Causes other than the Trial by Jury, *Judicium Parium*, unto which it is opposed; thus much is imported *Ex vi Termini*, out of the word (*Process*.) And by the true acceptation thereof in the Statutes, which have been urged by the Commons to maintain their Declaration, and most especially the Statutes of 25 *E.* 1. *Cap. 4.* where it appeareth, That a man ought to be brought in to answer by the Course of the Law, having former mention of Process made by Original Writ. And in 28 *E.* 3. *Cap. 3.* by the course of Law, is rendred by due process of the Law. And 36 *E.* 3. *Roi^r parl^r no. 20.* The Petition of the Commons saith, that no man ought to be imprisoned by special Command, without Indictment, or other due Process to be made by the Law. 37 *E.* 3. *cap. 18.* calleth the same thing Process of the Law; and 42 *E.* 3. *cap. 3.* stileth it by due Process and Writ Original, where the Conjunctive must be taken for a Dis-junctive (which change is ordinary in Exposition of Statutes and Deeds, to avoid inconveniencies) to make

make it stand with the rest, and with reason. And it may be collected, that by Law of the Land in *Magna Charta*, by the course of the Law in 25 E. 3. by due process of the Law in 28 E. 3. other due process to be made by the Law, in 36 E. 3. process of the Law 37 E. 3. and by process and Writ Original in 42 E. 3. are one and the same thing; the latter of these Statutes alwaies referring to the former; and that all of them import any due and regular proceedings of Law upon a cause other than the Trial by a Jury; and this appeareth, Cook 10. 99. *James Bagg's Case*, where it is understood of giving Jurisdiction by Charter, or Prescription, which is the ground of our proceeding by course of Law. And in *Selden's Notes on Forreſcote*, fol. 29. where it is expounded for Law-wager, which is likewise a Trial by Law, by the Oath of the Parties, differing from that by Jury, and it doth truly comprehend these and all other regular proceedings in Law upon Cause, which gives Authority to Constables to Arrest upon Cause, and if this be not the true Exposition of these words, *Per Legem terra*, the King's Council were desired to declare their meanings, which they never offered to do. And yet certainly these words were not put into the Statute, without some intention of consequence, and thereupon Mr. Serjeant *Ashley* offered an Interpretation of them thus; namely, that there were divers Laws of this Realm, as the Common Law, the Law of the Chancery, the Ecclesiastical Law, the Law of the Admiralty, or Marine Law, the law of Merchants, the Marshal Law, and the Law of State; and these words *per legem terra* do extend to all these Laws. To this it was answered, That we read of no Law of State, and that none of these can be meant there, save the Common-Law, which is the principal and general Law, and is alwaies understood by the way of Excellency, when mention is made of the Law of the Land generally; and that though each of the other Laws which are admitted into this Kingdom by Custom or Act of Parliament, may justly be called a Law of the Land, yet none of them can have that preheminance to be stiled the Law of the Land. And no Statute Law, Book or other Authority Printed or unprinted, could be shewed to prove that the Law of the Land being generally mentioned, was ever intended of any other than the Common-Law; and yet even by these other Laws a man may not be Committed without a Cause expressed, but it standeth with the Rule of other legal expositions, that *per legem terra*, must be meant the Common-Law, which is the general and universal Law, by which men hold their Inheritances: and therefore, if a man speak of Escuage generally, it is understood, as *Littleton* observeth, pl. 99. of the incertain Escuage, which is a Knights Service tenure for the defence of the Realm, by the Body of the Tenant in time of War, and not of the certain Escuage, which giveth only Contribution in Money, and no personal service. And if a Statute speaks of the King's Courts of Record, it is meant only of the Four at *Westminster*, by way of excellency. Cook 6. 20. *Gregories Case*; so the Canonists, by the Excommunication simply spoken, do intend the greater Excommunication. And the Emperour in his Instructions saith, That the Civil Law, being spoken generally, is meant of the Civil Law of Rome, though the Law of every City be a Civil Law: As when a man names the Poet, the Græcians understand Homer; the Latines, Virgil. Secondly, Admit that *per legem terra* extends to all the Laws of the Land, yet a man must not be

Committed by any of them, but by the due proceedings that are exercised by these Laws, and upon a Cause declared. Again, it was urged, that the King was not bound to express a Cause of Imprisonment, because there may be in it matter of State, not fit to be revealed for a time, lest the Confederates thereupon make means to escape the hands of Justice, and therefore the Statutes cannot be intended to restrain all Commitments, unless a Cause be expressed; for that it would be very inconvenient and dangerous to the State, to publish the Cause at the very first. Hereunto it was Replied by the Commons, that all danger and inconvenience may be avoided, by declaring a general Cause, as for Treason, Suspicion of Treason, Misprision of Treason or Felony, without specifying the particular, which can give no greater light to a Confederate, than will be conjectured upon the very apprehension, upon the imprisonment, if nothing at all was expressed. It was further alledged, that there was a kind of contradiction in the Position of the Commons, when they say, *The Party Committed without a Cause shewed, ought to be Delivered or Bailed. Bailing being a kind of Imprisonment, Delivery a total freeing.* To this it was answered, That it hath alwaies been the discretion of the Judges to give so much respect to a Commitment, by the Command of the King, or the Privy-Council (which are ever intended to be done upon just and weighty Causes) that they will not presently let him free, but Bail him, to answer what shall be objected against him, on his Majesties behalf. But if any inferior Officer Commit a man without Cause shewed, they do instantly deliver him, as having no Cause to expect their pleasure; so the Delivery is applied to an Imprisonment, by the command of some mean Minister of Justice; Bailing, when it is done by the Command of the King, or his Council. It was urged by Mr. Attorney, That Bailing is a grace and favour of a Court of Justice, and that they may refuse to do it. This was agreed to be true in divers Cases, as where the Cause appeareth to be for Felony, or other Crime expressed, for that there is another way to discharge them in convenient time by their Trial; (and yet in these Cases the constant practise hath been constantly and moderately to Bail men:) But where no cause of the imprisonment is returned, but the Command of the King, there is no way to deliver such Persons by Trial or otherwise, but that of the *Habeas Corpus*. And if they should be then remanded, they may be perpetually Imprisoned without any remedy at all. And consequently, a man that had committed no offence, might be in a worse case than a great Offender; for the latter should have an ordinary Trial to discharge him; the other should never be delivered. It was farther said, That though the Statute, *Westminster 1. Cap. 15.* is a Statute by way of Provision, and did extend only to the Sheriff; yet the recital in that Statute touching the Four Causes, wherein a man was not Replevisable at the Common-Law; namely, those that were Committed for the Death of a man by the Command of the King, or of his Justices, or for the Forest, did declare, that the Justices could not Bail such a one; and that Replevisable andailable were Synonymes all one; and that *Stamford* a Judge of great authority doth expound it accordingly, and that neither the Statute, nor the said Replevisable by the Sheriff, but generally without restraint; and that if the Chief Justice Commit a man, he is not to be enlarged by another Court, as appeareth in the Register.

To

Anno 1628. To this it was answered, First, That the recital and Body of the Statute, relate only to the Sheriff, as appeareth by the very words.

Secondly, That Replevisable is not restrained to the Sheriff, for that the words import no more, but that a man Committed by the Chief Justice, is Bailable by the Court of Kings Bench.

Thirdly, That Stamford meaneth all of the Sheriff; or at least he hath not sufficiently expressed, that he intended the Justices.

Fourthly, It was denied that Replevisable and Bailable is the same, for they differ in respect of the place where they are used; Bail being in the King's Courts of Record; Replevisable before the Sheriff, and they are of several natures; Replevisable being a letting at large upon Sureties; Bailing, when one 'Tradit' in Ballium, and the Bail are his Gaolers, and shall suffer Body for Body, which is not true of Replevying by Sureties; and Bail differeth from Mainprize in this, that Mainprize is an undertaking in a form certain; Bailing to answer the Condemnation in Civil Causes; and in Criminal, Body for Body; and the reasons in the first Conference, were then renewed, and no exception taken to any, save that in 22 H. 6. it doth not appear, that the Command of the King was by his mouth, which must be intended, or by his Council, (which is all one) as is observed by Stamford, for the words are, That a man is not Replevisable by the Sheriff, who is Committed by the Writ or Commandment of the King. 21 E. 1. Rot. 2. dorso, was cited by the King's Counsel. But it was answered, That it concerned the Sheriff of Leicestershire only, and not the power of the Judges, 33 H. 6. The King's Attorney confessed, That was nothing to the purpose, and yet that Book hath been usually cited, by those that maintain the contrary to the Declaration of the Commons, and therefore such suddain opinions, as have been given thereupon, are not to be regarded, the Foundation failing. And where it was said, That the French of 36 E. 3. Rot. Parl. no. 9. (which can receive no answer) did not warrant what was inferred thence, but that these words, Sans disturbance metre ou arrest faire, & le Contre per special mandement ou en autre manere, must be understood that the Statutes should be put in execution, without putting disturbance, or making Arrest to the contrary, by special Command, or in any other manner. The Commons did utterly deny the Interpretation given by the King's Council; and to justifie their own, did appeal to all men that understood French; and upon the several Statutes did conclude their Declaration remained an undoubted truth, not controlled by anything to the contrary.

The substance of the Objections made by Mr. Attorney General before a Committee of both Houses, to the Argument that was made by the Commons at the first Conference with the Lords out of Presidents of Records, and Resolutions of Judges in former times, touching the Liberty of the Person of every Freeman. And the Answers and Replies then presently made by the House of Commons to those Objections.

After the first Conference, which was desired by the Lords, and had by a Committee of

both Houses in the Painted Chamber, touching the Reason, Laws, Acts of Parliament, and Presidents of Records, concerning the Liberties of the Person of every Freeman, Mr. Attorney General being heard before the Committee of both Houses, (as it was assented by the House of Commons, that he might be, before they went up to the Conference) after some Preamble made, wherein he declined the answering all Reasons of Law, and Acts of Parliament, came only to the Presidents, used in the Arguments before delivered, and so endeavoured to weaken the strength of them that had been brought in behalf of the Subject; and to shew, that some other were directly contrary to the Law comprehended in the Resolutions of the House of Commons, touching the Bailing of Prisoners, returned upon the Writ of Habeas Corpus, to be Committed by the Special Command of the King, or the Counsel without any cause shewed. And the course which was taken (which it pleased the Committees of both Houses to allow of) was that Mr. Attorney should make his Objections to every particular President, and that the Gentlemen appointed and trusted herein by the House of Commons, by several Replies, should satisfy the Lords touching the Objections made by him against or upon every particular, as the Order of the Presidents should lead them.

He begun with the first Twelve Presidents that were used by the House of Commons, at the Conference desired by them, to prove that persons returned to stand so Committed, were delivered upon Bail, by the Court of Kings Bench. The First was that of Bildeston's Case in 18 E. 3. Rot. 33. Rex. To this he Objected, That in the Return of him into the Court, it did not appear, that this Baldeston was Committed by the King's command. And Secondly, That in the Record it did appear that he had been Committed for counterfeiting the Great Seal, and so by consequence was Bailable in the Law, in regard there appeared a cause why he was Committed; in which Case it was granted by him (as indeed it is plain and agreed of all hands) that the Prisoner is Bailable though Committed by the command of the King. And he said, That this part of the Record, by which it appeared, he had been Committed for this Suspicion of Treason, was not observed to the Lords in their Argument before used, and he also shewed to the Lords, that their three several kinds of Records, by which the full truth of every Award or Bailing by Habeas Corpus, is known, First, in the Remembrance-Roll, wherein the Award is given. Secondly, The file of the Writ and the Return. And Thirdly, The Scrut Roll, or Scrut Finium, wherein the Bail is entred. And that only the Remembrance-Roll of this Case was to be found. And that if the other two were extant, he doubted not but it would appear also, That upon the return it self, the cause of the Commitment had been expressed.

And so he concluded that this proved not for the Resolution of the House of Commons touching a matter of Bail, where a Prisoner was Committed by the King's Special Command without cause shewed.

To these Objections, the Reply was first, That it was plain that Bildeston was Committed by the Kings express Command, for so are the very words of the Writ to the Constable of the Tower, *Quod cum teneri & Custodiri facias, &c.* than which nothing can more fully express a Commitment by the King's Command. Secondly, Howsoever it be true that in the latter end of the Record, it doth

Anno 1628. doth appear that *Bildeston* had been Committed for that Suspicion of Treason; yet if the times of the proceeding, expressed in the Record, were observed, it would be plain that the Objection was of no force; for this one ground both of this Case and all the rest is infallible, and never to be doubted of in the Law, that the Justices of every Court adjudge of the force or strength of a Return out of the body it self only; and according as it therein appears to them. Now in *Easter Term*, 18 E. 3. he was returned and brought before them, as Committed only by that Writ, wherein no cause is expressed; and the Lieutenant or Constable of the *Tower*, that brought him into the Court, said, He had no other Warrant to detain him, *Nisi b're predict.* wherein there was no mention of any cause; and the Court thereupon adjudged that *b're predict.* (or that special cause) was not *sufficiens causa* to detain him in Prison, and therefore he is by Indictment of the Court in *Easter Term*, let to Mainprife; but that part of the Record, wherein it appears that he had indeed been Committed for Suspicion of Treason, is of *Trinity Term* following, when the King, after letting him to Mainprife, sent to the Judges that they should discharge him of his Mainprife, because no man prosecuted him, and at that time it appears (but not before) that he had been in for Suspicion of Treason; so that he was Returned to stand Committed by the King's special Command only, without cause shewed in *Easter Term*, and then by Judgment of the Court let to Mainprife which (to this purpose) is but the same with Bail, though otherwise it differ. And in the Term following upon another occasion, the Court knew that he was Committed for Suspicion of Treason, which hath no relation at all to the letting of him to Mainprife, nor to the Judgment of the Court then given, when they did not, nor could possibly know any cause for which the King had Committed. And it was said in behalf of the House of Commons, that they had not indeed, in their Argument, expressly used the latter part of the Record of *Bildeston's* Case, because it being only of *Trinity Term* following, it could not concern the Reasons of an Award, given by the Court in *Easter Term* next before, yet notwithstanding that they had most faithfully at the time of their Argument delivered in to the Lords (as indeed they had) a perfect Copy at large of the whole Record of this Case, as they had done also of all other Records whatsoever used by them, in so much as in truth there was not one President of Record of either side, the Copy whereof they had not delivered in likewise; nor did Mr. Attorney mention any one besides those that were so delivered in by them. And as touching those three kinds of Record, the *Remembrance Roll*, the *Return* and *File of the Writ*, and the *Scrivets*, it was answered by the Gentlemen employed by the House of Commons, That it was true, that the *Scrivets*, and the *Return* of this Case of *Bildeston's*, was not to be found; but that did not lessen the weight of the President, because alwaies in the Award or Judgment drawn up in the *Remembrance Roll* (the cause, whatever it be, when any is shewed) upon the Return is alwaies expressed, as it appears clearly by the constant Entries of the Court of the King's Bench, so that if any cause at all had appeared unto the Court, it must have appeared plainly in that part of the Roll which belongs to *Easter Term*, wherein the Judgment was given; But the Return of the Commitment

by the King's Command, without a cause shewed, and the Judgment of the Court, that the Prisoner was to be let to Mainprife, appears therein only. And so notwithstanding any Objection made by Mr. Attorney, the Cause was maintained to be a clear proof (among many others) touching that Resolution of the House of Commons.

Car. 4.

To the Second of these Twelve, which is *Parker's* Case, in 22 H. 8. Rot. 37. his Objections were two, First, That it is true, he was Returned to be Committed, Per mandat' Domini Regis, but that it appeared, That this Command was certified to the Sheriffs of London by one Robert Pecke, Gent. and in regard that Command came no otherwise, the Return was held to be insufficient, and that therefore he was Bailed. Secondly, That it appears also in the Record, that he was Committed pro suspicione Felonie ac per mandat' Domini Regis; so that in regard that in the expression of the Causes of his Majesties Commitment, Suspicion of Felony preceeds the Command of the King, therefore it must be intended that the Court took the cause why the King Committed him to be of less moment than Felony, and therefore Bailed him; For he Objected that even the House of Commons themselves in some Arguments by them used, touching the Interpretation of the Statute of Westminster the 1. Cap. 15. about this point had affirmed, that in enumeration of particulars, those of greatest nature were first mentioned; and that it was supposed, that such as followed were usually of less nature or moment.

But the Reply was to the first Objection, That the Addition of certifying the King's Command by Robert Pecke, altered not the Case:

First, Because the Sheriffs in their Return, take notice of the Command, as what they were assured of, and then howsoever it came to them it was of equal force, as if it had been mentioned without Pecke.

Secondly, As divers Patents pass the Great Seal by Writ of Privy Seal, and are subscribed *per b're de privai' Sigil'*, so divers *per ipsum Regem*, and are so subscribed, and oftentimes in the Rolls of former times, to the Records *per ipsum Regem*, are added *Nuntiant A. B.* so that the King's Command generally, and the King's Command related, are certified by such a man, is to this purpose of like nature.

Thirdly, In the late general Case of the *Habeas Corpus*, where the Return of the Commitment, was *per speciale mandat' Domini Regis mihi significat' per Dominos de privai' Consilio*, the Court of King's Bench did agree, that it was the same, and of the like force, as if *mihi significat'*, &c. had not followed, and that these words were void; according whereunto here also *per mandat' Domini Regis nunciat' per Robertum Pecke* had been wholly omitted, and void likewise in truth in that late Case.

This Case of *Parker* was cited both at the Barr and Bench; and at the Bench it was Interpreted by the Judges no otherwise than if it had been only *per mandat' Domini Regis* in this place of it. But the Objection there was made of another kind, as was delivered in the first Argument made out of Presidents in behalf of the House of Commons.

Then for the Second Objection touching the course of Enumeration of the Causes in the Return, it was said, That howsoever in some Acts of Parliament, and elsewhere in the Felony (expression used in the Law) things of greater nature preceed, and the less follow; yet in the Case the

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Anno 1678. contrary was most plain, for in the Return it appears there were three Causes of detaining the Prisoner, Surety of the Peace, Suspicion of Felony, and the King's Command; and Surety of the Peace is first mentioned, which is plainly less than Felony, therefore it is as plain if any force of Argument be here to be taken from this Enumeration) that the contrary to that which Mr. Attorney inferred, is to be concluded (that is) that as Felony is a greater Cause than Surety of the Peace, So the matter whereupon the King's Command was grounded, was greater than the Felony. But in truth, this kind of Argument holds neither way here, and whatsoever the cause was why the King Committed him, it was impossible for the Court to know it; and might also have been of very high moment in matter of State, and yet of far less nature than Felony; all which shews, that this President hath its full force also, according as it was first used in Argument by the House of Commons.

To the Third of those which is *Binck's Case*, in 35 H. 8. Rot. 35. the Objection was, *That there was a Cause expressed, pro suspicione Felonix, and though pro aliis causis illos moventibus were added in the Return, yet because in the course of Enumeration the general name of (Alia) coming after particulars, includes things of less nature than the particular death; therefore in this Case, Suspicion of Felony being the first, the other Causes afterwards generally mentioned, must be intended of less nature, for which the Prisoner was Bailable, because he was Bailable for the greater, which was Suspicion of Felony.*

Hereunto it was Replied, That the Argument of Enumeration in those Cases, is of no moment, as it is next before shewed. And that although it were of any moment, yet the *alie Cause*, though less than Felony, might be of greater consequence in matter of State, which is pretended usually upon general Returns of Command without cause shewed. And it is most plain, that the Court could not know the Reasons why the Prisoner here was Committed; and yet they Bailed him without looking further after any unknown thing, under that Title of matter of State, which might as well have been in this Cause as in any other whatsoever.

To the Fourth, which is *Overton's Case*, in Pasch. 2, & 3. P. & Mary, Rot. 58. And to the Fifth, which is *Newport's Case*, Pasch. 4, & 5. P. & M. Rot. 45. only these Objections were said over again by Mr. Attorney, which were moved in the Argument made out of Presidents in behalf of the House of Commons at the first Conference, and in the same Argument are fully and clearly satisfied, as they were now again in like manner.

To the Sixth of these, which is *Lawrence's Case*, in 9 Eliz. Rot. 35. And the Seventh, which is *Constable's Case*, Pasch. 9 Eliz. Rot. 68. the same Objections were likewise said over again by Mr. Attorney that are moved, and clearly and fully answered in the Argument, made at the first Conference out of Presidents in behalf of the House of Commons. The force of the Objection being only, *That it appeared in the Margent of the Roll that the word Pardon was written; but it is plain that the word there hath no Reference to the Reason why they are Bailed, nor could have Reference to the cause why they were Committed, is utterly unknown, and was misshewed.*

To the Eighth, which is *Browning's Case*, in Pasch. 20 Eliz. Rot. 72. it was said by Mr. Attorney, *That he was Bailed by a Letter from the Lords of the Council, directed to the Judges of the Court, but being asked for that Letter, or any Testimony of it, he could produce none at all, but said he thought the testimony of it was burnt amongst many other things of the Council Table, at the burning of the Banqueting House.*

To the Ninth, being *Harecourt's Case*, Pasch. 40 Eliz. Rot. 62. the self same Objection was made by him, but no Warrant was shewed to maintain the Objection.

To the Tenth, which is *Catesbie's Case*, in Vac. Hill. 43 Eliz. he said, *That it was by direction of a Privy Seal from the Queen, and to that purpose he shewed the Privy Seal of 43 Eliz. which is at large amongst the Transcripts of Records, concerning Bails taken in Cases, where the King or Lords of the Council assented.*

But it was Replied, That the Privy Seal was made only for some particular Gentlemen, mentioned in it, and for none other (as indeed appears in it) and then he said, that it was likely, that *Catesbie* here had a Privy Seal in his behalf, because those other had so, which was all the force of the Objection.

To the Eleventh of these, which is *Beckwith's Case*, in Hill. 12 Jac. Rot. 183. he said, *The Lords of the Council sent a Letter to the Court of Kings Bench to Bail him, and indeed he produced a Letter, which could not by any means be found when the Arguments were made at the first Conference, and this Letter, and the Copy of an obscure report, made by a young Student, which was brought to another purpose (as hereafter shall be shewed) were the only things written of any kind that Mr. Attorney did produce, besides the particulars shewed by the House of Commons at the first Conference.*

To this it was Replied, That the Letter was of no moment, being only a direction to the Chief Justice, and no matter of Record, nor any way concerning the rest of the Judges. And besides, either the Prisoner was Bailable by Law, or not Bailable; if Bailable by Law, then was he to be Bailed without any such Letter; if not Bailable by the Law, then plainly the Judges could not have Bailed him upon the Letter without breach of their Oaths, which is, that they are to do Justice, according to the Law, without having respect to any Command whatsoever, so that the Letter in this, or the like in any other Case, is for point of Law to no purpose, nor hath any weight at all by way of Objection, against what the Record and Judgment of the House shewed us.

To the Twelfth and last of these, which is *Sir Thomas Manson's Case*, in 4 Jac. Rot. 147. the same Objection only was said over by him, which was moved and clearly answered in the Argument at the first Conference, and that one ground which is infallible, That the Judgment upon a Return is to be made only out of what appears in the Body of the Return itself, was again insisted upon in this Case, as it was also in most of the rest. And indeed that alone (which is more clear in Law) satisfies almost all kind of Objections that have been made to any of these Presidents,

Anno 1628. dents, which thus rightly understood, are many ample Testimonies of the Judgment of the Court of Kings Bench, touch this great Point in the several Reigns of the several Princes under which they fall.

After his Objections to these Twelve, and the Replies and Satisfaction given to those Objections, he came next to those, wherein the assent of the King, or the Privy-Council appears to have been upon the enlargement. But he made not to any of those, any other kind of Objections whatsoever than such as are moved and clearly answered (as they were now again) in the Argument made at the first Conference. And forasmuch as it concerns Letters of assent or direction; the same was said here again by way of Reply to him, as is before touching the Letter in *Beckwith's* Case.

After these were dispatched, he came to urge the Eight Presidents, which seemed to make for the other side, against the Resolution of the House of Commons, which Eight were used, and Copies of them given unto the Lords at the first Conference.

Of these Eight the first four were urged by him, as being of one kind; the difference of them being only such that save only in the names of Prisons, and Persons, they are but the self same.

Therefore of these Four he Objected thus, That *Richard Everard* (for the purpose) in the first of them, which is 5 H. 7. Rot. 18. *Roger Cherrie* in the Second of them, which is 8 H. 7. Rot. 12. *Christopher Burton* in the Third, which is in 9 H. 7. Rot. 14. And *George Urswicke* in the Fourth of them, which is 19 H. 7. Rot. 33. were Returned into the King's Bench upon several Writs of *Habeas Corpus*, to have been Committed and detained in the several Prisons whence they came *per mandatum Domini Regis*, and that upon that Return they were Committed to the *Marshalsey* of the King's Bench; and that howsoever it had been Objected against those Presidents that this kind of Commitment, was, by the course of that Court alwaies done before the Bailing of the Prisoner, yet that it did not appear that they were Bailed.

The Reply to those Objections, was, That by the constant course of the King's Bench, whatsoever came in upon *Habeas Corpus*, or otherwise, upon any Writ into that Court cannot be Bailed until he first be Committed to the Marshal of that Court, and thence it was that all these Four were Committed to the Marshal, as appears by the Entry *Marescallo*, &c. which is the usual Entry in such a Case, and that the Clerks of that Court acknowledge this Course and Entry to be most constant; so that all the Inference that can be made out of these Four is, but that four Prisoners being brought from four several Prisons by *Habeas Corpus* into the King's Bench, and Returned to stand Committed *per mandatum Domini Regis*, were so far from being to be remanded by the Law; that in all these four Cases, they were presently first taken from their several Prisons, wherein they had been detained by such a general Command, which could not have been, if they had not been adjudged in every of the Cases, to have been Bailable by the Court. And that this Commitment of them to the Marshal of the King's Bench, was the first step towards the Bailing of them, as in all other Cases. But that it appears not that either they ever demanded to be Bailed, or that they were able to find sufficient Bail; and if they did not the one, or could not do the other, it may follow indeed

that they were not Bailed. But this Commitment to the King's Bench being the first step to the Bailing of them (as by constant course it is) shews most plainly that they were Bailable by Law, which is the only thing in Question, so that although these Presidents were ranked among them that may seem to make against the Resolutions of the House of Commons, which was done both because they have this small colour in them for the other side to any man that is not acquainted with the nature and reason of the Entries and Courses of the Court of the King's Bench, as Presidents that make against the Liberty (claimed by the Subject) yet, in truth, all four of them do fully prove this resolution, that is, they plainly shew that the Court of King's Bench, in every of them, resolved, That the Prisoners so Committed were Bailable, otherwise they had been remanded, and not Committed to the Marshal of the King's Bench. And this was the answer to the Objection made by Mr. Attorney upon these four Presidents being all of the time of King H. 7.

The Fifth of these being *Edward Page's* Case, in 7 H. 8. Rot. 23. Mr. Attorney Objected this, he said, That *Edward Page*, was Committed to the *Marshalsey* of the Household, *per mandatum Domini Regis ibidem salvo Custodiend*, &c. qui Committitur *Marr' hospitij Domini Regis*, by which it appears (as he said) that Court remanded to the Prison of the *Marshalsey* of the Household. And he said, That whereas it had been objected at the first Conference, that there was some mistaking in the Entry, he said, That he conceived indeed that there was some mistaking, but the mistaking was, that the Clerk had Entered Committitur for a Remittitur, and that it should have been qui remittitur *Marr' hospitij Domini Regis*, for when ever they remand the Prisoner, Remittitur, and not Committitur should be Entered, and that mistaking being so rectified and understood, he conceived it was a direct President against the Resolution of the House of Commons.

To this it was answered, by the Gentlemen of the House of Commons, That there was no doubt indeed but that a mistaking was in the Entry by the Clerk: but that the mistaking was quite of another nature. The Addition of these words *hospitij Domini Regis* was the mistaking, and the Entry should have been *qui Committitur Marr. &c.* only, that is, he was Committed to the Marshal of the King's Bench, and so indeed the force of this President should be but just the same with the first Four: But the ignorance of the Clerk that Entered it, who knew not how to distinguish between the Marshal of the Household, and the Marshal of the King's Bench, was the cause of adding of these words, *hospitij Domini Regis*. And to confirm fully this kind of Interpretation of that President, and of the mistaking in it, it was observed by the Gentlemen of the House of Commons, that there is in the Margent of the Roll, an infallible Character that justifies as much, for the course of that Court, whensoever a Prisoner is Committed to the Marshal of the King's Bench, and not remanded; the word *Marescall* is written in the Margent short, by *Marr. &c.* turned up, and that is never written there. But when the meaning and sense of the Entry is, That the Prisoner is Committed to the Prison of the same Court; now in this Case in the Margent, *Marr.* is likewise written, which most clearly shews, that the truth of the Case was, that this *Page* was Committed to the Marshal of the King's Bench, and not remanded; which if it had been, neither could the Entry have been *Committitur*, nor should the Margent of the

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the Roll had *Marr.* written in it. And thus they answered Mr. Attorneys Objections, touching this President; and concluded, that now besides the first Four of the Eight, they had another, and so Five to prove that a Prisoner Committed *per mandatum Domini Regis*, generally wasailable by the Judgment of the Court, however it appears not in these particulars that they were Bailed, which perhaps they were not, or because they could not find a sufficient Bail.

The Sixth of the Eight being *Thomas Caesar's* Case, in 8 *Jac. Regis Rot. 99.* Mr. Attorney Objected it thus, That *Cæsar* being Committed *per mandatum Domini Regis*, to the Marshalsey of the Household was Returned upon Habeas Corpus to be so Committed, and therefore detained in Prison. And that the Entry is *Qui remittitur Prison' Marr' predict'*, by which it appears clearly, that he was commanded again to the same Prison from whence he came.

To this the Gentlemen of the House of Commons gave this answer, they said, That the usual Entry of a *Remittitur*, when it is to shew that the Court by way of Judgment, or Award, upon Resolution or Debate, do remand the Prisoner, is *remittitur quousq; &c.* which is *remittitur quousq; secundum legem deliberatus fuerit*; but when they give day to the Keeper of the Prison to amend his Return, or the like, then the Entry is only *remittitur* generally, or *remittitur Prison' predict'*. but it was affirmed by Mr. Keeling, a Clerk of experience in that Court, that the Entry of *remittitur* generally, or *remittitur Prison' predict'*. was indifferently used for the same, that is, *remittitur quousq; &c.* yet it was expressly shewed by the Gentlemen of the House of Commons, that there was sometimes a difference. And that it might well be in this Case, for in the last of these Eight Presidents, which is *Saltenstall's* Case, they observed that *remittitur Prison' predict'*. is often used, and in that Case it is plain, that twice it is used only for a remanding, during the time that the Court gave leave to the Warden of the Fleet, to amend the Return; which shews plainly, that though sometimes *remittitur* generally, and *remittitur quousque* may mean but the same, yet sometimes also it doth not mean the same. And that of this Case of *Cæsar*, is meant only but so much as it doth twice in that of *Saltenstall's* Case, which was proved also by a Rule of the Court, which was cited out of the Rule-Book of the Court of King's Bench, by which Rule the Court expressly Ordered, That unless the Steward and Marshal of the Household did sufficiently return the *Habeas Corpus*, for *Cæsar*, that he should be discharged, the words of the Rule are, *Nisi predict'. Senescall' & Marscall' hospicii Domini Regis sufficienter Retornaverint b're de Habeas Corpus Thomæ Cæsar die Mercurij prox' post quinden' Sancti Martini, defendens exonerabitur.* And this was the opinion of the Court, which shews that the Court was so far from remanding him upon the Return; that they resolved, unless some better Return was made, the Prisoner should be discharged of his Imprisonment, although it appeared unto them out of the Body of the Return (upon which they are only to judge) that he was Committed *per mandatum Domini Regis* only. And the Rule not only shews the opinion of the Court then to have been agreeable with the Resolution of the House of Commons, but also proves that *Remittitur* generally, or *remittitur Prison' predict'*. doth not alwaies imply a remanding upon Judgment or Debate. And this Answer was given to this of *Cæsar's* Case.

The Seventh is the Case of *James Demetrius*, it was in 12 *Jac. Rot. 153.* Mr. Attorney objected, That this *Demetrius*, and divers others being Brewers, were Committed *per Consilium Domini Regis* to the Marshalsey of the Household, and that upon the Commitment being so generally Returned, they were demanded, and that the Entry was, *immediate remittitur prefat' Marr' hospitii predict'*. where he observed that *immediate* shews, that the Judges of that time were so resolved of this Question, that they remanded him presently, as men that well knew what the Law was herein.

Hereunto the Gentlemen of the House of Commons gave these Answers, First, That the *remittitur* in this Case, is but as in that of *Cæsar's*, and so proves nothing against them. Secondly, That *immediate* being added to it, shews plainly that it was due without Debate or any Argument or consideration had of it, which makes the Authority of the President to be of no force in point of Law, for Judgments and Awards given upon deliberation only and debate, are proof of arguments of weight; and not any suddain Act of the Court, without debate or deliberation, and the Entry of *immediate* being proposed to Mr. Keeling, it was confirmed by him; that by that Entry it appears by their course, that the remanding of them was the self same day they were brought; which, as it was said, by the Gentlemen of the House of Commons, might be at the rising of the Court, or upon advisement, or the like, and this Answer was given to this President of the Brewers.

The last of these Eight which Mr. Attorney objected, is, *Saltenstall's* Case, in 12 *Jac. Regis*, he was Committed *per mandatum à Dominis Regis de privato Consilio*, and being returned by the Warden of the Fleet to be so, *remittitur Prison' predict'*. and in the 13 *Jac.* in the same Case there is *remittitur* generally in the Roll, and these two make but one Case, and as one President.

To this the Gentlemen of the House of Commons answered, That it is true the Rolls have such Entries, of *Remittitur* in them generally, but that proves nothing, upon the reason before used by them upon *Cæsar's* Case, but also *Saltenstall* was Committed for another cause, besides *per mandatum Dominorum Consilii* for a Contempt against an Order in Chancery, and that was in the Return also; and besides the Court, as it appears in the Record, gave several daies to the Warden of the Fleet to amend his Return, which they would not have done if they had conceived it sufficient, because that which is sufficient, needs not amendment.

To this Mr. Attorney Replied, That they gave him day to amend his Return, in respect of that part of it, which concerns the Order in Chancery, and not in respect of that which was *per mandatum Dominorum Consilii*.

But the Gentlemen of the Commons House answered that, that appeared not any where, nor indeed is it likely at all, nor can be so understood, because if the other Return *per mandatum Consilii* had been sufficient by it self, then doubtless they would have returned him upon that alone, for then they needed not to have stood at all upon the other part of the Return in this Case, so that out of the Record it self, it appears fully that the Court conceived the Return to be insufficient, and so the Gentlemen of the House of Commons concluded, that they had a great number of Presidents, besides the Acts of Parliament, and reasons of Common-Law, agreeable to their resolution; and that there was not one President at all that made against them,

Anno 1628. them, but indeed that (almost) all that were brought as well against them as for them (if rightly considered) made fully for the maintenance of their resolution, and that there was not one Example or President of a *remitter* in any kind upon this point, before that of *Cesar's* Case, which is before cleared with the rest, and is but of late time, and of no moment against the resolution of the House of Commons. And thus for so much as concerned the Presidents of Records, the first day of the Conference desired by the Lords ended.

The next day they desired another Conference with the House of Commons, at which it pleased the Committee of both Houses to hear Mr. Attorney make what Objections he could, against other parts of the Argument, formerly delivered by the House of Commons, he then Objected against the Acts of Parliament, and against the reasons of the Law. And his Objections to those parts were answered, as it appears in the Answers by Order given in to the House of Commons by the Gentlemen that made them. He Objected also upon the second day against that second kind of Presidents, which are Resolutions of Judges in former times, and not of Record; and brought also some other Testimonies of the Opinions of Judges in former times touching this point.

First, For that Resolution of all the Judges of England, in 34 *Eliz.* mentioned and read in the Arguments made at the first Conference, he said, That it was directly against the Resolution of the House of Commons: and observed the words of it to be in one place, that Persons so Committed by the King or the Council, may not be delivered by any of the Courts. And that in another place, if the cause were expressed either in generality or speciality it was sufficient; and he said, That the expressing of the Cause in generality, was to shew the King and the Councils Command. And to this purpose he read the whole words of that Resolution of the Judges. Then he Objected also that in a Report of one *Reynold's* Case in the King's Bench, in 13 *Jac.* he found that the Opinion of some Judges of that Court (Sir *Edward Cook* being then Chief Justice, and one of them) was that a Prisoner Committed *per mandat. Domini Regis*, or *presat. Consil.* without cause shewed, and so Returned, could not be Bailed, because it might be matter of State, or *Arcanum Imperii*, for which he stood Committed. And to this also, he added an Opinion, that he found in a Journal in the House of Commons of 18 *Jac.* wherein Sir *Edward Cook*, speaking to a Bill, preferred for Explanation of *Magna Charta*, touching Imprisonment, said in the House, That one so Committed could not be enlarged by the Law, because it might be matter of State, for which he was Committed. And amongst these Objections, as his Objections of other nature; also he spake of the Confidence that was shewed in behalf of the House of Commons; and he said, it was not Confidence of either part, could add any thing to the Determination of the Question, for if it could, he had as much reason of Confidence for the other side against the Resolution of the House of Commons, grounding himself upon the force of his Objections, which (as he conceived) had so weakned the Arguments of the Commons House.

To this a Reply was made, and first it was said to the Lords in behalf of the House of Commons, That notwithstanding any thing yet objected, they were upon clear reason, still confident of the truth of their first resolutions, grounded upon so just examination and deliberation, taken by them.

And it was observed to the Lords also, that their Confidence was of an other nature, and far greater weight than any Confidence that could be expressed by Mr. Attorney, or whomsoever being of his Majesties Council Learned.

To which purpose the Lords were desired to take into their memories the difference between the present qualities of the Gentlemen that spake in behalf of the House of Commons, and of the King's Learned Council, in their speaking there, howsoever accidentally, they were both men of the same Profession, for the King's Council spake as Council perpetually retained by Fee, and if they made Glosses, or advantageous Interpretations soever for their own part, they did but what belonged to their place and quality, as Mr. Attorney had done; but the Gentlemen that spake in behalf of the House of Commons came there, bound on the one side by the trust reposed in them, by their Country that sent them; and on the other, bound by an Oath taken by every of them, before he sit in the House, to maintain and defend the Rights and Prerogatives of the Crown: for even in the point of Confidence alone, that of them, that speak as retained Council by perpetual Fee, and might by their place (being permitted to speak) say what they would; and that of them that spake, as bound to nothing; but truth both by such a Trust, and such an Oath, were no way to be so compared, or counterpoised, as if the one were of no more weight than the other: and then the Objections before mentioned, were also answered.

For that of the resolution of all the Judges of England, in 34 *Eliz.* it was shewed that it plainly agreed with the resolution of the House of Commons; for although indeed it might have been expressed with more perspicuity, yet the words of it as they are, sufficiently shew, that the meaning of it is no otherwise. To that purpose besides the words, the whole frame of this resolution of the Judges, as it is Transcribed out of the Lord Chief Justice *Anderson's* Book, written with his own Hand (which Book also was there offered to be shewed in behalf of the House of Commons) it was observed that the words of the first part of it, shew plainly that all the Judges of England, then resolved that the Prisoners spoken of in that first part of their resolution were only Prisoners Committed with cause shewed, for they only say they might not be delivered by any of the Courts without due Tryal by Law and Judgment of Acquittal, but it is clear no Trial or Acquittal can be had, where there is not some cause laid to their charge, for which they ought to stand Committed, therefore in that of the resolution such Prisoners are only meant as are Committed with cause shewed, which also the Judges in that resolution also, thought necessary (as appeareth in the second part of the resolution) wherein they have these words.

If upon the Return of the Habeas Corpus, the Cause of their Commitment be certified to the Judges (as it ought to be) &c. by which words they shew plainly, that every Return of a Commitment is insufficient, that bath not the cause shewed in it.

And to that Mr. Attorney said, as if the Cause were sufficiently expressed in generality, if the King's Command, or Councils were expressed in it, and as if that were meant in the resolution for a sufficient general Cause. To this it was said, That it was never heard of in Law, that the power or person that Committed the Prisoner,

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was understood for the *Causa Captionis*, or *Causa detentionis*, but only the reason why that power or person Committed the Prisoner, as also in Common Speech, if any man ask why or for what cause a man stands Committed; but his offence or some other cause is understood in the Question, and is to be shewed in the answer; but to say that such a one Committed the Prisoner, is an Answer only to the Question, who Committed him, and not why or for what cause he stands so Committed.

Then for that of the Copy of the Report of 13 Jac. shewed forth by Mr. Attorney, it was answered by the Gentlemen of the House of Commons, That the Report it self (which had been before seen and perused among many other things at a Committee made by the House) was of slight or no Authority, for that it was taken by one that was at that time but a young Student only, and a Reporter in the King's Bench; and there was not any other Report found to agree with it.

Secondly, Although the Reports of young Students, when they take the words of Judges as they fall from their mouths at the Bench, and in the same person and form that they have spoken, may not be of good credit; yet in this Case there is not one word so reported, but in truth there being three Causes of a time in the King's Bench, one *Ruswell's* Case, one *Allen's* Case, and one *Saltenstall's* Case, every of which had something of like nature in it, the Student having been present in the Court, made up the frame of one Report or Case out of all three in his own words, and so put it into his Book; so that there is not a word in the Report, but it is framed according to the Students fancy (as it is written) and nothing is expressed in it, as it came from the mouth of the Judges, otherwise than as his fancy directed him.

Thirdly, There are in the Report plain falsehoods of matters of fact, which are to be attributed either to the Judges, or to the Reporter. It is most likely, by all reason, that they proceeded from the Reporters faults: But howsoever these matters of falsehood shew sufficiently, that the credit of the rest is of slight value. It is said in the Report, that *Harecourt* being Committed by the Council, was Bailed in 40 Eliz. upon a Privy-Seal, whereas there was no such thing in truth. And it is said there, That such kind of Letters are Filed in the Crown-Office, whereas in truth, there was never any such kind of Letters Filed there in any Case whatsoever. That Resolution of the Judges in 34 is mis-cited there, and made in 36 of Queen Elizabeth, and it is said there by that Resolution, a Prisoner Returned to be Committed by Command of the Council might not be at all delivered by the Court, whereas no such thing is comprehended in that Resolution. But that which is of most moment is, that howsoever the truth of the Report were, yet the opinion of the Judges being sudden, and without any debate had of the Case, is of slight moment: for in difficult points especially, the gravest and wisest men living, may on the sudden let fall (and that without any disparagement to them) such opinions, as they may, will, and ought to change upon full debate had before them, a mature deliberation taken by them. Now plainly in that of 13 Jac. there is not so much as a pretence of any debate at the Barr. All that is reported to have been, is reported as spoken on the sudden; and can any man take such an opinion to be of value, against such Debates, and

mature deliberation since had of the point; and indeed this great point, and all circumstances belonging to it, hath within this half year been so fully examined, and searched into, that it may well be affirmed, that the Learnedest man whatsoever, that now considered of it, hath within that time (or might have) learned more reason of satisfaction in it, than ever before he met with, therefore the sudden opinion of any Judges whatsoever to the contrary, is of no value here, which also is to be said of that opinion obliviously delivered in the House in 18 Jac. as Mr. Attorney objected out of the Journal of the House; but besides, neither was the truth of that report of that opinion in the Journal any way acknowledged, for it was said on behalf of the House of Commons, that their Journals were, for matter of Orders and Resolutions of the House, of such Authority as that they were, as their Records: But for any mans particular opinion noted in any of them, it was so far from their being of any Authority with them, that in truth, no particular opinion is at all to be entred in them. And that their Clerk offends when er'e he doth to the contrary. And to conclude, no such opinion whatsoever, can be sufficient to weaken the clear Law, comprehended in those Resolutions of the House of Commons, grounded upon so many Acts of Parliament, so much reason of Common-Law, and so many Presidents of Record, and the Resolution also of all the Judges of England, and against which not one Law written or unwritten, not one President, not one Reason hath been brought, that makes any thing to the contrary. And thus to this purpose, ended the next day of the Conference, desired by the Lords, and had by a Committee of both Houses.

Sir Edward Cook's Speech at the end of the Conference.

I Am to put your Lordships in mind, that you have the greatest Cause in hand that ever came in the Hall at Westminster, or indeed in any Parliament.

My Lords, Your Noble Predecessors (whose places you hold) were Parties to Magna Charta, so called for weight and substance, for otherwise many Statutes are greater in Bulk, as Alexander a little man, called Magnus for his great courage.

And you, my Lords the Bishops, are Comfulminare to thunder out your Excommunications against all infringers of Magna Charta, sententia latæ super Chartas. All worthy Judges, that were worthy of their places, had Magna Charta in great estimation.

Now as Justice hath a Sword, so it hath a Ballance, Ponderat hæc Causas, percutit illa reos, put therefore (my Noble Lords) in the one Scale seven Acts of Parliament, Records, Presidents, Reasons, all that we speak, and that of 18 E. 3. whereof I found no Answer: and in God's Name put into the other Ballance Mr. Attorney his Wit, Learning, and great Endowments of Nature; and if he be weight, let him have it; if we, then conclude with us. And therefore we desire you, in the name of the Commonalty of England, represented in us, that we may have cause to give God and the King thanks for your Justice in complying with us.

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The An-
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bated.

On Tuesday, June 3. the King's Answer was read in the House of Commons, and seemed too scant, in regard of so much expence of time and labour, as had been employed in contriving the Petition: Whereupon Sir John Elliot stood up, and made a long Speech about Grievances, which followeth:

Sir John Elliot's Speech in the laying open of Grievances.

HE reduced the cause of all our Evils to five Heads: Our insincerity and doubling in Religion, which he exemplified by the freedom and increase of Papists; by the composition with them in the North; the flightiness of those payments, and the easiness in them; by the hopes, presumptions, and reports of all the Papists generally; by the disposition of Commanders, the trust of Officers, the confidence of secrecies of employments in this Kingdom, in Ireland, and elsewhere.

2. Our want of Counsel, which sacrificed our Honour and our Men sent to the Palatinate, stopping those greater Supplies appointed for that Service, by which it might have been made defensible; this gave direction to that late Expedition to Rhee, whose wounds are yet bleeding, by means whereof, the Protestants of France, and their King, by a necessary consequence, are divided, and that Countrey so prepared against us, that we have nothing to promise our Neighbours, hardly for our selves; insomuch as by the issue and success, it may rather be thought a conception of Spain, than begotten here by us.

3. The insufficiency and unfaithfulness of our Generals: Witness first, the Expedition to Calais, where we arrived, and found a Conquest ready, (viz.) the Spanish Ships, fit for the satisfaction of a Voyage, either in point of Honour, or in point of Profit: Why was it neglected? why was it not atchieved, it being granted on all hands feasible? When the whole Army landed, why was there nothing attempted? If nothing were intended, wherefore did they land? If there were a Service, why were they shipt again? Witness, secondly, that to Rhee, where the whole Action was carried against the judgment and opinion of the Officers, (viz.) those that were of the Council; was not the first, was not the last, was not all, at land in the intrenching, in the continuance there, in the assault, in the retreat, without their assent? To say nothing of leaving the Wines and the Salt, which were in our possession, and of a value, as they say, to answer much of our Expence; nor of that wonder, which no Alexander or Caesar ever did know, the enriching of an Enemy by courtesies, when the Soldiers want help, nor of the private Enterprises and Parleys with the Fort, which continually we held; what they intended, may be read in the Success.

4. Witness the last Voyage to Rochel, which needs no observation, and is fresh in memory.

5. The ignorance and corruption of our Ministers. Survey the Court, survey the Countrey, the Church, the City, the Bar, the Bench, the Courts, the Shipping, the Land, the Seas, all will yield variety of proofs: The Exchequer is

empty, the reputation thereof gone, the ancient Lands are sold, the Jewels pawn'd, the Plate engag'd, the Debt still great, almost all Charges both extraordinary and ordinary by Projects.

6. The oppression of the Subject; it needs no demonstration, the whole Kingdom is a proof, and that oppression speaks the exhausting of our Treasures; what waste of our Provisions, what consumption of our Ships, what destruction of our Men have been? witness the Voyage to Algier, witness that of Mansfield, with that to Calais, witness the next, witness that to Rhee, witness the last, witness the Palatinate, witness the Turks, witness the Dunkirkers, witness all: We were never so much weakned, nor had less hopes how to be restored.

These, Mr. Speaker, are our dangers, these are they do threaten us, and these are like that Trojan Horse, brought in cunningly to surprise us; in these do lurk the strongest of our Enemies ready to issue on us, and if we do not now the more speedily expel them, these are the sign, the invitation to others.

These will prepare their entrance, that we shall have no means left of refuge or defence; for if we have these Enemies at home, how can we strive with those that are abroad? if we be free from these, no other can impeach us: Our ancient English vertue, that old Spartan valour, cleared from these disorders, being in sincerity of Religion once made friends with Heaven, having maturity of Counsels, sufficiency of Generals, incorruption of Officers, opulency in the King, Liberty in the People, repletion in Treasures, restitution of Provisions, reparation of Ships, preservation of Men.

Our ancient English vertue thus rectified, I say, will secure us; and unless there be a speedy Reformation in these, I know not what hopes or expectations we may have.

These things, Sir, I shall desire to have taken into consideration, that as we are the great Council of the Kingdom, and have the apprehension of these dangers, we may truly represent them unto the King, wherein, I conceive, we are bound by a treble Obligation, of duty unto God, of duty to his Majesty, and of duty to our Countrey.

And therefore I wish it may so stand with the Wisdom and Judgment of the House, that they may be drawn into the Body of a Remonstrance, and therein all humbly expressed with a Prayer unto his Majesty, for the safety of himself, and for the safety of the Kingdom, and for the safety of Religion, that he will be pleased to give us time to make perfect inquisition thereof, or to take them into his own wisdom, and there give them such timely Reformation, as the necessity of the Cause, and his Justice doth import.

And thus, Sir, with a large affection and loyalty to his Majesty, and with a firm duty and fidelity to my Countrey, I have suddenly, and, it may be, with some disorder, expressed the weak apprehension I have; wherein if I have erred, I humbly crave your pardon, and so submit to the Censure of the House.

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*Some against the recapitulating of
Grievances.*

It seemed to others not suitable to the Wisdom of the House, in that Conjunction, to begin to recapitulate those Misfortunes which were now obvious to all, accounting it more discretion not to look back, but forward: and since the King was so near, to meet him, that the happiness expected might not be lost: and these were for petitioning his Majesty for a fuller Answer.

*Exceptions to Sir John Elliot's
Speech.*

It was intimated by Sir Henry Martin, that the Speech of Sir John Elliot was suggested from disaffection to his Majesty; and there wanted not some who said, It was made out of some distrust of his Majesties Answer to the Petition; but Sir John Elliot protested the contrary, and that himself and others had a resolution to open these last mentioned Grievances, to satisfy his Majesty therein, only they stayed for an opportunity: Which averment of Sir John Elliot's was attested by Sir Thomas Wentworth and Sir Robert Philips.

Sir Edward Cook.

In this Debate Sir Edward Cook propounded, That an humble Remonstrance be presented to his Majesty, touching the dangers and means of safety of King and Kingdom: which Resolution was taken by the House, and thereupon they turned themselves into a Grand Committee, and the Committee for the Bill of Subsidies was ordered to expedite the said Remonstrance.

*A Message was brought from the King by
the Speaker.*

A Message
from the
King to
the House
of Com-
mons to
end the
Sessions.

That his Majesty having, upon the Petition, exhibited by both Houses, given an Answer full of Justice and Grace, for which we and our Posterity have just cause to bless his Majesty, it is now time to grow to a conclusion of the Session; and therefore his Majesty thinks fit to let you know, That as he doth resolve to abide by that Answer, without further change or alteration, so he will Royally and Really perform unto you what he hath thereby promised: and further, That he resolves to end this Session upon Wednesday the 11. of this Month; and therefore wisheth, that the House will seriously attend those businels which may best bring the Session to a happy conclusion, without entertaining new matters, and so husband the time, that his Majesty may with the more comfort bring us speedily together again: at which time, if there be any further Grievances not contained, or expressed in the Petition, they may be more maturely considered than the time will now permit.

Mr. Pym, by order of the House, presents the Declaration following to the Lords at a Conference of both Houses.

*The Declaration of the Commons against
Dr. Manwaring, Clerk and Doctor
in Divinity.*

For the more effectual prevention of the apparent ruine and destruction of this Kingdom, which must necessarily ensue, if the good & fundamental Laws and Customs therein established, should be brought into contempt, and violated, and that form of Government thereby altered, by which it hath been so long maintained in peace and happiness; and to the Honour of our Sovereign Lord the King, and for the preservation of his Crown and Dignity: The Commons in this present Parliament assembled, do, by this their Bill shew, and declare against Roger Manwaring, Clerk, Doctor in Divinity, That whereas by the Laws and Statutes of this Realm, the free Subjects of England do undoubtedly inherit this Right and Liberty, not to be compelled to contribute any Tax, Tollage, Aid, or to make any Laws, not set or imposed by common consent, by Act of Parliament. And divers of his Majesties loving Subjects, relying upon the said Laws and Customs, did, in all humility, refuse to lend such sums of Monies, without Authority of Parliament, as were lately required of them.

Nevertheless, he the said Roger Manwaring, in contempt, and contrary to the Laws of this Realm, hath lately preached in his Majesties presence, two several Sermons, that is to say, the fourth day of July last one of the said Sermons, and upon the nine and twentieth of the same Month the other of the said Sermons; both which Sermons he hath since published in print, in a Book intituled, Religion and Allegiance; and with a wicked and malicious intention, to seduce and misguide the Conscience of the Kings most excellent Majesty, touching the observation of the Laws and Customs of this Kingdom, and of the Rights and Liberties of the Subjects, to incense his Royal displeasure against his good Subjects so refusing, to scandalize, subvert, and impeach the good Laws and Government of this Realm, and the Authority of the High Court of Parliament, to alienate his Royal heart from his People, and to cause jealousies, sedition, and division in the Kingdom. He the said Roger Manwaring doth in the said Sermons and Book persuade the Kings most excellent Majesty,

First, That his Majesty is not bound to keep and observe the good Laws and Customs of this Realm, concerning the Rights and Liberties of the Subjects aforesaid: And that his Royal Will and Command in imposing Loans, Taxes, and other Aids upon his People, without common consent in Parliament, doth so far bind the Consciences of the Subjects of this Kingdom, that they cannot refuse the same without peril of eternal damnation.

Secondly, That those of his Majesties loving Subjects, which refused the Loan aforesaid, in such manner as is before cited, did therein offend against the Law of God, against his Majesties Supream Authority,

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 rity, and by so doing became guilty of Impiety, Disloyalty, Rebellion, and Disobedience, and liable to many other Taxes and Censures, which he in the several parts of his Book doth most falsly and maliciously lay upon them.

Thirdly, That Authority of Parliament is not necessary for the raising of Aids and Subsidies; that the slow proceeding of such Assemblies are no fit for the supply of the urgent necessities of the State, but rather apt to produce sundry impediments, to the just designs of Princes, and to give them occasion of displeasure and discontent.

All which the Commons are ready to prove, not only by the general scope of the same Sermons and Book, but likewise by several Clauses, Assertions, & Sentences therein contained; and that he the said Roger Manwaring, by preaching and publishing the Sermons and Book aforesaid, did most unlawfully abuse his holy function, instituted by God in his Church for the guiding of the Consciences of all his Servants; and chiefly of Sovereign Princes and Magistrates, and for the maintenance of the peace and concord betwixt all men, especially betwixt the King and his People, and hath thereby most grievously offended against the Crown and Dignity of his Majesty, and against the prosperity and good Government of this State and Commonwealth. And the said Commons, by protestation saving to themselves the liberty of exhibiting at any time hereafter, on any other occasion or impeachment against the said Roger Manwaring, and also of replying to the Answers which he the said Roger shall make unto any of the matters contained in this present Bill of Complaint, and of offering further proof of the premises, or any of them, as the cause, according to the course of Parliament, shall require, do pray, that the said Roger Manwaring may be put to answer to all and every the premises; and that such proceeding, examination, trial, judgment, and exemplary punishment, may be thereupon had and executed, as is agreeable to Law and Justice.

This Declaration, ingross'd in Parliament, being read, Mr. Pym addressed himself to the Lords in this manner.

Mr. Pym's Speech at the delivery of the Charge against Dr. Manwaring.
 That he should speak to this Cause with more confidence, because he saw nothing out of himself that might discourage him: If he considered the matter, the offences were of an high nature, of easie proof; if he considered their Lordships, who were the Judges of their own Interest, their own Honour, the example of their Ancestors, the care of their Posterity, would all be Advocates with him in this cause on the behalf of the Commonwealth; if he considered the King our Sovereign (the pretence of whose Service and Prerogative might perchance be sought unto as a Defence and Shelter for this Delinquent) he could not but remember that Right of both Houses, that he held himself bound in Conscience to preserve those Liberties: which this man would perswade him to impeach,

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 He said further, That he could not but remember his Majesties Love to Piety and Justice, manifested upon all occasions; and he knew Love to be the root and spring of all other passions and affections. A man therefore hates, because he sees somewhat in that which he hates contrary to that which he loves; a man therefore is angry, because he sees somewhat in that wherewith he is angry, that gives impediment and interruption to the accomplishment of that which he loves.

If this be so, by the same Act of his Apprehension, by which he believes his Majesties love to Piety and Justice, he must needs believe his hate and detestation of this man, who went about to withdraw him from the exercise of both.

Then he proceeded to that which, he said, was the Task enjoynd him, to make good every Clause of that which had been read unto them: which that he might the more clearly perform, he propounded to observe that order of parts, unto which the said Declaration was naturally dissolved.

1. Of the Preamble.
2. The Body of the Charge.
3. The Conclusion, or Prayer of the Commons.

The Preamble consisted altogether of recital; First, of the Inducements upon which the Commons undertook this complaint.

The second, of those Laws and Liberties, against which the offence was committed.

The third, of the violation of those Laws which have relation to that offence.

From the connexion of all those recitals (he said) there did result three Positions, which he was to maintain as the ground-work and foundation of the whole Cause.

The first, That the form of Government in any State could not be altered without apparent danger of ruin to that State.

The second, the Law of England, whereby the Subject was exempted from Taxes and Loans, not granted by common consent of Parliament, was not introduced by any Statute, or by any Charter or Sanction of Princes, but was the ancient and fundamental Law, issuing from the first frame and constitution of the Kingdom.

The third, that this Liberty of the Subject is not only most convenient and profitable for the People, but most honourable, most necessary for the King; yea, in that point of Supply for which it was endeavoured to be broken.

The form of Government is that which doth actuate and dispose every part and member of a State to the common good; and as those parts give strength and ornament to the whole, so they receive from it again strength and protection in their several stations and degrees.

If this mutual relation and intercourse be broken, the whole frame will quickly be dissolved, and fall in pieces, and instead of this concord and interchange of support, whilst one part seeks to uphold the old form of Government, and the other part to introduce a new, they will miserably consume and devour one another. Histories are full of the calamities of whole States and Nations in such cases. It is true, that time must needs bring some alterations, and every alteration is a step and degree towards a dissolution; those things only are eternal which are constant and uniform: Therefore it is observed by the best Writers upon this Subject, that those Commonwealths have been most durable and perpetual, which

Anno 1628. which have often reformed and recomposed themselves according to their first Institution and Ordinance; for by this means they repair the breaches, and counterwork the ordinary and natural effects of time.

The second question is as manifest, there are plain footsteps of those Laws in the Government of the Saxons, they were of that vigour and force, as to over-live the Conquest, nay, to give bounds and limits to the Conqueror, whose Victory gave him first hope; but the assurance and possession of the Crown he obtained by composition, in which he bound himself to observe these, and the other ancient Laws and Liberties of the Kingdom, which afterwards he likewise confirmed by Oath at his Coronation: from him the said Obligation descended to his Successors. It is true, they have been often broken, they have been often confirmed by Charters of Kings, by Acts of Parliaments; but the Petitions of the Subjects, upon which those Charters and Acts were founded, were ever Petitions of Right, demanding their ancient and due Liberties, not suing for any new.

To clear the third Position (he said) may seem to some men more a Paradox, That those Liberties of the Subject should be so Honourable, so profitable for the King, and most necessary for the supply of his Majesty. It hath been upon another occasion declared, that if those Liberties were taken away, there should remain no more industry, no more justice, no more courage; who will contend, who will endanger himself for that which is not his own?

But, he said, he would not insist upon any of those points, nor yet upon others very important; he said, that if those Liberties were taken away, there would remain no means for the Subjects, by any Act of Bounty or Benevolence, to ingratiate themselves to their Sovereign.

And he desired their Lordships to remember what profitable Prerogatives the Laws had appointed for the support of Sovereignty; as Wardships, Treasures-trove, Felons goods, Fines, Amercements, and other Issues of Courts, Wrecks, Escheats, and many more, too long to be enumerated; which for the most part are now by Charters and Grants of several Princes dispersed into the hands of private persons; and that besides the ancient Demesns of the Crown of England, William the Conqueror did annex, for the better maintenance of his Estate, great proportions of those Lands, which were confiscated from those English which persisted to withstand him; and of these, very few remain at this day in the King's possession: And that since that time, the Revenue of the Crown had been supplied and augmented by Attainders, and other Casualties, in the Age of our Fathers, by the dissolution of Monasteries and Chantries near a third part of the whole Land being come into the King's possession. He remembered further, that constant and profitable Grant of the Subjects in the Act of Tunnage and Poundage. And all these, he said, were so alienated, anticipated, over-charged with Annuities and Assignments, that no means were left for the pressing and important occasions of this time, but the voluntary and free gift of the Subjects in Parliament.

The hearts of the People, and their bounty in Parliament, is the only constant Treasure and Revenue of the Crown, which cannot be exhausted, alienated, anticipated, or otherwise charged and incumbered.

In his entrance into the second part, he propounded these steps, by which he meant to proceed.

1. To shew the state of the Cause, as it stood both in the Charge and in the Proof, that so their Lordships might the better compare them both together.

2. To take away the pretensions of mitigations and limitations of his opinions, which the Doctor had provided for his own defence.

3. To observe those circumstances of Aggravation, which might properly be annexed to his Charge.

4. To propound some Precedents of former times, wherein, though he could not match the offence now in question (for he thought the like before had never been committed) yet he should produce such as should sufficiently declare, how forward our Ancestors would have been in the prosecution and condemning of such offences, if they had been then committed.

The Offence was prescribed in a double manner; First, by the general scope and intention, and by the matter and particulars of the Fact, whereby that intention was expressed.

In the description of the intention he observed six points, every one of which was a character of extream malice and wickedness.

1. His attempt to misguide and seduce the Conscience of the King.

2. To incense his Royal displeasure against his Subjects.

3. To scandalize, impeach, and subvert the good Laws and Government of the Kingdom, and authority of Parliaments.

4. To avert his Majesties mind from calling of Parliaments.

5. To alienate his Royal Heart from his People.

6. To cause Jealousies, Sedition, and Division in the Kingdom.

Of these Particulars (he said) he would forbear to speak further, till he should come to those parts of the Fact, to which they were most properly to be applied.

The Materials of the Charge were contrived into three distinct Articles; the first of these comprehended two Clauses.

1. That his Majesty is not bound to keep and observe the good Laws and Customs of the Realm, concerning the Right and Liberty of the Subject to be exempted from all Loans, Taxes, and other Aids laid upon them, without common consent in Parliament.

That his Majesties Will and Command in imposing any Charges upon his Subjects without such consent, doth so far bind them in their Consciences, that they cannot refuse the same without peril of eternal damnation.

Two kinds of proof were produced upon this Article.

The first was from some assertions of the Doctors, concerning the Power of Kings in general, but by the necessary consequence to be applied to the King of England.

The next kind of Proof was from his Censures, and determinations upon the particular Case of the late Loan, which by necessity and parity of reason, were likewise applicable to all Cases of the like nature. And lest by frailty of memory he might mistake the words, or invert the sense, he desired leave to resort to his Paper, wherein the places were carefully extracted out of the Book it self. And then he read each particular Clause

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Clause by it self, pointing to the page for proof, which we here forbear to mention, referring the Reader to the Book it self.

Then he proceeded and said, That from this Evidence of the Fact doth issue a clear evidence of his wicked intention to misguide and seduce the King's Conscience, touching the observation of the Laws and Liberties of the Kingdom, to scandalize and impeach the good Laws and Government of the Realm, and the Authority of Parliaments, which are two of those Characters of Malice which he formerly noted, and now enforced thus: If to give the King ill Council, in some one particular Action, hath heretofore been heavily punished in this high Court; how much more heinous must it needs be thought, by ill Counsel to pervert and seduce his Majesties Conscience, which is the Sovereign Principle of all moral actions, from which they are to receive Warrant for their direction before they be acted, and Judgment for their reformation afterwards? If *Scandalum Magnatum*, Slander and Infamy cast upon great Lords and Officers of the Kingdom, have been always most severely censured, how much more tender ought we to be of that Slander and Infamy which is here cast upon the Laws and Government, from whence is derived all the Honour and Reverence due to those great Lords and Magistrates?

All men (and so the greatest and highest Magistrates) are subject to passions and partialities, whereby they may be transported into over-hard injurious crosses: Which considerations may sometimes excuse, though never justify the railing and evil speeches of men, who have been so provoked; it being a true rule, That whatsoever gives strength and inforcement to the temptation in any sin, doth necessarily imply an abatement and diminution of guilt in that sin. But to slander and disgrace the Laws and Government, is without possibility of any such excuse, it being a simple act of a Malignant Will, not induced nor excited by any outward provocation: the Laws carrying an equal and constant respect to all, ought to be revered equally by all. And thus he derived the proofs and Inforcements, upon the first Article of the Charge.

The second Article he said contained three Clauses:

1. That these Refusers had offended against the Law of God.

2. Against the Supream Authority.

3. By so doing, were become guilty of Impiety, Disloyalty, Rebellion, Disobedience, and liable to many other Taxes.

For proof of all these (he said) he needed no other evidence than what might be easily drawn from those places which he had read already; for what impiety can be greater, than to contemn the Law of God, and to prefer human Laws before it? what greater Disloyalty, Rebellion, and Disobedience, than to deprecate Supream Authority, to tie the hands and clip the wings of Sovereign Princes? yet he desired their Lordships patience in hearing some few other places, wherein the Stains and Taint, which the Doctor endeavoured to lay upon the Refusers, might appear by the odiousness of their comparisons, in which he doth labour to rank them.

The first Comparison is with Popish Recusants; yet he makes them the worst of the two, and for the better resemblance, gives them a new name of Temporal Recusants.

For this he alledgeth the first Sermon, pag. 31, 32.

and part of the fifth Consideration, by which he would persuade them to yield to this Loan.

Fifthly, If they would consider what advantage this their Recusancy in Temporals, gives to the common Adversary, who for disobedience in Spirituals, have hitherto alone inherited that name: for that which we our selves condemn in them for so doing, and profess to hate that Religion which teacheth them so to do; that is, to refuse subjection unto Princes in Spirituals; the same, if not worse, some of our side now (if ours they be) dare to practise.

We must needs be argued of less Conscience, and more Ingratitude, both to God and the King, if in Temporal things we obey not: They in Spirituals deny subjection, wherein they may perhaps frame unto themselves some reasons of probability, that the offence is not so heinous: if we in Temporals shall be so refractory, what colour of reason can we possibly find to make our defence withal, without the utter shaming of our selves, and laying a stain which cannot easily be washed out, upon that Religion which his Majesty doth so graciously maintain, and our selves profess?

The second comparison is with *Turks* and *Jews*, in the second Sermon, pag. 47. What a Paradox is, &c. What a *Turk* will do for a *Christian*, and a *Christian* for a *Turk*, and a *Jew* for both, &c. the same, and much less *Christian* men, should deny to a *Christian* King.

The third comparison is with *Corah*, *Dathan* and *Abiram*, *Thendras* and *Judas*, which is taken out of the second Sermon, pag. 49. where he labours to deprive those Refusers of all merit in the sufferings for this Cause.

Corah, *Dathan*, and *Abiram*, whom for their murmurings God suddenly sunk into Hell-fire, might as well alledge their sufferings had some resemblance with that of the three Children in the *Babylonian* Furnace; and *Thendras* and *Judas*, the two Incendiaries of the People, in the days of *Cesar's* Tribute, might as well pretend their Cause to be like the *Maccabees*.

Thus he ended the second Article of the Charge, upon which, he said, were imprinted other two of these six Characters of Malice formerly vented: That is, a wicked intention to increase his Majesties displeasure against his good Subjects so refusing, and to alienate his heart from the rest of his People: Both which were points so odious, that he needed not to add any further inforcement or illustration.

The third Article contained three Clauses.

1. That Authority of Parliament is not necessary for the raising of Aids and Subsidies.

2. That the slow proceedings of such Assemblies, are not fit to supply the urgent necessity of the State.

3. That Parliaments are apt to produce sundry impediments to the just designs of Princes, and give them occasion of displeasure and discontent.

For proof of all which he alledged two places, containing the two first of those six Considerations, which are propounded by the Doctor, to induce the refusers to yield to the Loan, in the first Sermon, page 26, 27.

First, If they would please to consider, that though such Assemblies as are the highest and greatest Representations of a Kingdom, be most Sacred and Honourable, and necessary also to those ends to which they were at first instituted; yet know we must, that ordained they were not to this end, to contribute any Right to Kings, where-

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whereby to challenge tributary Aids and subsidiary Helps; but for the more equal imposing, and more easie exacting of that which unto Kings doth appertain by natural and original Law and Justice, as their proper Inheritance annexed to their Imperial Crowns from their Birth. And therefore if by a Magistrate that is Supream, if upon necessity, extream and urgent, such Subsidiary helps be required, a proportion being held respectively to the ability of the persons charged, and the sum and quantity so required surmount not too remarkably the use and charge for which it was levied, very hard would it be for any man in the world, that should not accordingly satisfie such demands, to defend his Conscience from that heavy prejudice of resisting the Ordinance of God, and receiving to himself damnation; though every of those Circumstances be not observed, which by the Municipal Law is required.

Secondly, If they would consider the importunities that often may be urgent, and pressing necessities of State, that cannot stay without certain and apparent danger, for the motion and revolution of so great and vast a Body as such Assemblies are, nor yet abide their long and pausing deliberation when they are assembled, nor stand upon the answering of those jealous and overwary Cautions and Objections made by some, who wedded over-much to the love of epidemical and popular Errors, and bent to cross the most just and lawful designs of their wise and gracious Sovereign; and that under the plausible shews of singular liberty and freedom, which, if their Conscience might speak, would appear nothing more than the satisfying either of private humours, passions, or purposes.

He said, he needed not draw any Arguments or Conclusions from these places; the substance of the Charge appeared sufficiently in the words themselves: and to this third Article he fixed two other of these six Characters of Malice, That it is his wicked intention to avert his Majesties mind from calling of Parliaments, and to cause Jealousies, Seditions, and Divisions in the Kingdom; which he shortly enforced thus: If Parliaments be taken away, mischiefs and disorders must needs abound, without any possibility of good Laws to reform them; Grievances will daily increase, without opportunities or means to redress them; and what readier way can there be to distractions betwixt the King and People, to tumults and distempers in the State, than this?

And so he concluded this third Article of the Charge.

The Limitations whereby the Doctor had provided to justifie (or at least to excuse) himself, were propounded to be three.

That he did not attribute to the King any such absolute Power as might be exercised at all times, or upon all occasions, according to his own pleasure, but only upon necessity, extream and urgent.

2. That the sum required, must be proportionable to the ability of the party, and to the use and occasion.

3. That he did not say, That the substance of the Municipal or National Laws might be omitted or neglected, but the Circumstances only.

To these were offered three Answers, the first general, the other two particular. The general Answer was this, That it is all one to leave the Power absolute, and to leave the Judgment arbitrary, when to execute that Power; for al-

though these limitations should be admitted, yet it is left to the King alone to determine, what is an urgent and pressing necessity, what is a just proportion, both in respect of the ability, and of the use and occasion; and what shall be said to be a Circumstance, and what of the substance of the Law; and the Subject is left without remedy: the Legal bounds being taken away, no private person shall be allowed to oppose his own particular opinion in any of these points to the King's resolution; so that all these limitations, though specious in shew, are in effect fruitless and vain.

The first particular Answer applied to that limitation of urgent necessity, was taken from the case of *Normandy*, as it appears in the Commentaries of *Guilme Jeremie*, upon the customary Laws of that Dutchy: they having been oppressed with some Grievances, contrary to this Franchise, made their complaint to *Lewis the Tenth*, which by his Charter, in the year 1314. acknowledging the Right and Custom of the Countrey, and that they had been unjustly grieved, did grant and provide, that from thenceforward they should be free from all Subsidies and Exactions to be imposed by him and his Successors; yet with this Clause, *Si necessitas grand ne le requirer*: Which small Exception hath devoured all these Immunities; for though these States meet every year, yet they have little or no power left, but to agree to such Levies as the King will please to make upon them.

The second particular Answer applied to the limitation and diminution of this Power, which may be pretended to be made by this word, *Circumstance*, as if he did acknowledge the King to be bound to the substance of the Law, and free only in regard of the manner; whereas, if the places be observed, it will appear, that he intends by that word, *The Assembly of Parliaments*, and *Assent of the People*, such Contribution, which is the very substance of the Right and Liberty now in question.

The Circumstances of Aggravation observed to be annexed to this Cause, were these:

The first from the place where these Sermons were preached; the Court, the King's own Family, where such Doctrine was before so well believed, that no man needed to be converted. Of this there could be no end, but either Simonical, by flattery and soothing to make way for his own preferment, or else extream malicious, to add new afflictions to those who lay under his Majesties wrath, disgraced and imprisoned, and to enlarge the wound which had been given to the Laws and Liberties of the Kingdom.

The second was from the consideration of his holy Function: He is a Preacher of Gods Word; and yet he had endeavoured to make that which was the only Rule of Justice and Goodness, to be the Warrant for violence and oppression. He is a Messenger of Peace, but he had endeavoured to sow strife and dissention, not only amongst private persons, but even betwixt the King and his People, to the disturbance and danger of the whole State: He is a Spiritual Father, but like that evil Father in the Gospel, he hath given his Children Stones instead of Bread; instead of Flesh he hath given them Scorpions. Lastly, he is a Minister of the Church of *England*, but he hath acted the part of a *Romish Jesuite*; they labour our destruction, by dissolving the Oath of Allegiance taken by the People; he doth the same work, by dissolving the Oath of Protection and Justice taken by the King.

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A third point of Aggravation was drawn from the quality of these Authors, upon whose Authority he doth principally rely, being for the most part Friars and Jesuits, and from his fraud and shifting in citing those Authors to purposes quite different from their own meanings.

Touching which it was performed, that most of his places are such as were intended by the Authors concerning absolute Monarchies, not regulated by Laws or Contracts betwixt the King and his People; and in Answer to all Authorities of this kind, were alledged certain passages of a Speech from our late Sovereign King James, to the Lords and Commons in Parliament, 1609.

In these our times we are to distinguish betwixt the state of Kings in their first Original, and between the state of settled Kings and Monarchs that do at this time govern in Civil Kingdoms, &c.

Every just King in a settled Kingdom is bound to observe the Paction made to his People by his Laws, in framing his Government agreeable thereunto, &c.

All Kings, that are not Tyrants or perjured, will be glad to bound themselves within the limits of their Laws; and they that perswade them to the contrary are Vipers and Pests, both against them and the Commonwealth.

It was secondly observed, that in the 27 page of his first Sermon, he cites these words, *Suarez de legibus, lib. 5. cap. 17. Acceptationem populi non esse conditionem necessariam ex vi Juris naturalis aut gentium, neque ex Jure communi*: The Jesuit adds, *Neque ex Antiquo Jure Hispania*; which words are left out by the Doctor, lest the Reader might be invited to inquire what was *Antiquum Jus Hispania*; and it might have been learned from the same Author in another place of that Work, that about two hundred years since, this liberty was granted to the People by one of the Kings, that no Tribute should be imposed without their consent. And the Author adds further, That after the Law is introduced and confirmed by Custom, the King is bound to observe it. From this place he took occasion to make this short digression, That the Kings of Spain being powerful and wise Princes, would never have parted with such a mark of absolute Royalty, if they had not found in this course more advantage than in the other, and the success and prosperity of that Kingdom, through the valour and industry of the Spanish Nation, so much advanced since that time, do manifest the wisdom of that change.

The third observation of fraud, in perverting his Authors, was this. In the twentieth page of the first Sermon, he cites these words out of the same Suarez, *de legibus, lib. 5. cap. 15. fol. 300. Tributa esse maxime naturalia, & præ se ferre Justitiam, qui exiguntur de rebus propriis*; this he produceth in proof of the just Right of Kings to lay Tributes. And no man that reads it doubts, but that in Suarez his opinion, the King's Interest and Propriety in the Goods of his Subjects, is the ground of that Justice; but the truth is, that Suarez in that Chapter had distributed Tributes into divers kinds, of which he calls one sort, *Tributum reale*, and describes it thus, *Solent ita vocari pensiones quadam que penduntur regibus & principibus exteris & agris, que à principio ad sustentationem illis applicata fuerunt, ipsi vero in foedum in aliis ea donarunt sub certa pensione annua, que jure civili Canon appellari solet, quia certa regula & lege prescripta erat*; So that the issue is, this which Suarez affirms for justification of one kind of

Tribute, which is no more than a Fee-farm of Rent due by reservation in the Grant of Kings own Lands; the Doctor herein, worse than a Jesuit, doth wrest to the justification of all kinds of Tribute exacted by Imposition upon the Goods of the Subjects, wherein the King had no interest or propriety at all.

4. The last aggravation was drawn from his behaviour since these Sermons preached, whereby he did continue still to multiply and increase his offence, yea, even since the sitting of the Parliament, and his being questioned in Parliament; upon the Fourth of May last, he was so bold, as to publish the same Doctrine in his own Parish-Church of St. Giles's; the Points of which Sermons are these:

That the King had right to order all, as to him him should seem good, without any man's consent.

That the King might require, in time of necessity, Aid; and if the Subjects did not supply, the King might justly avenge it.

That the Propriety of Estates and Goods was ordinarily in the Subject; but extraordinarily (that is, in case of the King's need) the King hath right to dispose them.

These Assertions in that Sermon, he said, would be proved by very good testimony, and therefore desired the Lords that it might be carefully examined, because the Commons held it to be a great contempt to the Parliament for him to maintain that so publicly, which was here questioned.

They held it a great presumption for a private Divine to Debate the Right and Power of the King, which is a matter of such a nature, as to be handled only in this High Court, and that with moderation and tenderness. And so he concluded that point of Aggravation.

In the last place he produced some such Precedents as might testify what the opinion of our Ancestors would have been, if this Case had fallen out in their time; and herein, he said, he would confine himself to the Reigns of the first Three Edwards, two of them Princes of great glory: He began with the Eldest, *Westm. 1. ca. 33.*

By this Statute, 3 Edw. 1. provision was made against those who should tell any false news or device, by which any discord or scandal may arise betwixt the King, his People, and great Men of the Kingdom.

27 Edw. 3. Rot. Par. nu. 20. It was declared by the King's Proclamation, sent into all the Counties of England, That they that reported that he would not observe the great Charter, were malicious people, who desired to put trouble and debate betwixt the King and his Subjects, and to disturb the peace and good estate of the King, the People, and the Realm.

5 Edw. 2. Inter novas ordinationes, Henry de Beaumont, for giving the King ill counsel against his Oath, was put from the Council, and restrained from coming into the presence of the King, under pain of Confiscation and Banishment.

19 Edw. 2. Clause Minidors. Commissions were granted to inquire upon the Statute of W. 1. touching the spreading of News, whereby discord and scandal might grow betwixt the King and his People.

10 Edw. Clause M. 26. Proclamation went out to arrest all them who had presumed to report, that the King would lay upon the Wools certain Sums, besides the ancient and due Customs, where

where the King calls these Reports, *Exquisita Anno 1628. mendacia, &c. qua non tantum in publicam laesionem, sed in nostrum cedunt damnum, & dedecus manifestum.*

12. *Edw. 3. Rot. Almania.* The King writes to the Archbishop of Canterbury, excusing himself for some Impositions which he had laid, professing his great sorrow for it, desires the Archbishop by Indulgences and other ways to stir up the People to pray for him, hoping that God would enable him by some satisfactory benefit to make amends, and comfort his Subjects for those pressures.

To these temporal Precedents of ancient times which were alledged, he added an Ecclesiastical Precedent out of a Book called *Pupilla Oculi*, being published for the Instruction of Confessors, in the Title *de participantibus cum excommunicatis*, fol. 59. All the Articles of *Magna Charta* are inserted with this direction, *Hos articulos ignorare non debent quibus incumbit confessiones audire infra provinciam Cantuariensem.*

He likewise remembered the Proclamation 8 *Jac.* for the calling in and burning of Dr. Cowel's Book, for which these reasons are given: For mistaking the true state of the Parliament of the Kingdom, and fundamental Constitution and Privileges thereof: For speaking irreverently of the Common Law, it being a thing utterly unlawful for any Subject to speak or write against that under which he liveth, and which we are sworn and resolved to maintain.

From these Precedents he collected, that if former Parliaments were so careful of false rumors and news, they would have been much more tender of such Doctrines as these, which might produce true occasions of discord betwixt the King and his People.

If those who reported the King would lay Impositions, and break his Laws, were thought such heinous Offenders, how much more should the man be condemned, who persuaded the King he is not bound to keep those Laws? If that great King was so far from challenging any right in this kind, that he professed his own sorrow and repentance for grieving his Subjects, with unlawful Charges: If Confessors were enjoined to frame the Consciences of the People to the observances of these Laws, certainly such Doctrine, and such a Preacher as this, would have been held most strange and abominable in all these times.

The third general part was the Conclusion or Prayer of the Commons, which consisted of three Clauses.

First, They reserved to themselves liberty of any other accusation, and for this, he said, there was great reason, that as the Doctor multiplied his Offences, so they may renew their Accusations.

Secondly, They save to themselves liberty of replying to his Answer; for they had great cause to think that he who would shift so much in offending, would shift much more in answering.

Thirdly, They desire he might be brought to examination and judgment; this they thought would be very important for the comfort of the present Age, for the security of the future against such wicked and malicious practices; and so he concluded, that seeing the cause had strength enough to maintain it self, his humble suit to their Lordships was, That they would not observe his infirmities and defects, to the diminution or prejudice of that strength.

Upon the Commons demand of Justice from the Lords to be done against Dr. Manwaring, their Lordships did award;

1. That Dr. Manwaring, Doctor in Divinity, Judgment shall be imprisoned during the pleasure of the given House.

2. That he be fined One thousand pounds to the King.

3. That he shall make such submission and acknowledgment of his offences, as shall be set down by a Committee in writing, both at the Barr, and in the House of Commons.

4. That he shall be suspended for the term of Three years, from the exercise of the Ministry, and in the mean time a sufficient preaching Minister shall be provided out of his Livings to serve the Cure: This Suspension and Provision to be done by the Ecclesiastical Jurisdiction.

5. That he shall be hereafter disabled to have any Ecclesiastical Dignity, or Secular Office.

6. That he shall be for ever disabled to preach at the Court hereafter.

7. That his said Book is worthy to be burnt, and that for the better effecting of this, his Majesty may be moved to grant a Proclamation to call in the said Books, that they may be all burnt accordingly in London, and both the Universities, and for the inhibiting the printing thereof, upon a great Penalty.

Doctor Manwaring's submission was in these words.

My it please this Honourable House, I do here in all sorrow of heart, and true repentance, acknowledge the many Errors and Indiscretions which I have committed, in preaching and publishing those two Sermons of mine, which I called Religion and Allegiance; and my great fault in falling upon this Theme again, and handling the same rashly and unadvisedly in my own Parish Church of St. Giles's in the Fields, the Fourth of May last past. I do fully acknowledge those three Sermons to have been full of many dangerous Passages, Inferences, and scandalous Aspersions in most part of the same: And I do humbly acknowledge the Justice of this Honourable House, in that Judgment and Sentence passed upon me for my great offence: And I do from the bottom of my heart crave pardon of God, the King, and this Honourable House, and the Church, and this Commonwealth in general, and those worthy Persons adjudged to be reflected upon by me, in particular, for these great Errors and Offences.

Roger Manwaring.

Another Message was brought from his Majesty by the Speaker, Tuesday the Fifth of June.

His Majesty wished them to remember the Message he last sent them, by which he set a day for the end of this Session, and he commanded the Speaker to let them know, that he will certainly hold that day prefix'd without alteration; and because that cannot be, if the House entertain more business of length, he requires them, that they enter not into, or proceed with

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1628. with any new business, which may spend greater time, or which may lay any scandal or aspersion upon the State-government, or Ministers thereof.

Sir Robert Philips.

Sir Robert Philips, upon this occasion, expressed himself thus: 'I perceive, that towards God, and towards Man, there is little hope, after our humble and careful endeavours, seeing our sins are many and so great: I consider my own infirmities, and if ever my Passions were wrought upon, then now, this Message stirs me up especially; when I remember with what moderation we have proceeded, I cannot but wonder to see the miserable strait we are now in: What have we not done to have merited? Former times have given wounds enough to the Peoples Liberty, we came hither full of wounds, and we have cured what we could, and what is the return of all, but misery and desolation? What did we aim at, but to have served his Majesty, and to have done that that would have made him Great and Glorious? If this be a fault, then we are all criminous: What shall we do, since our humble purposes are thus prevented, which were not to have laid any aspersion on the Government, since it tended to no other end, but to give his Majesty true information of his and our danger? And to this we are enforced out of a necessity of duty to the King, our Countrey, and to Posterity; but we being stopped, and stopped in such manner, as we are enjoined; so we must now leave to be a Council. I hear this with that grief, as the saddest Message of the greatest loss in the World. But let us still be wise, be humble, let us make a fair Declaration to the King.

Sir John Elliot.

Our sins are so exceeding great (said Sir John Elliot) that unless we speedily return to God; God will remove himself further from us; ye know with what affection and integrity we have proceeded hitherto, to have gained his Majesties heart, and out of a necessity of our duty, were brought to that course we were in: I doubt, a misrepresentation to his Majesty hath drawn this mark of his displeasure upon us: I observe in the Message, amongst other sad Particulars, it is conceived, that we are about to lay some aspersions on the Government; give me leave to protest, That so clear were our intentions, that we desire only to vindicate those dishonours to our King and Countrey, &c. It is said also, as if we cast some aspersions on his Majesties Ministers, I am confident no Minister, how dear soever, can—

Here the Speaker started up from the seat of the Chair, apprehending Sir John Elliot intended to fall upon the Duke, and some of the Ministers of State; and said, *There is a command laid upon me, that I must command you not to proceed:* whereupon Sir John Elliot sat down.

Sir Dudley Diggs.

I Am as much grieved as ever, said Sir Dudley Diggs; Must we not proceed? let us sit in silence, we are miserable, we know not what to do.

Hereupon there was a sad silence in the House for a while, which was broken by Sir Nathaniel Rich, in these words:

WE must now speak, or for ever hold our peace; for us to be silent when King and Kingdom are in this Calamity, is not fit. The question is, whether we shall secure our selves by silence, yea or no? I know it is more for our own security, but it is not for the security of those for whom we serve; let us think on them: some Instruments desire a change, we fear his Majesties safety, and the safety of the Kingdom, I do not say we now see it; and shall we now sit still and do nothing, and so be scattered? Let us go together to the Lords, and shew our dangers, that we may then go to the King together.

Others said, That the Speech lately spoken by Sir John Elliot, had given offence (as they feared) to his Majesty.

Whereupon the House declared, *That every Member of the House is free from any undutiful Speech, from the beginning of the Parliament to that day; and Ordered, That the House be turned into a Committee, to consider what is fit to be done for the safety of the Kingdom; and that no man go out upon pain of going to the Tower.* But before the Speaker left the Chair, he desired leave to go forth; and the House ordered that he may go forth, if he please. And the House was hereupon turned into a Grand Committee. Mr. Whitby in the Chair.

The Commons declare, that no undutiful Speech hath been spoken.

Mr. Wandesford.

I Am as full of grief as others, said Mr. Wandesford; let us recollect our English hearts, and not sit still, but do our duties: Two ways are propounded, To go to the Lords, or to the King; I think it is fit we go to the King, for this doth concern our Liberties, and let us not fear to make a Remonstrance of our Rights; we re his Counsellors: There are some men which call evil good, and good evil, and bitter sweet: Justice is now called Popularity and Faction.

Then Sir Edward Cook spake freely; 'We have dealt with that duty and moderation that never was the like, *Rebus sic stantibus*, after such a violation of the Liberties of the Subject; let us take this to heart. In 30 E. 3. were they then in doubt in Parliament to name men that misled the King? They accused John de Gaunt, the King's Son, the Lord Latimer, and Lord Nevil, for misadvising the King, and they went to the Tower for it; now when there is such a downfall of the State, shall we hold our tongues? how shall we answer our duties to God and Men? 7 H. 4. Parl. Rot. Numb. 31 & 32. 11 H. 4. numb. 13. there the Council are complained of, and are removed from the King; they mewed up the King, and disswaded him from the common good; and why are we now retired from that way we were in? why may we not name those that are the cause of all our evils? In 4 H. 3. and 27 E. 3. and 13 R. 2. the Parliament moderateth the King's Prerogative, and nothing grows to abuse, but this House hath power to treat of it: What shall we do? let us palliate no longer; if we do, God will not prosper us. I think the Duke of Buckingham is the cause of all our miseries; and till the King be informed thereof, we shall never go out with honour, nor sit with honour here; that man is the Grievance of Grievances: let us set down the causes of all our disasters, and all will reflect upon him.

Sir Edm. Cook declares the Duke the cause of all our miseries.

him. As for going to the Lords, that is not *via* Anno *Regia*; our Liberties are now impeached, we are 1628. concerned; it is not *via Regia*, the Lords are not participant with our Liberties.

Mr. Selden's advice for a Declaration against the Duke.

MR. Selden advised, 'That a Declaration be drawn under four Heads. 1. To express the Houses dutiful carriage towards his Majesty. 2. To tender their Liberties that are violated. 3. To present what the purpose of the House was to have dealt in. 4. That that great person, viz. the Duke, fearing himself to be questioned, did interpose and cause this distraction. All this time (said he) we have cast a Mantle on what was done last Parliament; but now being driven again to look on that man, let us proceed with that which was then well begun, and let the Charge be renewed that was last Parliament against him, to which he made an Answer, but the Particulars were sufficient, that we might demand Judgment on that Answer only.

Several Heads agreed on for a Remonstrance.

IN conclusion, the House agreed upon several Heads concerning Innovation in Religion, the safety of the King and Kingdom, misgovernment, misfortune of our late designs, with the causes of them: And whilst it was moving to be put to the question, that the Duke of Buckingham shall be instanced to be the chief and principal cause of all those evils, the Speaker (who after he had leave to go forth, went privately to the King) brought this Message:

A Message from the King by the Speaker.

That his Majesty commands for the present they adjourn the House till to morrow morning, and that all Committees cease in the mean time. And the House was accordingly adjourned: and the King signified his pleasure to the Lord Keeper, that the House of Peers, and all the Committees thereof, should be adjourned till the morrow morning.

Friday the Sixth of June.

Mr. Speaker brings another Message from the King the day following.

Another Message from the King to the Commons.

IN my service to this House I have had many undeserved favours from you, which I shall ever with all humbleness acknowledge, but none can be greater than that testimony of your confidence yesterday shewed unto me, whereby I hope I have done nothing, or made any representation to his Majesty, but what is for the honour and service of this House; and I will have my tongue cleave to my mouth, before I will speak to the disadvantage of any Member thereof: I have now a Message to deliver unto you.

Whereas his Majesty understanding, that ye did conceive his last Message to restrain you in your just Privileges, to complain of any of his Ministers; these are to declare his intentions,

That he had no meaning of barring you from what hath been your Right, but only to avoid all scandals on his Council and Actions past, and that his Ministers might not be, nor himself, under their names, taxed for their Counsel unto his Majesty, and that no such particulars should be taken in hand; as would ask a longer time of consideration than what he hath prefixed, and still resolves to hold, that so, for this time, all Christendom might take notice of a sweet parting between him and his People: Which if it fall out, his Majesty will not be long from another Meeting, when such (if there be any) at their leisure and conveniency may be considered.

Mr. Speaker proceeded.

I will observe somewhat out of this Message; Ye may observe a great inclination in his Majesty to meet in this House. I was bold yesterday to take notice of that liberty ye gave me to go to his Majesty; I know there are none here but did imagine whither I went, and but that I knew ye were desirous and content that I should leave you, I would not have desired it. Give me leave to say, This Message bars you not of your Right in matter, nay, not in manner, but it reacheth to his Counsels past, and for giving him counsel in those things which he commanded. It is not his Majesties intentions to protect any Abettor of Spain. The end of this was, that we might meet again sweetly and happily.

The House of Lords likewise received this Message by the Lord Keeper.

MY Lords, his Majesty takes notice, to your great advantage, of the proceedings of this House upon the hearing of his Majesties Message yesterday; he accounts it a fair respect, that ye would neither agree of any Committee, nor send any Message to his Majesty, though it were in your own hearts, but yield your selves to his Majesties Message, and defer your own resolutions till you meet again at the time appointed by his Majesty. Yet his Majesty takes it in extream good part to hear what was in your heart, and especially that you were so sensible of the inconvenience that might ensue upon the breach of this Parliament: which if it had hapned, or shall hereafter happen, his Majesty assures himself, that he shall stand clear before God and Men of the occasion.

But his Majesty saith, Ye had just cause to be sensible of the danger, considering how the state of Christendom now stands in respect of the multitude and strength of our Enemies, and weakness on our part. All which his Majesty knows very exactly, and, in respect thereof, called this Parliament; the Particulars his Majesty holds it needful to recite, especially to your Lordships, since they are apparent to all men: Neither will it be needful to reiterate them to his Majesty, whose cares are most attentive upon them, and the best remedy that can be thought on therein, is, if his Subjects do their parts. Therefore his Majesty gives you hearty thanks, and bade me tell you, That nothing hath been more acceptable to him all the time of this Parliament, than this dutiful and discreet carriage of your Lordships, which, he professeth, hath been a chief motive to his Majesty, to suspend those intentions that were not far from a resolution.

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Sir Robert Philips assumed the Debate upon the Message delivered by the Speaker, and said;

The King's
Message
gives the
Commons
more hope
than for-
merly.

I Rise up with a disposition, somewhat in more hope of comfort than yesterday; yet in regard of the uncertainty of Counsels, I shall not change much: In the first place I must be bold without flattering, a thing not incident to me, to tell you (Mr. Speaker) you have not only at all times discharged the duty of a good Speaker, but of a good man, for which I render you many thanks.

Another respect touching his Majesties Answer to our Petition; First, if that Answer fall out to be short, I free his Majesty, and I believe his resolution was, to give that that we all expected: But in that, as in others, we have suffered, by reason of interposed persons between his Majesty and us; but this day is by intervenient accidents diverted from that, but so, as in time we go to his Majesty: therefore let us remove those jealousies in his Majesty of our Proceedings, that by some men over-grown, have been misrepresented: we have proceeded with temper in confidence of his Majesties goodness to us, and our fidelity to him, and if any have construed that what we have done hath been out of fear, let him know, we came hither Free-men, and will ever resolve to endure the worst; and they are poor men that make such interpretations of Parliaments; in this way and method we proceeded, and if any thing fall out unhappily, it is not King Charles that advised himself, but King Charles misadvised by others, and misled by misordered Counsel; it becomes us to consider what we were doing, and now to advise what is fit to be done. We were taking consideration of the State of the Kingdom, and to present to his Majesty the danger he and we are in, if since any man hath been named in particular (though I love to speak of my betters with humility) let him thank himself and his Counsels, but those necessary Jealousies give us occasion to name him; I assure my self we shall proceed with temper, and give his Majesty satisfaction, if we proceed in that way. His Majesties Message is now explanatory in point of our Liberties, that he intends not to barr us of our Rights, and that he would not have any aspersion cast on the Counsels past; let us present to his Majesty shortly and faithfully, and declare our intentions, that we intend not to lay any aspersions upon him, but out of necessity to prevent imminent dangers we are surrounded with, and to present to him the Affairs at home and abroad, and to desire his Majesty, that no interposition or misinformation of men in fault may prevail, but to expect the issue that shall be full of duty and loyalty.

The Commons sent a Message to the Lords, that they would joyn in an humble request to the King, that a clear and satisfactory Answer be given by his Majesty in full Parliament to the Petition of Right; whereunto the Lords did agree.

Afterward the House was turned again into a Committee, and considered of some more Heads to be inserted into the Declaration or Remonstrance, as the design to bring into this Nation Foreign Forces, under the command of *Dolbier*: And *Burlemack* was called into the House, who confessed, he received thirty thousand pound by

Privy Seal for the buying of Horses, that one thousand of them are levied, that those Horse and their Riders are to come over, and Arms are provided for them in *Holland*; but he hears a Countermmand is gone to stay them.

Car. 4.

The Privy Seal is in these words.

CHARLES by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the faith, &c. to the Treasurer, and Under-Treasurer for our Exchequer for the time being, Greeting: We do hereby will and command you, out of our Treasury remaining in the Receipt of our said Exchequer, forthwith to pay, or cause to be paid unto Philip Burlemack of London, Merchant, the sum of Thirty thousand pounds, to be paid by him over by Bill of Exchange into the Low-Countries and Germany, unto our Trusty and Well-beloved Sir William Balfoure Kt. and John Dolbier Esquire, or either of them, for levying and providing certain numbers of Horses, with Arms for Horse and Foot, to be brought over into this Kingdom for our service, viz. for the levying and transporting of one thousand Horse, fifteen thousand pounds; for five thousand Muskets, five thousand Coxlets, and five thousand Pikes, ten thousand five hundred pounds; and for one thousand Curasars compleat, two hundred Coxlets and Carbines, four thousand five hundred pounds, amounting in the whole to the said sum of Thirty thousand pounds. And this our Letter shall be your sufficient Warrant, and discharge in this behalf. Given under our Privy Seal, at our Palace of Westminster, the Thirtieth of January, in the third year of our Reign.

June the seventh, the King came to the Lords House, and the House of Commons were sent for. And the Lord Keeper presented the humble Petition of both Houses, and said,

May it please your most excellent Majesty, the Lords Spiritual and Temporal, and Commons in Parliament assembled, taking into consideration that the good intelligence between your Majesty and your People doth much depend upon your Majesties Answer unto their Petition of Right formerly presented; with unanimous consent do now become most humble Suitors unto your Majesty, that you would be pleased to give a clear and satisfactory Answer thereunto in full Parliament.

The Petition of both Houses to his Majesty for a further Answer to the Petition of Right.

Whereunto the King replied,

The Answer I have already given you was made with so good deliberation, and approved by the judgments of so many wise men, that I could not have imagined but it should have given you full satisfaction; But to avoid all ambiguous interpretations, and to shew you there is no doubleness in my meaning, I am willing to pleasure you as well in words as in substance, read your Petition, and you shall have an Answer that I am sure will please you.

The Petition was read, and this Answer was returned: *Soit droit fais come il est desire.*

C. R.

This

Burlemack
called into
the House.

Anno 1628. This I am sure (said his Majesty) is full, yet no more than I granted you in my first Answer, for the meaning of that was to confirm your Liberties, knowing according to your own Protestations, that ye neither mean nor can hurt my Prerogative. And I assure you my Maxim is, That the Peoples Liberties strengthen the Kings Prerogative, and the Kings Prerogative is to defend the Peoples Liberties.

You see how ready I have shewed my self to satisfy your Demands, so that I have done my part; Wherefore if this Parliament have not a happy conclusion, the sin is yours, I am free from it.

At which the Commons were at last satisfied, and ordered all the grand Committees to cease, and that the House only proceed in the Grievances of most moment, and so they fell upon the Commission for Excise, which ran thus:

CHARLES, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To Sir Thomas Coventry Knight, Lord Keeper of the Great Seal of England; To James Earl of Malburg, Lord High Treasurer of England, Henry Earl of Manchester, Lord President of our Council, Edward Earl of Worcester, Lord Keeper of our Privy Seal, George Duke of Buckingham, Lord High Admiral of England, William Earl of Pembroke, Lord Steward of our Household, Philip Earl of Montgomery, Lord Chamberlain of our Household, Theophilus Earl of Suffolk, Edward Earl of Dorset, William Earl of Salisbury, Thomas Earl of Exeter, John Earl of Bridgewater, James Earl of Carlisle, Henry Earl of Holland, William Earl of Denbigh, George Earl of Totnes, Sir George Hay Knight, Lord Chancellor of Scotland, William Earl of Morton, Thomas Earl of Kelley, Thomas Earl of Mellers, Edward Viscount Conway, one of our principal Secretaries of State, Edward Viscount Wimpleton, Oliver Viscount Grandison, Henry Falkland Lord Deputy of Ireland; To the Lord Bishop of Winchester, William Lord Bishop of Bath and Wells, Fulk Lord Brook, Dudley Ash Lord Carleton, Vice-Chamberlain of our Household, Sir Thomas Edmonds Treasurer of our Household, Sir John Savil Comptroller of our Household, Sir Robert Nanton Master of the Court of Wards, Sir John Cook one of the principal Secretaries of State, Sir Richard Weston Chancellor and under Treasurer of our Exchequer, Julius Caesar Master of the Rolls, and Sir Humphrey May Knight, Chancellor of our Duchy of Lancaster, Greeting. Whereas the present Conjuncture of the general Affairs of Christendom, and our own particular interest, in giving assistance unto our oppressed Allies, and for providing for the defence and safety of our own Dominions and People, do call upon us to neglect nothing that may conduce to those good ends: And because Monies (the principal Sinews of War, and one of the first and chiefest movers in all great Preparations and Actions) are necessary to be provided in the first place, and we are careful the same may be raised by such ways as may best stand with the State of our Kingdoms, and Subjects, and yet may answer the pressing occasions of the present times: We therefore, out of the experience we have had, and for the Trust

we repose in your Wisdoms, Fidelities, and dutiful Care of your Service; And for the experience we have of all great Causes concerning us, and our State, both as they have relation to foreign parts abroad, and as to our Commonwealth, and People at home (ye being persons called by us to be of our Privy Council) have thought fit amongst those great and important matters, which so much concern us, in the first and chiefest place, to recommend this to your special care and diligence.

And we do hereby Authorise and Appoint, and strictly Will and Require you, that speedily and seriously you enter into consideration of all the best and speediest ways and means ye can for raising of Monies for the most important occasions aforesaid: Which without extreamest hazard to us, our Dominions, and People, and to our friends and Allies, can admit of no long delay, the same to be done by Impositions, or otherwise, as in your wisdoms and best Judgments ye shall find to be most convenient in a case of this inevitable necessity, wherein form and Circumstance must be dispensed with, rather than the Substance be lost, and hazarded. And herein our will and pleasure is, that you, or as many of you, from time to time as can be spared from attendance upon Our Person, or other Our necessary Services, do use all diligence by your frequent meetings, and serious considerations. And when ye have brought any thing to maturity, ye make report thereof unto us, for the advancement of this great service, which with the greatest affection we can, we recommend to your best care and judgment, whereof ye must not fail, as ye tender Our Honour and Safety of our Dominions and People: And for doing hereof, these Presents shall be to you, and every of you, a sufficient Warrant and Discharge in that behalf: In witness whereof we have caused these Our Letters to be made Letters Patents; Witness Our Self at Westminster the last day of February in the third year of Our Reign.

Per ipsum Regem.

Sir Edward Cook observed some Circumstances in the Commission.

First, It was after the Summons to the Parliament. Sure, some thought the Parliament should not be. 2. There is a Pudor in it, was kept secret, some great Lords never knew it. 3. The end of it was Excises, for they are Impositions, and to be sure he would have the word (otherwise) wherefore his advice was to go up to the Lords, and desire a Conference, to complain of the Commission, and desire it may be Cancelled, and if there be any Inrolment of it, to cancel that also, and that the Projector may be found out and punished.

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A Conference with the Lords was desired by the Commons, which was managed by Sir Edward Cook.

My Lords,

Sir Edm.
Cook man-
ageth the
Confe-
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tween
both Hou-
ses con-
cerning
the Com-
mission.

The Subject of this Conference is a Commission, therefore we shall desire your Lordships to hear it read, which was done accordingly. That which I shall deliver is certain Observations out of the Patent. First, The Persons to whom it is directed. 2. The Authority that is committed. 3. The great Penalty laid on them if they do it not. 4. The Time.

1. The Persons to whom it is directed are twenty three Lords, and other of his Majesties Council. 2. The Authority committed unto them, is to consider how Money may be levied by Impositions, or otherwise: It is true, it is but a power to levy Money by Imposition; We do not find any thing raised (that is left to your Lordships) but a Commission to levy Money by Imposition or otherwise; give us leave to fear that Excise, and whatever is comprehended in it, was intended. Sure I am, it is against the Law, it is a very high breach of your Lordships, and our the poor Commons Liberties, and yet this being ill in it self, may produce a happy effect: the King and both Houses have given a Judgment, the greatest that ever was against this in the Petition of Right, and when this Judgment is given, see how Gods goodness hath brought it to pass, that this Patent shall be part of Execution of that Judgment, to damn it for the punishment.

I do utterly dislike that Clause, as you tender the King's Honour; That that must come to a thing of this nature, and it is strange to me, I cannot dive into it, I leave it to your Lordships, for the time; it came out seven days after the Summons of Parliament; all knew the Parliament would decry this, but I hope it will now turn to good: I will not say it was kept secret.

That which I am to demand of your Lordships first, is, That as we having considered of this Commission, finding it *ex diametro* against the late Judgment in the Petition of Right, have condemned it; So your Lordships would concur with us as hitherto you have done.

2. That this Commission as a thing against Law, may be cancelled.

3. That if it be inrolled, A Vote may be made of it, and if not, that Order be taken that it be not inrolled.

4. That the Warrant may be damned and destroyed.

5. That it would please your Lordships in your wisdoms to take into consideration who is the Projector of this advice, and if he could be found out, that some exemplary punishment may be according to Justice inflicted on him.

The Lords accepted the motion, and promised to present the same to his Majesty.

This done, the House of Commons Voted that the Commission, the not guarding the narrow Seas, the decay of Trade, and other particulars be inserted in the Remonstrance.

And now they come to name the Duke of Buckingham, and his power with the King, to be their greatest grievance, and the cause of all the evil the Kingdom laboured under; these were said to be, not guarding the Seas, decay of Trade, disasters of

our Armies, &c. and as to Religion, that he too much favoured the Papists and the Arminians, for that his Mother was a Papist, and that Montague and others usually resorted to *Tork-house*, several Members of that House, severally expressed themselves in this matter.

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Sir Robert Philips.

Sir Robert Philips was of Opinion to have the Declaration run thus, *We conceive the greatness and power of the Duke of Buckingham is the chief cause of all these Evils.* We are not in a way of Charge, but of a Remonstrance.

Sir John Elliot, &c.

Sir John Elliot, Sir Edward Cook, and Mr. Selden, were positively to name the Duke as the cause of our evils, for so said they, he had been already declared in the last Parliament, since when the causes are multiplied, and he hath deserved nothing better of the Commonwealth.

In this Debate Sir Humphrey May put them again in mind of the King's desire, that all personal aspersions might be forborn, that his Majesty will take it as an argument of their moderation and judgment, if they forbear in this Affair which would so nearly reflect upon him.

Sir Henry Martin.

Sir Henry Martin advised that the Remonstrance be so framed, as to make it passible to his Majesties judgment and affection: Let him be perswaded that it comes from a publick sense; and not from private ends. And he vindicated the Duke in point of Religion. 'Tis true, said he, his Mother is a Recusant, but never any thing more grieved him, and never did a Son use more means than he to convert her, and he hath no power over her; and for his own Lady, whom he found not firm in his Religion, he hath used means to confirm her. As for Arminians, I have often heard him protest, and vow against these Opinions. It is true, many that have skill therein, may have some credit with him, and make use of his noble nature for their own ends. One particular I know well, that some Gentlemen and Preachers of great esteem were questioned for a matter, wherein there was some error in the manner, of which they were presented; I told him of them, and that they were questioned; and he answered me, he would do the best he could for to countenance them.

Sir Benjamin Rudyard.

Sir Benjamin Rudyard gave his judgment, That if the matter be urged home, it will proclaim the man louder than we can in words. If we name excess of Power, and abuse of Power, it will reach to the Duke, and all others in future times: and to a Gentleman of honour, nothing is so dear as sense of Honour. I am witness, and do know that he did many great and good Offices to this House. If the forfeiture of my life could breed an Opinion, that ye should have no occasion to complain at your next meeting, I would pawn it to you. Nor let any man say, it is fear makes us desist, we have shewed already what we dare do.

Sir Thomas Jermin.

And because the employment of Dalbert had given much offence, Sir Thomas Jermin stood up in his defence, and said, He had given great evidence of his Trust and Fidelity. When the Count Palmere retired himself, and the Council agreed to send a party under Count

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Mansfield

Mansfield to make a head, and the King sent word to the *Palatine* to be present in person, *Dalbeer* went along with him, with one more, and being in a Village in *Germany*, a Troop of fifty Horse met them, *Dalbeer* went to the Captain and said, *We are in a Service, I will give you so many Crowns to conduct us; which was done, and Dalbeer went along with him.*

In conclusion, *June* the Thirteenth, they came to this Resolve, That the excessive Power of the Duke of *Buckingham*, is the cause of the Evils and Dangers to the King and Kingdom; and that this be added to the Remonstrance.

And how the People were enraged by the Commons Resolve, may be seen; for the Rabble murdered one *Lamb*, commonly called *Dr. Lamb*, whom they called the Duke's Conjuror, publicly in the Streets of *London*, for which outrage the City was fined, and the Letter following, that the Actors and Abettors might be detected, and receive condign punishment, was directed to the City Magistrates.

A Letter to the City about Doctor Lamb's Death.

Whereas we are given to understand, That by the fury and outrage of divers dissolute and disorderly persons assembled together in great numbers without any resistance made, or course taken to suppress them (by the Magistrates to whom it appertained) one *Lamb* was in a barbarous manner slain and murdered, wherewith his Majesty having been likewise made acquainted, as he is very sensible of the scandal that may hereby be cast upon the Peace and Government of this Realm in general, when the chief City hereof, and where his own Person is resident, should by the remissness and neglect of Magistrates, in the execution of his Laws, suffer a fact and misdemeanour of so high a nature to be committed, and to pass unpunished: So he is very highly displeased thereat, and hath therefore commanded us in his name hereby streightly to charge and require your Lordship, &c. that with all care and diligence you do forthwith inquire out the principal Actors and Abettors therein, and to cause them to be apprehended and committed to Prison, and to be proceeded with, and punished in the severest manner that by the Laws of the Realm is provided against Offenders in so high a nature. And so, &c.

Dr Neal
and Dr.
Laud sus-
pected for
Arminians.

Dr. Neal Bishop of *Winchester*, and *Dr. Laud* Bishop of *Bath and Wells*, were named by the Commons to be those near about the King who are suspected to be *Arminians*, and that they are justly suspected to be unsound in their Opinions that way; and the House proceeded in the Remonstrance against the Duke.

Mr. *Selden*.

And Mr. *Selden* proposed, That to the excessive Power of the Duke should be added the abuse of that Power, and since that abuse is the cause of these evils, that it be presented to his Majesty to consider, whether it be safe for the King and Commonwealth, that a man of his Power should be so near his Majesty, and it was ordered accordingly. The Remonstrance being agreed unto, it was appointed to be presented to the King, being as followeth.

The Commons Remonstrance against the Duke.

Most Dread Sovereign,

With humble thankfulness we pour dutiful Commons now Assembled in Parliament, do acknowledge the great comfort which we have in your Majesties pious and gracious disposition, so we think it a met and most necessary Duty, being called by your Majesty, to consult and advise of the great and urgent affairs of this Church, and Commonwealth, finding them at this time in apparent danger of ruin and destruction, faithfully, and dutiful to inform your Majesty thereof, and with bleeding hearts and bended knees, to crave your speedy redress therein, as to your own wisdom (unto which we most humbly submit our selves and our desires) shall seem most meet and convenient. What the multitude and potency of your Majesties Enemies are abroad; What be their malicious and ambitious ends; and how vigilant and constantly industrious they are in pursuing the same, is well known to your Majesty; Together with the dangers threatened thereby to your Sacred Person, and your Kingdoms, and the Calamities which have already fallen, and do daily increase upon your Friends and Allies, of which we are well assured your Majesty is most sensible, and will accordingly in your great wisdom, and with the gravest and most mature Counsel, according to the exigency of the times and occasions, provide to prevent and help the same.

To which end we most humbly intreat your Majesty first, and especially to cast your eyes upon the miserable condition of this your own Kingdom, of late so strangely weakened, and dejected, that unless through your Majesties most gracious Wisdom, Goodness, and Justice, it be speedily raised to a better condition, it is in no little danger to become a sudden prey to the Enemies thereof; and of the most happy and flourishing, to be the most miserable and contemptible Nation in the world. In the discoveries of which dangers, mischiefs, and inconveniences lying upon us, we do freely protest that it is far from our thoughts to lay the least aspersion upon your Sacred Person, or the least scandal upon your Government; for we do in all sincerity of our hearts, not only for our selves, but in the Name of all the Commons of the Realm (whom we present) ascribe as much duty, as a most loyal and affectionate people can do, unto the best King, (for so you are, and so have been pleased abundantly to express your self this present Parliament by your Majesties clear and satisfactory answer to our Petition of Right: For which both our selves and our posterity shall bless God for you, and ever preserve a thankful memory of your great goodness and justice therein,) and we do verily believe, that all or most of these things which we shall now present unto your Majesty, are either unknown unto you, or else by some of your Majesties Ministers offered under such specious pretences as may hide their own ill intentions, and ill consequences of them, from your Majesty. But we assure our selves according to the good

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good example of your Majesties Predecessors, nothing can make your Majesty (being a wise and judicious Prince, and above all things desirous of the Welfare of your People) more in love with Parliaments than this, which is one of the principal ends of calling them, that therein your Majesty may be truly informed of the state of all the several parts of your Kingdom, and how your Officers and Ministers do behave themselves in the trust reposed in them by your Majesty, which is scarce able to be made known unto you, but in Parliament, as was declared by your blessed Father, when he was pleased to put the Commons in Parliament assembled in mind, That it would be the greatest unfaithfulness, and breach of Duty to his Majesty, and of the trust committed to them by the Country that could be, if in setting forth the Grievances of the People, and the condition of all the parts of this Kingdom from whence they come, they did not deal clearly with him, without fearing any how near and dear soever they were unto him, if they were hurtful or dangerous to the Commonwealth.

In confidence therefore of your Majesties gracious acceptation in a matter of so high importance, and in faithful discharge of our Duties; We do first of all most humbly beseech your Majesty to take notice that howsoever we know your Majesty doth with your soul abhor, that any such thing should be imagined or attempted; Yet there is a general fear conceived in your people of secret working and combination to introduce into their Kingdom innovation and change of our holy Religion, more precious unto us than our lives, and whatever this world can afford. And our fears and jealousies herein are not merely conjectural, but arising out of such certain and visible effects, as may demonstrate a true and real Cause; For notwithstanding the many good and wholesome Laws, and the Provisions made to prevent the increase of Popery within this Kingdom, and notwithstanding your Majesties most gracious and satisfactory Answer to the Petition of both Houses in that behalf, presented to your Majesty at Oxford; We find there hath followed no good execution nor effect, but on the contrary (at which your Majesty out of the quick sense of your own Religious heart cannot but be in the highest measure displeased) those of that Religion do find extraordinary favours and respect in Court from persons of great quality and power, whom they continually resort unto, and in particular to the Countess of Buckingham, who her self openly professing that Religion is a known favourer and supporter of them that do the same, which we well hoped upon your Majesties Answer to the aforesaid Petition at Oxford, should not have been permitted, nor that any of your Majesties Subjects of that Religion, justly to be suspected, should be entertained in the service of your Majesty, or your Royal Consort the Queen. Some likewise of that Religion have had Honours, Offices, and places of Command and Authority lately conferred upon them. But that which striketh the greatest terror into the hearts of your Royal Subjects concerning this, is, that Letters of Stay of Legal proceedings against them have been procured from your Majesty (by what indirect

means we know not.) And Commissions under the Great Seal, granted and executed for composition to be made with Popish Recusants, with Inhibitions and Restraint both to the Ecclesiastical and Temporal Courts and Officers, to intermeddle with them, which is conceived to amount to no less than a Toleration, odious to God, full of dishonour, and extreme disprofit to your Majesty, of extreme scandal and grief to your good People, and of apparent danger to the present state of your Majesty, and of this Kingdom, their numbers, power, and insolency daily increasing in all parts of your Kingdom, and especially about London, and the Suburbs thereof, where exceeding many Families do make their abode, publickly frequent Masques at Denmark-house, and other places, and by their often meetings and conferences, have opportunities of combining their Counsels and Strength together, to the hazard of your Majesties safety, and the State, and most especially in these doubtful and calamitous times. And as our fear concerning change or subversion of Religion is grounded upon the daily increase of Papists, the open and professed Enemies thereof, for the Reasons formerly mentioned; So are the hearts of your good Subjects no less perplexed, when with sorrow they behold a daily growth and spreading of the Faction of the Arminians, that being, as your Majesty well knows, but a cunning way to bring in Popery, and the professors of those Opinions, the common disturbers of the Protestant Churches, and Incendiaries in those States wherein they have gotten any Head, being Protestants in shew, but Jesuits in Opinion; which caused your Royal Father, with so much pious wisdom, and ardent zeal, to endeavour the suppressing of them, as well at home as in the Neighbour Countreys. And your gracious Majesty, imitating his most worthy Example, hath openly, and by your Proclamation declared your dislike of those persons, and of their opinions; who notwithstanding are much favoured and advanced, not wanting friends even of the Clergy, near to your Majesty; namely, Doctor Neal Bishop of Winchester, and Doctor Laud Bishop of Bath and Wells, who are justly suspected to be unsound in their Opinions that way. And it being now generally held the way to preferment and promotion in the Church, many Scholars do bend the course of their Studies to maintain those Errors; their Books and Opinions are suffered to be printed and published; and on the other side, the imprinting of such as are written against them, and in defence of the Orthodox Church, are hindered and prohibited; and (which is a boldness almost incredible) this restraint of Orthodox Books, is made under colour of your Majesties formerly mentioned Proclamation, the intent and meaning whereof we know was quite contrary. And further, to increase our fears concerning Innovation of Religion, we find, that there hath been no small labouring to remove that which is the most powerful means to strengthen and increase our own Religion, and to oppose both those, which is the diligent teaching and instruction of the people in the true knowledge and worship of Almighty God. And there-

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force means hath been sought out to depresse and discountenance pious, and painful, and Orthodox Preachers, and how conformable soever, and peaceable in their disposition and carriage they be, yet the preferment of such is opposed, and instead of being encouraged, they are molested with vexatious courses, and pursuits, and hardly permitted to Lecture. And in those places where are no constant preaching Ministers, whereby many of your good people (whose Souls, in this case, we beseech your Majesty to commiserate) are kept in ignorance, and are apt to be easily seduced to error and superstition: It doth not a little also increase our dangers and fears this way, to understand the miserable condition of your Kingdom of Ireland, where, without controul, the Popish Religion is openly professed and practised in every part thereof, Popish Jurisdiction being there generally exercised and avowed, Monasteries, Pinneries, and other superstitious Houses newly created, re-edified, and replenished with men and women of several Orders, in a plentiful manner maintained at Dublin, and most of the great Towns, and divers other places of the Kingdom; which, of what ill consequence it may prove, if not seasonably repressed, we leave to your Majesties wisdom to judge: But most humbly beseech you (as we assure our selves you will) to lay the serious consideration thereof to your royal and pious Heart, and that some speedy course may be taken for redress therein.

And if now to all these your Majesty will be pleased to add the consideration of the Circumstances of time, wherein these courses, tending to the destruction of true Religion, within these your Kingdoms, have been taken here, even then when the same is with open force and violence prosecuted in other Countreys, and all the Reformed Churches in Christendom, either depressed, or miserably distressed: We do humbly appeal unto your Majesties Princely Judgment, whether there be not just ground of fear that there is some secret and strong co-operating here with the Enemies of our Religion abroad, for the utter extirpation thereof? and whether, if those courses be not speedily redressed, and the profession of true Religion more encouraged, we can expect any other but misery and ruin speedily to fall upon us? especially, if besides the visible and apparent dangers wherewith we are compassed about, you would be pleased to remember the displeasure of Almighty God, always bent against the neglect of his holy Religion, the strokes of whose Divine Justice we have already felt, and do still feel with smart and sorrow in great measure.

And besides this fear of Innovation in Religion, we do in like faithful discharge of our Duties, most humbly declare to your Majesty, that the hearts of your People are full of fear of Innovation and Change of Government, and accordingly possessed with extreme grief and sorrow; yet in this point by your Majesties late Answer to our Petition of Right touching our Liberties much comforted, and raised again out of that sadness and discontent, which they generally had conceived throughout the whole

Kingdom, for the undue courses which were the last year taken for raising of Monies by Loans, (than which (whatever your Majesty hath been informed to the contrary) there were never any Monies demanded nor paid with greater grief, and general dislike of all your faithful Subjects; though many, partly out of fear, and partly out of other respects (yet most unwillingly) were drawn to yield to what was required.

The Billeting of Soldiers did much augment both their fears and grief, wherein likewise they find much comfort upon your gracious Answer to our Petition of Right, and to that we presented to your Majesty concerning this particular. Yet we most humbly beseech your Majesty, that we may inform you, that the still continuance, and late re-enforcing of those Soldiers, the conditions of their persons (many of them not being Natives of this Kingdom, nor of the same, but of an opposite Religion) the placing them upon the Sea-coast, where making head amongst themselves, they may unite with the Popish Party at home, if occasion serve, and joyn with an invading Enemy to do extreme mischief; and that they are not yet dismissed, both still minister cause of jealousy in your loving Subjects; for that the Soldiers cannot be continued without exceeding great danger of the peace and safety of your Kingdom.

The report of the strange and dangerous purpose of bringing in German Hozle and Riders, would have turned our doubts into despair, and our fears into a certainty of confusion, had not your Majesties gracious Message (for which we humbly give you thanks) comforted us by the assurance of your Royal Word, that they neither are, nor were intended by your Majesty, for any service in England, but that they were designed for some other Foreign Imployment. Yet the sight of the Privy Seal, by which, it seemeth, they were to be levied; the great sums of Money, which, upon examinations, we found to be paid for that purpose, gave us just cause of fear, That much about the same time there was a Commission under the Great Seal granted unto the Lords, and others of the Privy Council, to consider of other ways for raising of Monies, so particularly by Impositions, gave us just cause to suspect, that whatsoever was your Majesties gracious intention, yet there wanted not those, that under some colourable pretence, might secretly by this, as by other ways, contrive to change the frame both of Religion and Government, and thereby undermine the safety of your Majesty, and your Kingdoms.

These men could not be ignorant, that the bringing in of Strangers for aid, hath been pernicious to most States, where they have been admitted, but to England fatal. We do bless God that hath given your Majesty a wise understanding heart to discern of those courses, and that such power produceth nothing but weakness and calamity. And we beseech your Majesty to pardon the vehemency of our expression, if in the Royal and Zealous affections we bear to your Majesty and your Service, we are bold to declare to your Majesty, and the whole

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whole World, that we hold it far beneath the heart of any free English-man to think, that this victorious Nation should now stand in need of German Soldiers to defend their now King and Kingdom.

But when we consider the course formerly mentioned, and these things tending to an apparent change of Government, the often breaches of Parliament, whereby your Majesty hath been deprived of the faithful Counsel, and free Aids of your People, by taking of Tunnage and Poundage, without grant thereof by Act of Parliament, ever since the beginning of your Majesties Reign to this present, The standing Commission granted to the Duke of Buckingham to be General of an Army in the Land in the time of Peace, the discharging of faithful and sufficient Officers and Ministers, some from Judicial places, and others from the Offices and Authorities which they formerly held in the Commonwealth: We cannot but at the sight of such an apparent desolation as must necessarily follow these courses, out of the depth of sorrow, lift up our cries to Heaven for help, and next, under God, apply our selves unto your Sacred Majesty, who, if you could hear so many thousand speaking together, do joyntly implore speedy help and Reformation.

And if your Majesty would be pleased to take a further view of the present state of your Realm, we do humbly pray you to consider, Whether the miserable Disasters, and ill success that hath accompanied all your late designs and actions, particularly that of Calés, and the Isle of Rhee, and the last Expedition to Rochel, have not extreemly wasted that Stock of Honour that was left unto this Kingdom, sometimes terrible to all other Nations, and now declining to contempt beneath the meanest.

Together with our Honours, we there lost those (and that not a few) who had they lived, we might have some better hope of recovering it again, our valiant and expert Colonels, Captains, and Commanders, and many thousand common Soldiers and Mariners: Though we have some cause to think, that your Majesty is not as yet rightly informed thereof; and that of six or seven thousand of your Subjects lost at the Isle of Rhee, your Majesty received information but of a few hundreds. And this dishonour and loss hath been purchased with the consumption of above a million of Treasure.

Many of the Forts are exceeding weak, and decayed, and want both Men and Munition. And here we cannot but with grief consider, and complain of a strange providence (we think your Majesty will rather call it Treachery) That your Store of Powder, which, by Order of your Privy Council, dated the Tenth of December, 1625. should be constantly Three hundred Last, besides a continual Supply of Twenty Last a Month for ordinary Expences, and were now fit (as we conceive) to be double the proportion, is at this time in the Tower (the present Warrants being served) but Nine Lasts and forty eight pounds in all; which we tremble to think of. And that notwithstanding this extreame scarcity of Pow-

der, great quantities have been permitted to be sold out of your Majesties Store, to particular persons for private gain; whereof we have seen a Certificate, six Last sold thence the fourteenth of January last, and your Majesties Store being unfurnished of Powder, which by a contract made with Mr. Evelyn by advice of your Lords in Parliament, ought to be supplied monthly with Twenty Last, at the rate of Three pound ten shillings ten pence a Barrel; your Majesty hath been forced to pay above Seven pound a Barrel for Powder, to be brought in from beyond Seas; for which purpose, Twelve thousand four hundred pounds was impressed to Mr. Burlemack the last year, and that Powder not so good as that by Contract your Majesty should have, by one third part: All which are most fearful and dangerous abuses. But what the poverty, weakness, and misery of our Kingdom is now grown unto by decay of Trade, and destruction and loss of Ships and Mariners, within these three years, we are almost afraid to declare; And could we by any other means have been sure, that your Majesty should any other way have had a true information thereof, we should have been doubtful to have made our weakness, and extremity of misfortune in this kind, to appear: But the inopportune and most pitiful complaints from all parts of the Kingdom near adjoining to the Sea in this kind, would rend, as we think, the stoneiest heart in the world with sorrow, and the sense we have of the miserable condition your Kingdom is in by reason thereof, especially, for that we see no possible means (being now shortly to end this Session) how to help the same, adds such a weight of grief unto our sad thoughts, as we have not words to express it: But for your Majesties more exact information therein, we beseech you be pleased to peruse the Calendar of particulars, which, with the Remonstrance, we most humbly present unto your Majesty.

One reason amongst many of this decay of Trade, and loss of Ships and Mariners, is, the not guarding of the Narrow Seas, the Regality whereof, your Majesty hath now in a manner wholly lost, being that wherein a principal part of the Honour and Safety of this Kingdom heretofore consisted; and now having absolutely neglected it, the Town of Dunkirk doth so continually rob and spoil your Subjects, that we can assure your Majesty (if some present and effectual remedy be not forthwith provided) the whole Trade of this Kingdom, the Shipping, Mariners, and all belonging thereunto, will be utterly lost and consumed. The principal cause of which evils and dangers we conceive to be the excessive power of the Duke of Buckingham, and the abuse of that power: And we humbly submit unto your Majesties excellent wisdom, whether it be safe for your Self or your Kingdoms, that so great power as rests in him by Sea and Land, should be in the hands of any one Subject whatsoever.

And as it is not safe, so sure we are, it cannot be so for your service, it being impossible for one man to manage so many and weighty Affairs of the Kingdom as he hath undertaken, besides the ordinary Duties of those Officers

Anno 1628. Offices which he holds, some of which well performed, would require the time and industry of the ablest men both of Counsel and Action, that your whole Kingdom will afford, especially in these times of common danger.

And our humble desire is further, That your most excellent Majesty will be pleased to take into your most Princely consideration, whether, in respect the said Duke hath so abused his Power, it be safe for your Majesty and your Kingdom, to continue him either in his great Offices, or in his place of nearness and Counsel about your Sacred Person.

And this in all humility, aiming at nothing but the Honour of Almighty God, and the maintenance of his true Religion, the safety and happiness of your most excellent Majesty, and the preservation and prosperity of this Church and Commonwealth; we have endeavoured, with faithful hearts and intentions, and in discharge of the duty we owe to your Majesty and our Countrey, to give your Majesty a true representation of our present danger, and pressing calamities, which we humbly beseech your Majesty graciously to accept, and to take the same to heart, accounting the safety and prosperity of your People, your greatest happiness, and their love, your richest Treasure. A rueful and lamentable spectacle, we confess, it must needs be, to behold those ruins in so fair an House, so many Diseases, and almost every one of them deadly, in so strong and well tempered a Body as this Kingdom lately was. But yet we will not doubt, but that God hath reserved this Honour for your Majesty, to restore the safety and happiness thereof, as a work worthy so excellent a Prince, for whose long life and true felicity we daily pray, and that your fame and never-dying Glorie may be continued to all succeeding Generations.

The Speaker appointed to deliver the Remonstrance.

Hereupon a Message was sent to his Majesty, desiring access to his Person with the Remonstrance, and the Speaker was appointed to deliver it; who much desired to be excused, but the House would not give way thereunto. The House also sent up the Bill of Subsidy unto the Lords. Soon after the King sends a Message by Sir Humphrey May, that he means to end this Session on the 26. of June: Whereupon the Commons fall upon the Bill of Tonnage and Poundage. In the mean time, this ensuing Order concerning the Duke was made in the Star-chamber, upon the signification of his Majesties pleasure, viz. That his Majesty of his own certain knowledge, as well as by other proofs, being certified of the Dukes Innocency, that all the proceedings be in that Court taken off the File.

ON the Sixteenth of June the Duke desired leave of the House of Peers to vindicate himself in the House of Commons for some words falsely charged upon (as spoken by) him, by Mr. Leveson, a Member of the Commons House; and he had leave by the House given him so to do, and they ordered that the Duke shall be left to himself to do herein what he thinks best in the House of Commons: Whereupon the Duke gave their

Lordships thanks, and protested upon his Honour, that he never had those words so much as in his thoughts. The which Protestation the Lords commanded to be entered, that the Duke may make use thereof as need shall be.

At the same time the Duke also charged one Mr. Melvin for speaking words against him to this purpose.

First, That Melvin said, That the Duke's Plot was, that the Parliament should be dissolved, and that the Duke and the King, with a great Army of Horse and Foot, would war against the Commonalty, and that Scotland should assist him; so that when War was amongst our selves, the Enemy should come in; for this Kingdom is already sold to the Enemy by the Duke.

2. That the Duke had a stronger Counsel than the King, of which were certain Jesuits, Scotch-men, and that they did sit in Counsel every night, from one of the Clock till three.

3. That when the King had a purpose to do any thing of what consequence soever, the Duke could alter it.

4. That when the Ordnance was ship'd at St. Martin's, the Duke caused the Soldiers to go on, that they might be destroyed.

5. That the Duke said, he had an Army of 16000 Foot, and 1200 Horse.

6. That King James's blood, and Marquis Hamilton's, with others, cries out for vengeance to Heaven.

7. That he could not expect any thing but ruine of this Kingdom.

8. That Prince Henry was poisoned by Sir Thomas Overbury, and he himself served with the same sauce, and that the Earl of Somerset and others could say much to this.

9. That he himself had a Cardinal to his Uncle, or near Kinsman, whereby he had great intelligence.

About the same time the Lord Keeper reported to the House of Lords what his Majesty said, touching the Commission of Excise: viz.

The Commission for Excise cancelled.

That their Lordships had reason to be satisfied with what was truly and rightly told them by the Lords of the Council, that the Commission for Excise before mentioned, was no more but a Warrant of Advice, which his Majesty knew to be agreeable to the time, and the manifold occasions then in hand; but now having a Supply from the loves of his People, he esteems the Commission useles; and therefore though he knows no cause why any jealousy should have risen thereby, yet, at their desires, he is content it be cancelled; and he hath commanded me to bring both the Commission and Warrant to him, and it shall be cancelled in his own presence.

The day following he reported, that his Majesty had cancelled the Commission, and the Warrant for putting the Seal thereunto, and did there openly shew it; and a Message was sent to the Commons to shew them the said cancelled Commission and Warrant.

The Commons resume again the Debate upon the Bill of Tonnage and Poundage; whereupon Mr. Selden said, Whereas the King's Council objected that 1 Eliz. saith, It was granted time out of mind to the King, I fear his Majesty is told so, and some body doth ascertain him so: But we may clear that, for not only 1 Eliz. but also in the Statute of 1 Jac. the word Time out of Mind is, That whereas H. 7. and other his Majesties Progenitors, have had some Subsidy for the guarding of the Seas; and there was never a King but had some Subsidy,

Mr. Selden concerning Tonnage and Poundage.

in that sense it is indeed time out of mind; yet is it a matter of free gift: For publick Bills, the King saith, Le Roy veult, for Petitions of Right, Soit droit fait come est desire.

For the Bill of Subsidies, it is thus, The King heartily thanking the Subjects for their good wills; In all the Bills of Tonnage and Poundage is the very same Answer, save one, which was 1 Eliz. and but for that only mistake of the Clerk, it hath ever the same assent as the Bill of Subsidy.

Upon the Debate the Commons order a Remonstrance against the undue taking of Tonnage and Poundage and Impositions without Act of Parliament, which Remonstrance followeth.

The Commons Remonstrance of Tonnage and Poundage.

Most gracious Sovereign,

The Commons Remonstrance of Tonnage and Poundage.

Your Majesties most Loyal and Dutiful Subjects, the Commons in this present Parliament assembled, being in nothing more careful, than of the Honour and Prosperity of your Majesty, and the Kingdom, which they know do much depend upon that happy union and relation betwixt your Majesty and your People; do, with much sorrow, apprehend, that by reason of the incertainty of their continuance together, the unexpected interruptions which have been cast upon them, and the shortness of time in which your Majesty hath determined to end this Session, they cannot bring to maturity and perfection, divers businesses of weight, which they have taken into their consideration and resolution, as most important for the common good: Amongst other things, they have taken into especial care the preparing of a Bill, for the granting of your Majesty such a Subsidy of Tonnage and Poundage, as might uphold your Profit and Revenue in as ample a manner, as their just care, and respect of Trade (wherein not only the Prosperity, but even the Life of the Kingdom doth consist) would permit: But being a Work which will require much time, and preparation by Conference with your Majesties Officers, and with the Merchants, not only of London, but of other remote parts, they find it not possible to be accomplished at this time: Wherefore considering it will be much more prejudicial to the Right of the Subject, if your Majesty should continue to receive the same, without Authority of Law, after the determination of a Session, than if there had been a Recess by Adjournment only, in which case, that intended Grant would have related to the first day of the Parliament; and assuring themselves, that your Majesty is resolved to observe that your Royal Answer, which you have lately made to the Petition of Right of both Houses of Parliament; Yet doubting lest your Majesty may be misinformed concerning this particular case, as if you might continue to take those Subsidies of Tonnage and Poundage, and other Impositions upon Merchants, without breaking that Answer, they are forced, by that duty which they owe to your Majesty, and to those

whom they represent, to declare, That there ought not any Imposition to be laid upon the Goods of Merchants, Exported or Imported, without common consent by Act of Parliament, which is the Right and Inheritance of your Subjects, founded not only upon the most Ancient and Original Constitution of this Kingdom, but often confirmed and declared in divers Statute Laws.

And for the better manifestation thereof, may it please your Majesty to understand, That although your Royal Predecessors, the Kings of this Realm, have often had such Subsidies and Impositions granted unto them, upon divers occasions, especially for the guarding of the Seas, and safeguard of Merchants: Yet the Subjects have been ever careful to use such Cautions and Limitations in those Grants, as might prevent any Claim to be made, that such Subsidies do proceed from Duty, and not from the free Gift of the Subjects. And that they have heretofore used to limit a time in such Grants, and for the most part but short, as for a year or two, and if it were continued longer, they have sometimes directed a certain space of Cessation or Intermission, that so the Right of the Subject might be more evident. At other times it hath been granted upon occasion of War, for a certain number of years, with proviso, That if the War were ended in the mean time, then the Grant should cease: And of course it hath been sequestered into the hands of some Subjects, to be employed for the guarding of the Seas. And it is acknowledged by the ordinary Answers of your Majesties Predecessors, in their Assent to the Bills of Subsidies of Tonnage and Poundage, that it is of the nature of other Subsidies, proceeding from the good will of the Subject: Very few of your Predecessors had it for life, until the Reign of Henry the Seventh, who was so far from conceiving he had any right thereunto, that although he granted Commissions for collecting certain Duties and Customs due by Law, yet he made no Commissions for receiving the Subsidy of Tonnage and Poundage, until the same was granted unto him in Parliament. Since his time, all the Kings and Queens of this Realm have had the like Grants for life, by the free love and good will of the Subjects. And whensoever the people have been grieved, by laying any Impositions or other Charges upon their Goods and Merchandizes, without Authority of Law (which hath been very seldom) Yet upon complaint in Parliament, they have been forthwith relieved; saving in the time of your Royal Father, who having, through ill Counsel, raised the Rates and Charges upon Merchandizes to that height at which they now are, yet he was pleased so far forth to yield to the Complaint of his people, as to offer, That if the value of those Impositions which he had set might be made good unto him, he would bind himself and his Heirs, by Act of Parliament, never to lay any other: Which offer, the Commons at that time, in regard of the great burden, did not think fit to yield unto. Nevertheless, your Loyal Commons in this Parliament, out of their especial zeal to your Service, and especial regard of

Car. 4.

Anno 1628. of your pressing occasions, have taken into their consideration, so to frame a Grant of Subsidy of Tonnage or Poundage to your Majesty, that both you might have been the better enabled for the defence of your Realm, and your Subjects, by being secure from all undue Charges, be the more encouraged cheerfully to proceed in their course of Trade; by the increase whereof, your Majesties profit, and likewise the strength of the Kingdom, would be very much augmented.

But not being now able to accomplish this their desire, there is no course left unto them, without manifest breach of their duty, both to your Majesty and their Countrey, save only to make this humble Declaration. That the receiving of Tonnage and Poundage, and other Impositions, not granted by Parliament, is a breach of the Fundamental Liberties of this Kingdom, and contrary to your Majesties Royal Answer to the said Petition of Right. And therefore they do most humbly beseech your Majesty, to forbear any further receiving of the same; and not to take it in ill part from those of your Majesties loving Subjects, who shall refuse to make payment of any such Charges, without warrant of Law demanded.

And as by this forbearance, your most Excellent Majesty shall manifest unto the World your Royal Justice, in the observation of your Laws: So they doubt not, but hereafter, at the time appointed for their coming again, they shall have occasion to express their great desire to advance your Majesties Honour and Profit.

June 26. The Speaker being sent for to the King at Whitehall, came not into the House till about Nine a Clock. The Remonstrance concerning Tonnage and Poundage being ingrossed, was then a reading in the House: the King sent for the Speaker, and the whole House to attend him at the House of Peers, and made the Speech following.

The King ends this Session in Person, and declares the reason.

'T may seem strange, that I came so suddenly to end this Session, before I give my assent to the Bills; I will tell you the cause, though I must avow, that I owe the account of my actions to God alone. It is known to every one, that a while ago the House of Commons gave me a Remonstrance, how acceptable every man may judge; and for the merit of it, I will not call that in question, for I am sure no wise man can justify it.

Now since I am truly informed, That a second Remonstrance is preparing for me to take away the profit of my Tonnage and Poundage, one of the chief maintenances of my Crown, by alledging, I have given away my Right thereto by my Answer to your Petition:

This is so prejudicial unto me, that I am forced to end this Session some few hours before I meant, being not willing to receive any more Remonstrances, to which I must give a harsh Answer. And since I see, that even the House of Commons begins already to make false constructions of what I granted in your Petition, lest it be worse interpreted in the Countrey, I will now make a Declaration

concerning the true intent thereof.

The profession of both Houses in the time of hammering this Petition, was no way to trench upon my Prerogative, saying, they had neither intention or power to hurt it. Therefore it must needs be conceived, that I have granted no new, but only confirmed the ancient Liberties of my Subjects. Yet to shew the clearness of my Intentions, that I neither repent, nor mean to recede from any thing I have promised you, I do here declare my self, That those things which have been done, whereby many have had some cause to expect the Liberties of the Subjects to be trenched upon, which indeed was the first and true ground of the Petition, shall not hereafter be drawn in to example for your prejudice, and from time to time, in the word of a King, ye shall not have the like cause to complain. But as for Tonnage and Poundage, it is a thing I cannot want, and was never intended by you to ask, nor meant by me, I am sure to grant.

To conclude, I command you all that are here to take notice of what I have spoken at this time, to be the true intent and meaning of what I granted you in your Petition; but especially you, my Lords, the Judges, for to you only, under me, belongs the interpretation of Laws, for none of the Houses of Parliament, either joyned or separate, (what new Doctrine soever may be raised) have any power either to make or declare a Law without my consent.

After the King had ended, the Bill of Subsidy was delivered to the Speaker, standing at the Bar in the Lords House, who made a short Speech, and shewed, that it was the greatest gift that ever was given in so short a time. And so craving pardon for the errors of the House, and his own, he craved the King's Royal Assent to the Bills, which his Majesty did accordingly.

And the Lord Keeper after said, It is his Majesties pleasure that this Session now end, and that the Parliament be Prorogued till the Twentieth of October next.

After the Prorogation of the Parliament, Dr. Manwaring's Sermon was suppressed by Proclamation; and also a Commission was ordered by his Majesty to several Gentlemen, whom his Majesty named his Commissioners to compound with Recusants for the two parts of three of their Estates due to the King, as forfeited by them for their Recusancy; and they were said to come off at very easie rates: and farther, that some of them had Letters of Grace and Protection, but how truly, I know not; and this was followed by a Proclamation against Richard Smith Bishop of Calcedon, &c. and that diligent search should be made for all Priests and Jesuits, and others that have taken Orders from the See of Rome, that they should be apprehended and committed in order to their Trials, and if then convicted, they should be committed to the Castle of Wisbitch, and be under close restraint, that they might not exercise their Function, or spread any their Errors: and hereupon a Letter was writ by the Privy Council to the Bishop of Ely, as followeth:

Wherewith

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With
Priests
be sent to
Witch.

Whereas his Majesty hath been informed, that the Romish Priests, Jesuites, and Seminaries lurking in this Kingdom, do obstinately and maliciously continue their wonted practices to supplant the true Religion established, and to seduce his People from obedience, stir up Sedition, and subvert the State and Government so far as it lyeth in their power: His Majesty therefore hath commanded us to signifie unto your Lordships, that it is his express will and pleasure, according to his Declaration in Parliament, and his Royal Proclamation since published, you shall forthwith prepare and make ready the Castle of Wisbitch, in the Isle of Ely, to receive and lodge all such Priests, Jesuites, and Seminaries, and other Prisoners, as shall be hereafter sent thither, and there treat and govern them according to such instructions and directions, as shall be prescribed by this Board.

The Jesuites taken at Clerkenwell, and mentioned before, were ordered to Newgate, and if upon Trial they were Convicted, were to be sent to Wisbitch; and upon Information of a great resort of Papists to London, Orders were sent to the Lord Mayor to cause diligent search to be made to find out how many were Inhabitants, Inmates or Lodgers, with their Names and Qualities, and to certifie to the Board.

In this Interval of Parliament, Sir Richard Weston was preferred from the Chancellor of the Exchequer, to be Lord Treasurer of England; and at the same time Bishop Laud was translated from the See of Bath and Wells to that of London. And Mr. Montague was designed Bishop of Chichester; nevertheless his Book Entituled, *Appello Casarem*, was by publick Order called in, his Majesty declaring, That out of his care to maintain the Church in the unity of true Religion, and the bond of Peace, to prevent unnecessary disputes, he had lately caused the Articles of Religion to be re-printed, as a rule for avoiding diversities of opinions; and considering that a Book written by Richard Montague, now Bishop of Chichester, intituled, *Appello Casarem*, was the first cause of those disputes and differences, which since have much troubled the quiet of the Church, he would take away occasion, by commanding all persons that had any of those Books in their hands, to deliver them to the Bishop of the Diocess; or, if it be in either Universities, to the Chancellor and Vice-Chancellor thereof, who were commanded to suppress them. And if any by Preaching, Reading, or making of Books *pro* and *contra*, concerning those unnecessary questions, shall revive the difference, he was resolved to take such order with them, and those Books, as they shall wish they had never thought upon those needless Controversies.

Notwithstanding this Proclamation, both that Book, and also the several answers to it of Dr. Fealy, Dr. Goad, Mr. Yard, Mr. Yates, Mr. Wor-ton, and Mr. Rouse came all abroad, and neither party did refrain, though some were hereafter questioned for it; But Dr. Montague, and Dr. Manwaring procured their Pardons from his Majesty, and the later was preferred afterwards to the Rectory of Stamford-Rivers in Essex.

And now again was a Naval Royal Equipped for the relief of Rochel, under the Duke of Buckingham, who being at Portsmouth in order to his Embarquation, and to the giving the necessary Orders, he was on the 23 of August, in his own Lodging, sitting himself to wait on the King; he hastily called for Breakfast, his Servants at-

tending the Sewer to bring in the Meat, the Duke came down Stairs from his upper Chamber to eat in a lower Parlour, turning in at the foot of the Stairs in a narrow Entry, and Sir Thomas Friar, one of his Colonels, following him to the Parlour door, stooping to take his leave, the Duke declining, embraced Friar with these words, *Honest Tom*, and so turning into the Room, one John Felton at that Instant, shaddowed behind them, Stabbed him to the Heart with a back-blow of a Coustel-knife, which stuck in his Body till the Duke dragg'd it out, and so enlarged the Orifice that it streamed with the effusion of so much Blood and Spirit that instantly he died, not able (it seems) to utter a Syllable; and certainly no Soul there present, for he fell backward into the Parlour, and the Assassinate fled: nor could any creature discern the Murderer, but by several suppositions of those that were left last above with the Duke: and therefore some cried out upon Soukier, the French-man, Friar, whilst Felton having no power to fly far, uncertain what to do, stepped aside into the Kitchen, near at hand; hither the Uproar and search followed, some cried out, *Where's the Villain?* Felton mistaking the words, for, *Here's the Villain*, suddenly started, and said, *I am he*, whom they seized, and with much ado to preserve alive from the fury of the Servants, Mr. Stamford, the Duke's follower, tilting at him with a Rapier, which others put by, that missed but little of his intent, to repay him to the full.

Many Messengers posted to Court with this ill news, more hasty than able to satisfie the particulars thereof; and as passionately the Courtiers Posted to Portsmouth: there was one had command to inquire of the fact; to see the man, and to search out somewhat to satisfie the King, and with his Warrant to the Governour, was put into the Prisoner, a Little, Timber, Meagre, Ghastly, Frightful faced Fellow, already clapt into a small Centry-House upon the Guard, horribly laden with manacled Irons, neither able to sit, nor to lie down, but to be crippled against the Wall; with him thus in private, and to sweeten his Devilish Conditions, the party pretended, that in affection to some of his friends he came of this Visi- fit, to administer comfort with his Prayers, the best effects of Charity to him; but he answers, that he was not so ignorant to believe, that a man in his condition should be admitted such comforts; but I rather receive you an Examiner (said he) impowered to make inquisition of me and this action of mine.

And after some discourse, Sir (said he) I shall be brief, I killed him for the Cause of God and my Country. Nay (said the other) there may be hope of his life, the Surgeons say so; It is impossible (he replied) I had the force of forty men, assisted by him that guarded my hand. And being interrogated to several Questions, he made these answers, That he was named John Felton, heretofore Lieutenant to a Foot Company under Sir James Ramsey: that he had endeavoured for a Commission to be Captain in this Expedition, and failed therein, but without any regret upon the Duke (from whom he had found respect) nor for any private interest whatsoever; that the late Remonstrance of Parliament published the Duke so odious, that he appeared to him deserving Death, which no Justice durst execute, that it was not many daies since he resolved to kill him, but finding the Duke so closely attended, that it should be his business to pass a Volunteer, and do it in this Forage. Somewhat he said of a Sermon at St. Faiths Church

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Church under *Paul's*, where the Preacher spake in justification of every man in a Good Cause to be Judge and Executioner of Sin, which he interpreted to be him. That passing out at the *Postern-Gate* upon *Tower-hill*, he espied that fatal Knife in a Cutlers Glass-Case, which he bought for sixteen pence; it was the point end of a Cuff-blade, struck into a cross Haft, the whole length, Handle, and all not twelve Inches, fastened to his right Pocket, and from that time he resolved therewith to Stabb him. That some daies after he followed the Train to *Portsmouth*, and coming by a Cross Erected in the High-way, he sharpened the point thereof upon the Stone, believing it more proper in Justice to advantage his design than for the Idolatrous intent it was first Erect. That he found continual trouble and disquiet in mind until he should perform this fact, and came to Town but that Morning. That no Soul living was accessory with him by any waies or means, of the Duke's Execution. That he was assured his Fact was justified, and he the Redeemer of the Peoples sufferings, under the power of the Duke's Usurpations, &c. and his Paper tacked in the Crown of his Hat, seemed to satisfie his Conscience that he was thereof well pleased.

Concerning the Duke's Interment, and the Malefactors Confession, after Judgment had passed on him: I find that his Bowels were Interred in *Portsmouth* by his dear and only Sister the Countess of *Denbigh*, and a handsome Memorial of him Erected there, his Body brought to *York-House*, where his Effigies lay sometime in an illustrious manner upon a Hearse, and after was sumptuously Intombed at *Westminster* in *St. Edward's* Chapel, without any such stir, as some Historian would infer concerning his Funeral, for his Executors paid for all, and it cost not the King a Penny, and a Stately Monument was Erected over his Grave for his lasting Memory.

Felton was found Guilty at the King's-Bench-Bar, was Hanged at *Tyburn*, against which time he was taught so much Charity to his own Soul, as with remorse to acknowledge his Fact Damnable, without God's great Mercy; laying the guilt directly upon the Parliaments Remonstrance, the immediate motive to his Devilish design.

In regard of the strangeness of the Fact of Assassination of this Noble Person by so mean and obscure a hand, there were not wanting some who perswaded he should be put to the Rack; and hereupon the Judges were consulted of the legality of this proceeding, who met accordingly at *Sergeants-Inn* in *Chancery-Lane*, and did all agree that he could not by our Law be tortured by the Rack, for that no such punishment is now allowed by our Law.

Rochel afterward was, notwithstanding, after this, designed to be relieved by his Majesty, and accordingly the Fleet put to Sea with Provision and Fireships for the relief of it; but all in vain, for they found the Barricado so strong, and so well contrived, that it was impossible to enter the Port; which the *English* perceiving, gave over any farther attempt, and return; which the *Rochellers* perceived, they Capitulated, and had what Conditions the King their Sovereign gave them: great was the misery they had endured, for it is related that they had lived long upon Horse-flesh, Hides and Leather, Dogs and Cats, hardly leaving a Horse alive, still in hopes, that the relief promised from *England* would prove effectual to them; they held it so long, till they were but about four thousand left alive of fifteen thousand Souls, most

of them died with Famine, and when they begun to be pinched with the extremity of hunger, they died so fast, that they usually carried their Coffins into the Church-yard, and other places, and there laid themselves in and died; great numbers of them being unburied, when the Forces of the King of *France* entred the Town, and many Corpie eaten with Vermine, Ravens and Birds.

Our Fleet which was sent for the relief of *Rochel* was defective both in Victuals, and its Tackling, the defects and defaults whereof should be considered of by a Committee of Lords select, and they to report to the Board, which was done accordingly. In the meantime, great Complaints (matter for the Session of Parliament ensuing) came from the *Isle of Wight*, and other Maritime places, of the disorders of the Souldiers that Quartered there; whereupon the Council required the Justices to chuse a Provost Marshal to correct the Souldiers for those disorders. And now the King of *Denmark* requires our King's assistance against the Emperour, to whom a Supply was sent under the conduct of *Sir Charles Morgan*, drawn out by him out of our *Veterane* Regiments in the *States* Service in the *Low-Countries*; and because the King had no occasion for the *German* Horse raised by *Dalbeer*, he was licensed by our King to transmit them over into the Service either of the King of *Sweden* or the Duke of *Savoy*, then Alliesto his Majesties.

Dr. Harsnet Bishop of *Norwich* is translated to *York*, and *Dr. Corbet* made Bishop of *Oxon* about this time. Also the new Statutes of the University of *Oxon*, about the Election of Proctors, afterwards called *Statuta Carolina* were compiled by Direction of *Dr. Lund* Bishop of *London*, to the great content and satisfaction of that University.

The Parliament, as before is said, being Prorogued to the 20 of *October*, is now by Proclamation Prorogued farther till the 20 of *January* following. But in this interval, several Merchants of *London* were Committed for Non-payment of Customs, which the King in open Council demands as a duty paid both in *Queen Elizabeth's* and his Fathers times, and that there was in the *Exchequer* a solemn and legal judgement for the King for the payment of such Customs; however these Merchants Land their Goods, and forcibly take them away from the Custom-house Key, and were thereupon Summoned to the Board, and for a Riot there committed on that account; and for words spoken at the Council, *Alderman Chambers* of *London* was Committed the 28 of *Sept.* who brought his *Habeas Corpus* the 16 of *October* following, and on the 28 it was allowed; he was Bailed and Bound in a Recognizance to appear *Craftino Animarum*, and in the interim be of good behaviour; at which Action of the Judges the Lords of the Council were offended; but being satisfied, that what was done was according to Law and Justice, matters were easily comprized. The like occasion happened afterwards the same Term, for that *Vassals* of *London*, Merchant, refused to pay the said Imposition conceiving it to be illegal, for which *Mr. Attorney*, by the King's Command preferred an Information against him in the *Exchequer*, to which he appears and Pleads the Statutes of *Magna Charta*, and *de Talagio non concedendo*, that the duty of Tonnage and Poundage was not *aniqua & recta consuetudo*, and that it was imposed without assent of Parliament, to which Plea the King's Attorney Demurred in Law, and *Vassal* joyns in Demurrer, &c. At the hearing of this Cause,

Anno 1628. Cause, Judgment was given for the King by the Barons of the Exchequer, who said this Case was the same with *Botel's Case*, and therefore the Duty ought to be paid. And therefore upon *Vassal's* refusal to pay the said Duty, he was by Order of Court Imprisoned; and his Goods detained till payment made. And at the same time the said *Chambers* his Goods was again seized by the Officers of the Custom-House, for Non-payment of the said Duty, who Sues out his *Replevin*, which by Order of the Court of Exchequer was Superfeded by an Injunction directed to the Sheriffs of London, not to Execute the said Writ of *Replevin*, or like Writs of *Replevin*; and the same course of proceedings were observed by the Barons of the Exchequer in the Case of Mr. *Kolls*, a Member of Parliament, whose Goods were detain'd, the Officers of the Custom-House telling him, That if all the Parliament were in you, we would seize your Goods; this Controversie, which after gave cause to the Dissolution of this Parliament, may a little be enquired into, as to the rise and Antiquity of this Custom, which is said by one to be as followeth:

It is a Fundamental Truth, essential to the Constitution and Government of this Kingdom, and Hereditary Privilege of the Subject, that no Tax, Tallage, or other Charge might be laid without consent in Parliament: this was ratified by the Contract of this Nation with the Conquerour, upon his admittance, and declared and confirmed in the Laws which he published; and yet afterwards broken by King *John*, and *Henry the Third*: then Confirmed by *Magna Charta*, and other succeeding Laws; but then attempted to be broken by the two succeeding *Edwards*. When the Subject pursued those breaches by the opportunity of frequent Parliaments, and found relief, procuring the right of the Subjects to be fortified by new Statutes. And it may be observed, That those Kings in the very Acts, whereby they did break the Law, did really affirm the Subjects Liberty, and disclaimed that Right of him. A thing which hath since been challenged by successive Sovereigns, the Merchants in those times usually giving consent to such Taxes, but limited to a time, to the Ratification of the next following Parliament to be Cancelled or Confirmed.

But mostly these upon Merchandise, were taken by Parliament six or twelve per pound for time, and years, as they saw cause, for defence of the Sea: sometimes also granted unto Noble men or Merchants, but for chance; and afterwards they were granted to the King for life, and so continued for divers Descents.

Between the time of *Edward the Third*, and *Queen Mary*, never any Prince (some say) demanded any Imposition but by Parliament: *Queen Mary* indeed laid a Charge upon Cloth by the Equity of Tonnage and Poundage; because the Rate set upon Wool was much more than that upon Cloth, and little Wool being Transported unwrought, She had reason to impose so much more, as brought them to an equality, but that there still continued a less charge upon Wool wrought into Cloth, than upon Wool Landed out unwrought, untill King *James* his time; when upon *Nicholson's* advice, there was a further addition of Charge, which is that we call the pretermitted Custom.

In *Queen Elizabeth's* time some Impositions, nay many increased; the general prosperity of her Reign, in the conjuncture of time, and Foreign Affairs over-shadowing, and her power and will

Commanding; without regret or complaint that of Currants was one; for the *Venetians* having Taxed a charge upon our *English Cloth*, he raised that of the Currants, with pretence to be even with them, the sooner to take off the other. And this came to be denied to King *James* by *Bates* a Merchant, and a Sute in the Exchequer adjudged it for the King: the three Judges (then no more) distinguished their several Opinions.

The First; That the King might Impose upon Foreign Commodities, but not upon Native to be Transported, or necessary to be Imported for the use of the Kingdom.

The Second Judge was of Opinion, he might impose upon all Foreign Merchandize, whether superfluous or no, but not upon Native.

The Third was absolute, seeing the King had the Custody of the Ports, and Guard of the Seas, and might shut up or open the Ports as he pleased, he had a Prerogative to impose upon all Merchandize Exported or Imported.

Afterwards King *James* laid Charges upon all Commodities outward and Inward, not limited to time or occasion: this Judgment, and the right of Imposing was a Question in 7 and 12 Jan. and in 18 and 21 Jan. it was declined by the Commons House; but in 1 Car. it was renewed by the King's Propositions, and then rather Confirmed than Abolished.

Upon Tuesday the 20 of January, the Parliament according to the Prorogation Asssembled, and the first Enquiry by them made, was, Whether the Petition of Right was Enrolled or not in the Courts at Westminster. And they finding that some Additions were Printed, together with the said Petition, they seemed concerned thereat till the King's Printer told them he had his Majesties Warrant for his so doing, and so the matter passed. Next Enquiry; What violations of the Subjects Liberty was made since the last Session; and now the matter of Mr. *Kolls* the Merchant, a Member of the Commons House, came to the subject of their Debate, whereupon Sir *Robert Philips* leads the Van, and spake as followeth:

By this Information you see how unfortunate these times are, and how full time it was for this Assembly to meet to serve his Majesty, and to serve their Country, and I am confident, that coming hither with fulness of affection, to our King and Country, all will conduce to a happy Conclusion and the King's Honour: Indeed our own great and weighty Affairs wound deep; cast your eyes which way you please, you shall see Violations on all sides; look on the Liberty of the Subject, look on the Privilege of this House, let any say if ever he saw or read the like Violations by inferiour Ministers that over-do their Command; they knew the Parry was a Parliament man, nay, they say if all the Parliament were in you, this we would do and justify it. If we suffer the Privilege of Parliament and Liberty of Subjects to be thus violated, for fear of complaint, we give a wound to the happiness of the Kingdom. The course of Justice is interrupted, and an Order in the Exchequer made for the stay of the Goods, and since there is a seizure, upon the approach of Parliament, of Goods amounting to five thousand pounds, for a pretended duty of two hundred pounds Custom, it's time to look about us.

In the first year of King *James*, by reason of the sickness that there was, the Parliament was Prorogued; and then there were some so bold as to take this Tonnage and Poundage, and then we questioned the men

that demanded it. Let us proceed with affection of duty, and make up breaches; let a Committee be appointed for the examination of these proceedings.

The matter being referred to a Committee whilst they were in Debate thereon, a Message came from his Majesty, Commanding the House to defer the Debate thereof till the next day in the afternoon, at which time he required them to attend him at the Banqueting House at White-Hall; where he spake to them as followeth:

The Kings Speech to both Houses in the Banqueting House.

THe care I have to remove all Obstacles that may hinder the good correspondency between me and this Parliament, is the cause I have called you together at this time, the particular occasion being a complaint made in the Lower House. And for you, my Lords, I am glad to take this, and all other occasions whereby you may clearly understand both my words and actions, for as you are nearest in Degree, so you are the fittest Witnesses unto Kings.

The Complaint I speak of is for staying mens Goods that denied Tonnage and Poundage, this may have an easie and short conclusion, if my words and actions be rightly understood: for by passing the Bill as my Ancestors have had it, my by-past actions will be included, and my future proceedings authorized, which certainly would not have been stuck on, if men had not imagined that I had taken these duties as appertaining to my Hereditary Prerogative, in which they are much deceived, for it ever was and still is my meaning, by the gift of my People to enjoy it, and my intencion in my Speech at the ending of the last Session concerning this point, was not to challenge Tonnage and Poundage as of right, but de bene esse, shewing you the necessity, not the right by which I was to take it, until you had granted it to me, assuring my self, according to your general professions, you wanted time, not will, to give it me.

Wherefore now having opportunity, I expect that without loss of time, you make good your professions, and so by passing of a Bill, put an end to all the Questions arising from this Subject: especially since I have cleared the only Scruple that can trouble you in this business; to conclude, let us not be jealous one of the others actions, for if I had been easily moved at every occasion, the Order you made on Wednesday last might have made me startle, there being some shew to suspect that you had given your selves the liberty to be the Inquisitors after Complaints (the words of your Order being somewhat too largely penn'd) but looking into your actions, I find you only hear Complainers, not seeking Complaints: for I am certain you neither pretend, nor desire the liberty to be Inquisitors of mens actions before particular complaint be made.

This I have spoken to shew you how slow I am to believe harshly of your proceedings; likewise to assure you, that the Houses Resolutions, nor particular mens Speeches, shall make me judge well or ill, nor doubting, but according to my example, you will be deaf to ill reports concerning me, till my words and actions speak for themselves, that so this Session beginning with confidence one towards another, it may end with a perfect good understanding between us: Which God grant.

ON Monday, Jan. 26. Mr. Secretary Cook delivered a Message from the King to the House of Commons, that the Bill for Tonnage and Poundage might be speedily taken into consideration, and that time might not be slipt; and and did very much press (in his Majesties name) the reading thereof, as a matter of weight and importance; and said, That he spake it for their

service, and that moderation in their proceedings would be of great advantage to them.

But the House must not be prescribed unto by his Majesty, but were resolved to pass by the matter of Tonnage and Poundage; and first settle what they termed matters of Religion (*viz.*) the *Arminian* Controversies, which truly had they done, they might have been the longest Parliament that ever sate in *England*; and his Majesty, for ought we know, might have been without Supply or Subsidy till this day. Whereupon the Debate growing pretty hot in that House, the Zeal of Mr. Rouse against the Popery of the fore-mentioned Tenents prompted him to speak as followeth:

Mr. Speaker,

WE have of late entred into consideration of the Petition of Right, and the violation of it, and upon good reason; for it concerns our Goods, Liberties, and Laws: but there is a Right of higher nature, that preserves for us far greater things, Eternal life, our Souls, yea, our God himself: a Religion derived to us from the King of Kings, confirmed upon us by the Kings of this Kingdom, Enacted by Laws in this place, streaming down to us in the blood of Martyrs, witnessed from Heaven by Miracles, even miraculous deliverances; and this Right, in the name of this Nation, I this day require and claim, that there may be a deep and serious consideration of the violation of it; I desire it may be considered, what new paintings are laid on the old face of the Whore of *Babylon*, to make her shew more lovely, and to draw so many Suitors to her. I desire that it may be considered, how the *See of Rome*, doth eat into our Religion, and fret into the Banks and Walls of it, the Laws and Statutes of this Realm, especially since those Laws have been made in a manner by themselves, even by their own Treasons, and bloody Designs: And since that Popery is a confused heap of Errors, casting down Kings before Popes, the Precepts of God before the Traditions of men (living and reasonable men) before dead and senseless stocks and stones; I desire that we may consider the increase of *Arminianism*, an Error that makes the Grace of God Lackey it after the will of man, that makes the Sheep to keep the Shepherd, and makes a mortal seed of an immortal God. Yea, I desire that we may look into the very belly and bowels of this *Trojan Horse*, to see if there be not men in it ready to open the Gates to *Romish Tyranny*, and *Spanish Monarchy*: for an *Arminian* is the Spawn of a Papist, and if there come the warmth of favour upon him, you shall see him turn into one of those Frogs that rise out of the bottomless Pit; and if you mark it well, you shall see an *Arminian* reaching out his hand to a Papist, a Papist to a Jesuite, a Jesuite gives one hand to the Pope, another to the King of *Spain*, and these men having kindled a fire in our Neighbour-Country, now they have brought over some of it hither, to set on flame this Kingdom also; Yea, let us further search and consider, whether these be not the men, that break in upon the Goods and Liberties of this Commonwealth; for by this means they make way for the taking away of our Religion: It was an old trick of the Devil, when he meant to take away *Job's Religion*, he begun at his Goods, saying, Lay thy hand on all he hath, and he will curse thee to thy face. Either they think thereby to set a distaste

Mr. Rouse's Speech concerning Religion.

Anno 1628. *Car. 4.*
 'state between Prince and People, or else to find
 'some other way of Supply, to avoid or break
 'Parliaments; that so they may break in upon our
 'Religion, and bring in their errors. But let us
 'do as Job did, who being constant against tempta-
 'tion, held fast his Religion, and his Goods
 'were restored to him with advantage; so if we
 'hold fast God and our Religion, these things
 'shall be added unto us: Let us consider the times
 'past now, how this Nation flourished in honour
 'and abundance, when Religion flourished amongst
 'us; but as Religion decayed, so the honour and
 'strength of this Nation decayed also; When
 'the Soul of a Commonwealth is dead, the Body
 'cannot longer over-live it. If a man meet a Dog
 'alone, the Dog is fearful, though never so fierce
 'by nature; but if that Dog have his Master by
 'him, he will set upon that man, from whence he
 'fled before. This shews, that lower natures be-
 'ing backt with the higher, increase in courage
 'and strength; and certainly man being backt with
 'Omnipotency, is a kind of Omnipotency. All
 'things are possible to him that believeth, and
 'where all things are possible, there is a kind of
 'Omnipotence. Wherefore let us now by unani-
 'mous consent and resolution of us all, make
 'a vow and covenant, henceforth to hold
 'fast, I say, to hold fast our God, and our
 'Religion; and then may we from henceforth cer-
 'tainly expect prosperity on this Kingdom and
 'Nation: And to this Covenant let every man
 'say, Amen.

But on what account these Opinions are called
 Popery, we are yet to seek, notwithstanding
 these or any of these Votes of the House of Com-
 mons: for these Opinions are Disputed in the
 Church of Rome, both one way and the other; the
Dominicans are Calvinists, and the *Jesuite* disputes
 on the side of *Arminius*; so that by this Logick, the
 Calvinian Doctrines may be call'd Popish as well as
 those of the adverse Party: for that it is most cer-
 tain (as hath been lately since observed) that
 our first Reformers were neither influenced in their
 Reformation by either the *Lutheran* or *Calvinian*
 Doctrines, but by the constant current of Antiqui-
 ty. And the way of *Melancton* (thought by some)
 most consonant thereto, was approved not only
 by Bishop *Hooper* on the Decalogue, and by Bishop
Latimer in his Sermons, but also (say they) by
 the Compiler of the Book of Articles, and the
 Book of Homilies, which are the publick Monu-
 ments of this Church in points of Doctrine; but
 the Calvinists entering the same way, there arose
 a difference in particular Judgments of their De-
 bates, the matter controverted *Pro* and *Con*, by
 some Confessors in Prison, in the time of Queen
Mary. She Dead, and our exiled Divines re-
 turning from *Geneva*, *Basil*, and *Frankford* (where
Calvin's Dictates became Oracles) brought with
 them his Opinions of Predestination, Grace and
 Perseverance, which they scattered over all the
 Church: by whose Authority and double dili-
 gence of the *Presbyterian* Party, to advance their
 holy discipline; it became universally received as
 the only true Orthodox Doctrine, and so main-
 tained in the School at *Cambridge*: insomuch that
 when *Peter Baro*, a French-man, Professor for the
 Lady *Margaret* there, reviving *Melancton's* way in
 his publick Lectures, and drawing others to the
 same persuasion, he was complained of by Dr.
Whitaker, Dr. *Wilke*, Mr. *Chaerton*, Mr. *Perkins*,
 and such like, unto the Archbishop of *Canterbury*,
 Dr. *Whigist*, to suppress that Faction; who As-
 sembling at *Lambeth*, Dr. *Richard Fletcher*, Bishop

of *London*, and Dr. *Richard Vaughan* elect of *Ran-*
gor, with the advice of Dr. *Whitaker*, Dr. *Tindal*,
 and others, all Partys to the Sute, agree on the
 Nine Articles to be sent to *Cambridge*, for com-
 posing their present Controversie, the 26 of No-
 vember 1595.

Dr. *Baro* was discouraged at the end of his first
 three years, quits his Reading, and retires home
 to *France*, leaving the University in much disor-
 der, for lack of such his abilities. Amongst his fol-
 lowers, was one Mr. *Barret*, who in his Sermon at
St. Maries, not only defended *Baro*, but offend-
 ed the Opinions of *Calvin*, *Beza*, and such others
 of the Reformators, of which he was convented
 before the Heads, and by them *May 5*. next fol-
 lowing, he was prescribed his Recantation, and
 did so, yet the contentions were disputed higher,
 the Nine Articles of *Lambeth* came down, hear-
 tened upon this occasion; otherwise perhaps they
 had not come at all.

But though these Articles were thus (and no
 otherwise) made and agreed, and made known
 to Queen *Elizabeth* by William Lord *Burleigh*, Lord
 Treasurer of *England*, and Chancellor of the Uni-
 versity, who misliked the tenents and proceedings:
 She much offended with such Innovations in the
 publick Doctrine of the Church, resolved to At-
 taint them all of *Premunire*; but upon received
 esteem at the request of that Prelate and Arch-
 bishop (whom she called her *Black Husband*) did
 favourably admit his excuse: She commanding him
 to recall and suppress those Articles, for a long
 time not a Copy thereof was to be found, though
 after by degrees they peep out. And again in the
 Conference at *Hampton-Court*, 1603. Dr. *Reynolds*
 desires, that the Nine Assertions Orthodox (as
 he styles them) concluded upon at *Lambeth*, might
 be inserted in the Book of Articles of the Church
 of *England*: the King unacquainted with such No-
 vel Doctrine, asked what they were; and was
 told as before-said, to which he answered, *That*
when such Questions arise among Scholars, the quiet-
est proceedings were to determine them in the Univer-
sity, and not to stuff the Book with all conclusions
theological; see *Conf. p. 24, 40, 41*. Now let the
 Reader judge of the matter, whether these Nine
 Assertions of this Doctrine thus authorized, are
 so Canonically confirmed as to determine them
 the Orthodox Doctrine of the Church of *England*,
 and those men for *Arminians* that do not subscribe
 to them.

This matter was referred to a Committee,
 which one nameth the first Committee for Religi-
 on that ever sate for the regulation of Religion by
 the Commons of *England*; and further they took
 upon them to enquire what persons the King had
 advanced to Ecclesiastical preferments, and of
 what persuasions, and to whom Pardons had been
 given; and though his Majesty did again press that
 House to proceed upon the Bill of Tonnage and
 Poundage; yet they prefer the matter of Religi-
 on, so they called it, for it did concern both his
 Majesty and the Subject, and *That the work of the*
Lord must not be done negligently (as the Collector
 hath it) the House was resolved into a Commit-
 tee to determine upon these grand Points, and
 thereat Mr. *Fym* spake as followeth:

TWO diseases there be (said he) the one Mr. *Fym's*
 'old, the other new; the old, Popery; Speech
 'the new, Arminianism. There be three things concern-
 'to be inquired after concerning Popery. ing Rea-
 '1. The cessation of the execution of Laws son.

'2. How

Anno 1628. 2. How the Papists have been employed and countenanced.

3. The Law violated in bringing in of superstitious Ceremonies amongst us, especially at Durham by Mr. Cozens; as, Angels, Crucifixes, Saints, Altars, Candles on Candlemas-day, burnt in the Church after the Popish manner.

For Arminianism, let it be advised.

1. That a way be open for the Truth.

2. That whereas by the Articles set forth 1652.

and by the Catechism set forth in King Edward

the Sixth's daies, and by the writing of Martin

Bucer and Peter Martyr, who were employed in

making our Articles; and by the constant pro-

fessions, sealed by the blood of so many Martyrs,

as Cranmer, Ridley, and others; and by the 36

Articles in Queen Elizabeth's time, and by the

Articles agreed upon at Lambeth, as the Doctrine

of the Church of England, which King James

sent to Dort and to Ireland, and were avowed by

us and our State; his Majesty hath expressed

himself, in preserving unity in Religion esta-

blished, though his Royal intention, notwith-

standings, hath been perverted by some to sup-

press the Truth. Let us shew wherein these late

opinions are contrary to those settled Truths,

and what men have been since preferred, that

have professed these Heresies; what pardons they

have had for false Doctrine; what prohibiting

of Books and Writings against their Doctrine,

and permitting of such Books as have been for

them: Let us enquire after the Abettors; let us

enquire also after the Pardons granted of late to

some of these, and the presumption of some

that dare preach the contrary to Truth before his

Majesty. It belongs to the duty of a Parliament

to establish true Religion, and to punish false;

we must know what Parliaments have done for-

merly in Religion. Our Parliaments have con-

firmed general Councils. In the time of King

Henry VIII. the Earl of Essex was condemned

for countenancing Books of Heresie: For the

Convocation, it is but a Provincial Synod of Can-

terbury, and cannot bind the whole Kingdom.

As for York, that is distant, and cannot do any

thing to bind us or the Laws; for the High Com-

mission, it was derived from Parliament.

Message
by Secre-
tary Cook
about
Tonnage
and Poun-
dage.

Upon Wednesday, 28 of January, Mr. Secretary Cook delivered another Message to the House concerning the precedency of Tonnage and Poundage, declaring, that his Majesty intends not thereby to interrupt them, as to Religion, so that they do not intrench on that which belongs not to them; which Message was seconded by Sir Thomas Edmonds, in these words:

Sir Thomas Edmonds.

I Am sorry the House hath given cause to so many Messages about Tonnage and Poundage, after his Majesty hath given us so much satisfaction: You may perceive his Majesty is sensible of the neglect of his business; we that know this, should not discharge our duties to you, if we should not perswade you to that course which should procure his Majesties good opinion of you: You your selves are witnesses, how industrious his Majesty was to procure you gracious Laws in his Father's time, and since, what enlargement he hath made of our Liberties, and still we give him cause to repent him of the good he hath done. Consider how dangerous it is to alienate his Majesties heart from Parliaments.

Mr. Corston Replied.

When men speak here of neglect of Duty to his Majesty, let them know, we know no such thing, nor what they mean: And I see not how we do neglect the same. I see it is in all our hearts to expedite the Bill of Tonnage and Poundage in due time: our business is still put back by these Messages, and the business in hand is of God; and his Majesties affairs are certainly amiss, and every one sees it; and woe be to us, if we present them not to his Majesty.

The House hereupon came to this Resolve, That they would first proceed upon matters of Religion, and then in due time upon the Bill of Tonnage and Poundage.

Sir John Elliot concerning Religion.

And Sir John Elliot, upon this occasion, spake to this purpose, 'I have alwaies observed (said he) that in the proceedings of this House, our best advantage is Order; and I was very glad when that noble Gentleman, my Country-man, gave occasion to state our Proceedings; for I fear it would have carried us into a Sea of confusion and disorder. And having now occasion to present my thoughts in this great and weighty business of Religion, I shall be bold to speak a few words.

There is a jealousy conceived, as if we meant to dispute in matters of Faith; it is our profession, this is not to be disputed, it is not in the Parliament to make a new Religion, nor, I hope, shall it be in any, to alter the body of the truth, which we now profess. I must confess, amongst all those fears we have contracted, there ariseth to me not one of the least dangers in the Declaration that is made and publish'd in his Majesties name, concerning Disputing and Preaching; let not this my saying bear the least suspicion or jealousy of his Majesty, for if there be any misprision or error, I hope it is those Ministers about him, which not only he, but all Princes are subject unto; and Princes, no doubt, are subject to mis-informations, and many actions may be entitled to their Names, when it is not done by themselves. Antiochus King of Asia sent his Letters and Missives to several Provinces, that if they received any dispatches in his name, not agreeable to Justice, *Ignoto se, literas esse scriptas ideoque iis non Parerent*; and the reason of it is given by Gratian, because that oftentimes by the importunity of Ministers, *Principes sepe constringuntur, ut non concedenda concedant*, are drawn to grant things by them not to be granted; and as it was in that age, so it may be in this. And now to the particular in the Declaration, we see what is said of Popery and Arminianism, our Faith and Religion is in danger by it; for like an Inundation it doth break in at once upon us. It is said, If there be any difference of Opinion concerning the seasonable interpretation of the 39 Articles, the Bishops and the Clergy in the Convocation have power to dispute it, and to order which way they please, and, for ought I know, Popery and Arminianism may be introduced by them, and then it must be received by all: A slight thing, that the Power of Religion should be left to the persons of these men; I honour their Profession, there are among our Bishops such as are fit to be made examples for all Ages, who shine in virtue, and are firm for

Anno 1628. for our Religion, but the contrary faction I like not. I remember a Character I have seen in a Diary of E. 6. that young Prince, of famous memory, where he doth express the condition of the Bishops of that time under his own hand-writing, That some for sloath, some for age, some for ignorance, some for luxury, and some for Popery, were unfit for Discipline and Government. We see there are some among our Bishops who are not Orthodox, nor sound in Religion, as they should be; witness the two Bishops complained of the last meeting of the Parliament; I apprehend such a fear, that should we be in their power, we may be in danger to have our Religion over-thrown. Some of these are Masters of Ceremonies, and they labour to introduce new Ceremonies into the Church; yet some Ceremonies are useful. Give me leave to joyn, that I hold it necessary and commendable, that at the Repetition of the Creed we should stand up, to testifie the resolution of our hearts, that we will defend the Religion which we profess; and in some Churches it is added, they did not only stand upright with their bodies, but with their swords drawn. Let us go to the ground of our Religion, and lay down a Rule, on which all others may rest; then when that is done, it will be time to take into consideration the breakers and offenders of that Rule: Hereupon, after some debate, the Commons entered into the Vow following.

The Vow of the House of Commons in Parliament.

The Commons enter into a Vow. WE the Commons in Parliament Assembled, do Claim, Protest, and Avow for Truth, the sense of the Articles of Religion, which were established by Parliament, in the Thirtieth year of our late Queen Elizabeth, which by the publick Act of the Church of England, and by the general and current Expositions of the Writers of our Church, have been delivered unto us. And we reject the sense of the Jesuites, and Arminians, and all others, wherein they differ from us.

Friday the 13 of January, 1628. both Houses joyn in Petitioning the King for a Fast.

Both Houses Petition the King for a Fast. MOST Gracious Sovereign, It is the very earnest desire of us your most dutiful Subjects, the Lords Spiritual and Temporal, and Commons in this Parliament Assembled, that this Meeting may be abundantly blessed with all happy success in the great Affairs of Church and State, upon which we are to consult, and that by a clear understanding, both of your Majesties goodness to us, and of our ever faithful and Loyal hearts to your Majesties Royal Person and Service, (all jealousies and distractions, which are apparent signs of God's displeasure, and of ensuing mischief, being removed) there may this Session, be a perfect and most happy Union and agreement between your Majesty, and all the Estates of this Realm: But acknowledging, that neither this, nor any other blessing can be expected, without the especial Favour of Almighty God, upon the observation of the continued increasing miseries of the Reformed Churches abroad, (whose Cases, with bleeding hearts, we compassionate,) as likewise of those punishments already inflicted, and

Car. 4. which are like in great measure to fall upon our selves, we have just cause to conceive, that the Divine Majesty is, for our sins, exceedingly offended against us: Wherefore we do in these, and all other pious respects, most Dread Sovereign, humbly beseech your most Excellent Majesty, by your Royal Consent and Commandment, that not only our selves, but all People of your Kingdom, may be speedily enjoined, upon some certain day, by your Majesty to be prefixed, by publick Fasting and Prayer to seek Reconciliation at the merciful hands of Almighty God; so that the Prayers of the whole Kingdom, joyned with you Majesties most Princely care, and the faithful hearts and endeavours of this Great Council assembled, may procure honour to Almighty God in the preservation of his true Religion, much honour to your Majesty, prosperity to your People, and comfort to your Majesties Friends and Allies.

The King's Answer to the Petition.

MY Lords and Gentlemen, The chief Motive of His Majesty your Petition, being the deplorable condition of the Reformed Churches abroad, is too true: And sweet our duty is, so much as in us lieth, to give them all possible help; but certainly, fighting will do them more good than fasting; though I do not wholly disallow of the latter: yet I must tell you, that the custom of fasting every Session, is but lately begun, and I confess, I am not fully satisfied with the necessity of it at this time.

Yet to shew you how smoothly I desire your business to go on, (eschewing, as much as I can, Questions or Jealousies) I do willingly grant your request herein; but with this Note, That this shall not hereafter be brought into president for frequent Fasts, except upon great occasions; and for form and time, I will advise with my Lords the Bishops, and then send you a particular Answer.

After that the Commons make the address following to his Majesty concerning their preferring the matter of Religion, so call'd, to the Bill of Tonnage and Poundage.

MOST gracious Sovereign, We have within these three daies received from your Majesty a Message, putting us in mind of our present entering upon the consideration of a Grant of Tonnage and Poundage; but the manner of possessing the House therewith being disagreeable to our Order and Priviledges, that we could not proceed therein; and finding our selves, in your Majesties Name, pressed in that business, and that we should give precedence thereunto, we cannot but express some sense of sorrow, fearing that the most hearty and forward affections, wherewith we desire to serve your Majesty, are not clearly represented unto you; besides, such is the solicitous care we have in presenting our selves in your Majesties most gracious and good opinion, that it cannot but breed much trouble in us, when ever we find our selves (as now we are enforced) to spend that time in making our humble Apologies (from whence do usually arise long Debates) which we conceive might very profitably be applied in the greater Services of your Majesty and the Commonwealth, which we did, with all humble diligence, apply our selves unto; and finding

The Commons Declaration to the King, to give precedence to Religion.

Anno 1628. *ing* the extreme dangers wherewith our Religion is threatened (clearly presenting it unto our thoughts and considerations) we thought, and we think we cannot without impiety to God, disloyalty to your Majesty, (and unthankfulness to those from whom we are put in trust) retard our proceedings until something be done to secure us in this main point, which we prefer above our lives, and all earthly things whatsoever. And here we do with all humble thankfulness acknowledge your Majesties most pious care, and Princely intentions, to suppress both Popery and Arminianism; the Professor of the one being an open enemy to the maintainer of the other, a subtle & more dangerous underminer of the Religion of Almighty God, established within your Realms & Dominions: The truth of which our whole Religion, or any part thereof (as being sufficiently known, & received generally here of all the Members of our Church, except only of some Schismatical persons, who have, of late years, taken the boldness to broach their contrary corrupt opinions) we desire should not be called in question, or doubt; but howsoever it hath pleased your Majesty, to our exceeding great comfort, by many testimonies to declare your own constant resolution to maintain the said Religion, yet we see how your gracious purposes are therein cross'd, and into what a miserable condition your whole Kingdom is likely, by that means, to be reduced; we shall earnestly endeavour (as that which both nearly concern us) the safety and prosperity of your Majesty, and People, which are in such sort disordered, that ruin thereby threatened to both, may, by God's blessing, be prevented; being most heartily sorry that these occasions are offered, which did thus hinder our proceedings: And therefore as well for the dignity and necessity of the matter, as for that we conceive it to be the most speedy and effectual way, by uniting of all our hearts and endeavours to dispatch all other business of importance, particularly those which may seem more immediately to respect your Majesties profit, we pray, that our resolutions of preferring this business before all others, may be acceptable to your Majesty, to whom, both in the matter & manner of our proceedings, we desire to give all possible satisfaction.

To which the King Answered.

His Majesty's Answer to the Commons Declaration.

Gentlemen, This Answer being somewhat long, may, in reason, require some time to reply unto it, since as most of you cannot but judge, this giveth no satisfaction. Therefore I shall give you some short Notes upon it; I cannot think, that whereas you alledge that the Bill of Tonnage and Poundage was brought in against the privilege of your House; That you will offer to take so much privilege from every one of your Members, as not to allow them the liberty to bring in any Bill whatsoever; although it be in your power, when it is brought in, to do with it what you think good; and I cannot imagine, you coming together by my power, and to treat of things that I propound unto you; though in this particular I must confess, that this Bill was not to have been offered to you in my

Name, as that Member of your House can bear witness. As for the cause of delay in my business, (being Religion) there is none of you shall have a greater care for the true preservation of it than my self, which since it is confessed by your Answer, you must either think I want power (which cannot be) or that I am very ill counselled, if it be in so much danger as you affirm: Though I may say much of this, I will say no more, but that for all this I shall not stop mine ears to you upon this subject, so that in form and matter you transgress not your limits; as for Tonnage and Poundage, I do not so much desire it out of greediness of the thing (being persuaded you will make no stop in it, when you once take it in hand) as out of a desire to put an end to those Questions that do arise between me and some of my Subjects, thinking it a strange thing, if you should give ear to those complaints, and not to take the sure and speedy way to decide them. Besides, I must think it strange, that this business of Religion should only be a hinderer of my affairs, whereas I am certainly informed all other things go according to their ordinary course; therefore I must still be instant with you, that you proceed with Tonnage and Poundage with diligence (not looking to be denied in so just a desire) and you must not think it strange, if I, finding you slack, give you such further quickning as I shall find cause.

And because the Commons were resolved to give no fair and candid Interpretation of their Sovereigns actions, that House did on the Fourth of February debate the King's Declaration published in Print, to command both the parties of *Arminian* and *Anti-Arminian* to forbear to dispute the controverted Points, which tended only to the breach of the Peace of the Church and State. They say the main end of this was to suppress the *Puritan* Party, and yet to give liberty to the contrary side, and they conceived, that Bishop *Laud* and Bishop *Montague*, mentioned in the last Remonstrance, had advised the King to that Declaration; Bishop *Laud* being advanced since the last Session of Parliament to be Bishop of *London*, and Mr. *Montague* since that time made Bishop of *Chichester*; and a Warrant was granted to the Attorney-General to draw up a Pardon for him; but whereas the Warrant was but for one, the Attorney put four into the Pardon, (*viz.*) Bishop *Montague*, Dr. *Cofens*, Dr. *Sibthorp*, and Dr. *Manning*.

And now behold another unfortunate accident happened, whereat the Commons presently took fire, on Mr. *Rolls* a Merchant; his Ware-house was lockt up by a Pursuivant, and he also himself being a Member of Parliament was call'd out of the Committee, and had a *Subpoena* served upon him; upon this the House was in a flame, but Sir *Humphrey May*, Chancellor of the Dutchy, and one of the Privy-Council, assured the House, that this neither proceeded from King nor Council, and therefore desired it might be searched into the bottom.

And this matter afterwards appeared to be a mistake, though debated after in that House. Upon a Report from the Committee about Tonnage and Poundage, Sir *John Wostenholme*, with other Customers, were call'd into the House to give information why the Merchants Goods were seized, carried into the Kings Store-house and detain'd there; they said, it was for Non-payment (as they con-

conceived) of the said duty, and other duties contained in the Book of Rates hereupon; and because Informations had been made both in the Exchequer and High Commission Court against the said Merchants upon the former account, the matter to be debated was referred to a Committee, at which Mr. Noy thus spake:

We cannot safely give, unless we be in possession, and the proceedings in the Exchequer nullified; as also the Information in the Star-Chamber, and the annexion to the Petition of Right; for it will not be a Gift, but a Confirmation; neither will I give without the removal of these interruptions, and a Declaration in the Bill, that the King hath no right, but by our free gift; if it will not be accepted, as it is fit for us to give, we cannot help; if it be the King's already, we do not give it.

The Committee report, That it was their Opinion the Merchants should have their Goods before the House entered upon the Bill for Tonnage and Poundage; and hereupon the House order that the Barons of the Exchequer do make void the Injunction, whereby the Merchants Goods were stay'd, and that they might have notice hereof; which being accordingly given them, they return'd the Answer following:

Whereas the Honourable House of Commons, by order of the Twelfth of this instant February, have appointed, that notice shall be given to the Lord Treasurer, Chancellor, and Barons of the Exchequer, of a Declaration made by Sir John Wolstenholme, Abraham Daves, and Richard Cammartham, in the House of Commons, that the Goods that the Merchants brought into the King's Store-house, and laid up there for his Majesties use, were detained, as they conceived, only for the Duty of Tonnage and Poundage, and other sums comprized in the Books of Rates; which notice was given, to the end the said Court of Exchequer might further proceed therein, as to Justice shall appertain. Now the Lord Treasurer, Chancellor, and Barons, out of their due respect to that Honourable House, and for their satisfaction, do signify, that by the Order and Injunctions of the said Court of Exchequer, they did not determine, nor any way touch upon the Right of Tonnage and Poundage, and so they declared openly in Court, at the making of these Orders; neither did they, by the said Orders or Injunctions, bar the Owners of those Goods, to sue for the same in a lawful course; but whereas the said Owners endeavoured to take the same Goods out of the Kings actual possession, by Writs or Plaints of *Replevin*, which was no lawful Action or Course in the King's case, nor agreeable to his Royal Prerogative; therefore the said Court of Exchequer, being the Court for ordering the King's Revenue, did, by those Orders and Injunctions, stay those Suits, and did fully declare by the said Orders, that the Owners, if they conceived themselves wronged, might take such remedy as the Law alloweth.

Richard Weston,
John Walter,
Tho. Trevor,

Lo. Newburgh,
John Dinham,
George Vernon.

The Answer of the Lord Chief Baron, &c. was judged not satisfactory by the Commons, and the matter refer'd to a Committee to consider, Whether these proceedings had been usual in that Court, or whether his Majesty had done this by his Prerogative.

And now a report was made from the Committee about the Pardons of Bishop Mountague, Dr. Manwaring, Dr. Cosen, and Mr. Sibthorp; they said that the two last named had solicited their own pardons, and that the Lord Bishop of Winton had procured the King to sign them, and that he had promised to procure Bishop Mountague's pardon, that Manwaring had solicited his own pardon, and that the Bishop of Winton got his Majesties hand to it. Oliver Cromwell, the late Ufurper, being of this Committee, complains against the said Bishop, saying he encouraged and patronized those who preach'd downright Popery; and if Manwaring must be pardon'd and prefer'd (saith he) what may we expect? I hope the Gentleman never thought or expected himself to be Protector, which yet after hapned.

And now a most doughty Petition comes from the Stationers of London, some of whom had their Books seized for printing (as always they have been accustomed to do) seditious and unlicensed Pamphlets, therefore they, to cry quit with the Bishop of London, complain of the restraint of Books written against Popery and Arminianism, and the contrary allowed of by the only means of Dr. Laud Bishop of London; and that divers of the Printers and Booksellers have been sent for by Pursuivants for printing Books against Popery; and that Licencing is only restrained to the Bishop of London and his Chaplains; and instanced in certain Books against Popery, which were denied to be Licensed.

Upon this Petition Mr. Selden desires that a Bill might be brought in concerning printing, there being no Law then for the prevention of any Books whatever.

Alderman Chambers of London having been informed against in the Star-Chamber for not paying the Duties of Tonnage, &c. the House took the Matter into debate, Whether he ought not to have privilege of Parliament? An unheard of thing that the Commons should protect the Merchants from Suits at Law, they not being either Members of their House, or their Menial Servants.

On Friday the Thirteenth of February, the Commons resume the Debate about the encrease of Popery, and why the Jesuits taken at Clarkenwell were not all condemn'd? They were all Priests, and certainly they had great favour. Whereupon the Secretary endeavours, but all in vain, to give them a satisfactory account of this matter: They ordered that the Attorney General, Sir Robert Heath, should be examined about this matter, who gave the Commons the account following.

Sir Robert Heath his Answer concerning the prosecution of the Priests.

I Did receive (saith the Attorney) order touching some persons taken in Clarkenwell, conceived to be Priests, from the Council-board; and for that refer myself to the Order.

And I conceive I did follow the directions of that Order.

And I did myself cause them to be sent for from the several Prisons where they were formerly committed, and I committed them all to Newgate, as the Order from the Council-board directed; and I gave directions for Indictments to be drawn against them, as for being Priests; and I sent for, and conferred with the Witnesses, and took their Informations; and I sent

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for

Anno 1628. for Mr. Long, who was formerly acquainted with that business, as I was advised to do by Mr. Secretary Cook, and desired him to take special care thereof at the Sessions. And I did not conceive, that by the Order I was directed to go thither my self; but if I had been so directed, and had so conceived it, I should not have declined the service. I know not, nor never heard of any Lands conveyed to the use of these persons, or of any Foundation there; but there was some mention made thereof in some of the Papers delivered to me by Mr. Secretary, but so generally, as I know not how to enquire thereof; but I did take care to entitle the King to the Goods, as the especial direction to me was by the Order of the Board; and the Indictment failed to be found against all but one: And I have Warrant to the Treasurers Remembrancer of the Exchequer, for a special Commission to that purpose; and I advised with Mr. Long who were fit Commissioners for that purpose; and after with Mr. Scrivener: and a Commission was granted to Gentlemen of very good quality, and an inquisition is found and returned accordingly, whereby the King is entituled to the Goods.

I had warrant from his Majesty to bail them: but for the manner of that, I must crave leave to acquaint the King therewith, before I answer any further.

I understood that an Indictment was preferred against three of them, for Treason, and I did direct Mr. Long, that if the Indictments should not be found for Treason, yet to tender them and all the rest the Oath of Allegiance, to bring them within the King's mercy, upon a Premunire, if they should refuse the Oath: and I understood the Oath was ministered to them accordingly at that Sessions; and I understood after, that the Indictment was found against one of them only to be a Priest, and that the other were quit. Therefore receiving an express commandment from the King for the bailing of them, I did conceive they were bailable, which otherwise of my self I would not have done. The Bonds I took, and kept them my self; for the Surety, I refer my self to the Bond, and understand that some of them were House-keepers in the Town.

I gave directions for Indictments to be drawn against them; but I gave no special directions, whether it should be drawn against Jesuits or Priests, but left that to the care of Mr. Long; and did not then conceive there was any difference in the substance of the Indictment for Treason between Priests and Jesuits.

I can give no special reason, why I rather bound them to appear at the Council-Table, than at the Sessions, but only this, because I received my first directions from the Council-board.

When the Sessions was past, I did enquire of Mr. Long, what was the success of these Indictments; who informed me, That one only was found guilty of being a Priest; and thereupon I gave order for the Commission before mentioned to enquire of their goods.

And being again sent unto for a clearer Answer, he said, For the Warrant which I received for the discharge of the Prisoners, and the Bond taken by me upon their deliverance, which has a dependance upon that Warrant, and whereof ye require an account, I have attended his Majesty, but yet have no leave to shew them; and the Bonds being taken but in December last, I keep them with me, as I conceive was proper for my place; but shall be ready to deliver them when I shall receive a commandment to that purpose.

And now again the Customers are call'd into the Commons House about the seizing of Mr. Rolls's goods, a Member of the House of Commons, who said, That he took Mr. Rolls's Goods by virtue of a Commission under the Great Seal, and other Warrants. That he knew Mr. Rolls demanded his Pri-

vilidge, but he did understand his Priviledge did only extend to his person, not to his goods. And he further said, He took those goods for such Duties as were due in the time of King James; and that the King had sent for him on Sunday last, and commanded him to make no other Answer.

Mr. Carmarthen, another of the Customers, being called in, said, That he knew Mr. Rolls to be a Parliament man, and told him, He did not find any Parliament man exempted in their Commission. And as for the words charged on him, that he should say, If all the Body of the House were in him, he would not deliver the goods; he answered, If he said he would not, it was because he could not.

Mr. Selden hereupon said, If there be any near the King that doth misrepresent our actions, let the curse light on them, not on us; and believe it, it is high time to vindicate our selves in this case, else it is in vain for us to sit here.

Hereupon the House is resolved into a Grand Committee to debate the matter; some were of opinion that the Customers abstracting from the King's Command and Warrant whereby they acted, should be proceeded against, and that it was but fit that his Majesties interest, and the interest of the Customers should be distinguished, though they were plainly told by the Secretary, that this would not clear his Majesties Honour, and what they had done was done by his Majesties express knowledge and command, which his Majesty also the same day avowed openly at the Council. Upon this Message of his Majesties by the Secretary, the Prelates are cried out upon in the House of Commons, and that what was done was done by those who abetted the Popish party, and indeavoured a breach 'twixt his Majesty and his good Subjects the Commons: To which one replied, We have Oyl and Vinegar before us; if you go to punish the Customers as Delinquents, there is Vinegar in the wound: Think rather of some course to have restitution. Others of another temper said, Delinquency cannot be named, but presently a breach must be intimated. When we do that which is just, let there be no fear nor memory of breaches, and let us go to the Delinquency of the men.

Upon this Sir John Elliot, the great Caius Marius, names the Bishop of Winton, and the Lord Treasurer Weston, In whose person (said he) all evil is contracted; I find him acting and building on those grounds laid by his Master the great Duke; and his spirit is moving to these interruptions, and they for fear break Parliaments, lest Parliaments should break them: I find him the Head of all the great Party; the Papists, all Jesuits and Priests derive from him their shelter and protection, &c.

Others now interposing, he was desired to go on with his Speech, and did it. After this the Speaker was desired by the House to put the Question then proposed, but he would not do it, saying, He had order from his Majesty not to do it.

Mr. Selden replies upon him, Dare not you, Mr. Speaker, put the Question we when command you? If will not put it, we must sit still; thus we shall never be able to do anything. They that come after you may say, They have the King's command not to do it. We sit here by the command of the King under the Great Seal, and you are, by his Majesty, sitting in this Royal Chair, before both Houses, appointed for our Speaker; and now you refuse to perform your Office.

Upon which the House adjourned till the 25th of February, and thence further adjourned by his Majesties command till March the second, at which time the House met, and they requiring the Speaker, as before, to put the Question; he said,

Anno 1628. I have a command from his Majesty to adjourn the House till the 10th of March, and to put no Question. And rising up from his Chair, was violently laid hands on by some of the Members, and held in the Chair whiles a Declaration or Protestation of Sir John Elliot's drawing, was read, but not without great tumult, noise, nay, some blows struck by Mr. Coriton, who beat Mr. Winterton, of which demeanor more hereafter in the Information exhibited against the said Members in the Star-Chamber. The Protestation was,

1. Whosoever shall bring in Innovation of Religion, or by favour or countenance seem to extend or introduce Popery or Arminianism, or other Opinion disagreeing from the Truth and Orthodox Church, shall be reputed a capital Enemy to this Kingdom and Commonwealth.

2. Whosoever shall counsel or advise the taking and levying of the Subsidies of Tonnage and Poundage, not being granted by Parliament, or shall be an Actor or Instrument therein, shall be likewise reputed an Innovator in the Government, and a capital Enemy to the Kingdom and Commonwealth.

3. If any Merchant or Person whatsoever, shall voluntarily yield, or pay the said Subsidies of Tonnage and Poundage, not being granted by Parliament, he shall likewise be reputed a Betrayer of the Liberties of England, and an Enemy to the same.

After this done the Door was unlock'd, and the Gentleman-Usher of the Lords House admitted, the House being before adjourned in such confusion and tumult, as you have heard, till the 10th of March; but his Majesty declares the Parliament dissolved by his Proclamation dated March the 2d. The Proclamation followeth.

By the King.

A Proclamation about dissolving of the Parliament.

Whereas We, for the general good of our Kingdom, caused our High Court of Parliament to assemble and make Prorogation the 20 day of January last past; since which time the same hath been continued. And although in this time, by the malevolent dispositions of some ill-affected persons of the House of Commons, we have had sundry just causes of offence and dislike of their proceedings; yet we resolved with patience to try the uttermost, which we the rather did, so that we found in that House a great number of sober and grave persons, well affected to Religion and Government, and desirous to preserve Unity and Peace in all parts of our Kingdom. And therefore, having on the five and twentieth day of February last, by the uniform advice of our Privy Council, caused both Houses to be adjourned until this present day, hoping in the mean time, that a better and more right understanding might be begotten between us and the Members of that House, whereby this Parliament might have a happy end and issue.

And for the same intent, we did again this day command the like Adjournment to be made, until the Tenth day of this Month: It hath so hapned, by the disobedient and seditious carriage of those said ill-affected persons of the House of Commons, that we and our Regal Authority and Commandment

have been so highly contemned, as our King's Office cannot bear, nor any former Age can parallel. And therefore it is our full and absolute resolution to dissolve the said Parliament, whereof we thought good to give notice unto all the Lords Spiritual and Temporal, and to the Knights, Citizens and Burgesses of this present Parliament, and to all others whom it may concern, that they may depart about their needful Affairs, without attending any longer here. Nevertheless we will, that they, and all others shall take notice, that we do, and ever will distinguish between those, who have shewed good affection to Religion and Government, and those that have given themselves over to faction, and to work disturbance to the peace and good order of our Kingdom.

Given at our Court at Whitehall, this second day of March, in the fifth year of our Reign of Great Britain, France and Ireland.

The next day Warrants were issued by Order of the Council, that the principal Movers and Abettors in these Actions, who were Denzil Holles Esq; Sir Miles Hobart, Sir Peter Hayman, John Selden Esq; William Coriton, Walter Long, William Strode, and Benjamin Valentine, should appear at the Board; where appeared Holles, Elliot, Coriton, and Valentine, who refusing to give any account to the Council of what was done during their sitting in the House, they were all committed close Prisoners to the Tower, and Orders were given for the sealing up the Studies of Holles, Elliot, and Selden; but Long and Strode not appearing, a Proclamation was issued out for their apprehension.

On the Tenth of March, near a week after the Commitment of these Members, his Majesty seated in his Throne in the upper House, and the Peers in their Parliamentary Robes, many of the Commons being at the Bar of that House, his Majesty spake as followeth.

The King's Speech at the dissolution of the Parliament.

My Lords,

I Never came here upon so unpleasant an occasion, it being the dissolution of a Parliament; yet before men may have some cause to wonder, why I should not rather choose to do this by Commission, it being rather a general Maxim of Kings, to leave harsh Commands to their Ministers, themselves only executing pleasing things: yet considering that Justice as well consists in reward, and praise of Vertue, as punishing of Vice, I thought it necessary to come here to day, and to declare to you and all the world, that it was merely the undutiful and seditious carriage in the lower House, that hath made the dissolution of this Parliament; and you, my Lords, are so far from being any causers of it, that I take as much comfort in your dutiful demeanour, as I am justly distasteful with their proceedings; yet to avoid their mistakings, let me tell you, that it is so far from me to adjudge all the House alike guilty,

Car. 5. *Anno* 1628. *Car. 5.* *W*ith that I know that they are many there as dutiful Subjects as any in the World, it being but some few Dippers among them that did cast this mist of untruthfulness over most of their eyes: Yet to say truth, there was a good number there, that could not be infected with this Contagion; insomuch that some did express their duties in speaking, which was the general fault of the House the last day. To conclude, as those Dippers must look for their reward of punishment, so you, my Lords, must justly expect from me that favour and protection, that a good King oweth to his loving and faithful Nobility.

And now, my Lord Keeper, do what I have commanded you.

Then the Lord Keeper said, *My Lords, and Gentlemen of the House of Commons, the Kings Majesty doth Dissolve this Parliament.*

Immediately after the Dissolution of this Parliament, his Majesty, to prevent all evil Reports which the discontented Party every where with great industry cast abroad against his Majesties proceedings, issued out his Proclamation, giving his good People to understand the Motives and Reasons that induced his Majesty to it: It followeth in its due order.

And so prevalent was the interest of our Demagogues, especially in the City of London, that two most eminent Privy Counsellors, the Bishop of London, and the Lord Treasurer Weston, were publickly libelled in the City, and the Libels thrown into the Dean of St. Pauls his Court-yard in London.

His Majesty was resolved not to let go unpunished the exorbitances of these Members of Parliament, and therefore proposes to the Judges the Questions following, to which they respectively give Answer.

Car. 5.
Anno
1629.

1. *W*hether if any Subject hath received probable information of any Treason or treacherous attempt or intension against the King or State, that Subject ought not to make known to the King, or his Majesties Commissioners, when thereunto he shall be required, what information he hath received, and the grounds thereof; to the end, the King being truly informed, may prevent the danger? And if the said Subject in such case shall refuse to be examined, or to answer the Questions which shall be demanded of him for further inquiry and discovery of the truth, whether it be not a high contempt in him, punishable in the Star-chamber, as an offence against the general Justice and Government of the Kingdom?

Sol. The Resolution and Answer of all the Justices, That it is an offence punishable as aforesaid, so that this do not concern himself, but another, nor draw him to danger of Treason or Contempt by his Answer.

2. *Whether it be a good answer or excuse, being thus interrogated, and refusing to answer, to say, That he was a Parliament-man when he received this Information, and that he spake thereof in the Parliament-house; and therefore the Parliament being now ended, he refused to answer to any such Questions but in the Parliament-house, and not in any other place?*

Sol. To this the Judges, by advice privately to Mr. Attorney, gave this Answer, That this excuse being in nature of a Plea, and an error in judgment, was not punishable, until he were overruled in an orderly manner to make another An-

swer; and whether the Party were brought in *Ore tenus*, or by Information, for this Plea he was not to be punished.

3. *Whether a Parliament-man, committing an offence against the King or Council not in a Parliamentary way, might, after the Parliament ended, be punished or not?*

Sol. All the Judges, *una voce*, answered, He might, if he be not punished for it in Parliament; for the Parliament shall not give privilege to any *contra morem Parliamentarium*, to exceed the bounds and limits of his place and duty. And all agreed, That regularly he cannot be compelled out of Parliament to answer things done in Parliament in a Parliamentary course; but it is otherwise where things are done exorbitantly, for those are not the acts of a Court.

4. *Whether if one Parliament-man alone shall resolve, or two or three shall covertly conspire to raise false slanders and rumors against the Lords of the Council and Judges, not with intent to question them in a Legal course, or in a Parliamentary way, but to blast them, and to bring them to hatred of the People, and the Government in contempt, be punishable in the Star-chamber after the Parliament is ended?*

Sol. The Judges resolve, That the same was punishable out of Parliament, as an offence exorbitant committed in Parliament, beyond the Office, and besides the duty of a Parliament-man.

Upon the Seventh of May the Attorney General, Sir Robert Heath, by order from his Majesty, exhibits an Information in the Star-chamber against Sir John Elliot, &c.

To the Kings most Excellent Majesty.

*H*umbly sheweth and informeth unto your most excellent Majesty, Sir Robert Heath Kt. your Majesties Attorney General, for and on your Majesties behalf, That whereas by the ancient and fundamental Laws of this Kingdom, the High Court of Parliament consisteth of the Lords Spiritual and Temporal in the Lords House, and of the Knights, Citizens and Burgesses in the Commons House of Parliament, and those two Houses thus composed, do together make up that great and honourable Body, whereof your most Excellent Majesty, as the Supreme Sovereign, is the Head: and whereas the Power of Summoning and Assembling of Parliaments, and of Continuing, Proroguing, Adjourning, and Dissolving thereof within this Realm at your good pleasure, is the undoubted Right of your Majesty; and the liberty and freedom of Speech, which the Members of the said Houses of Parliament have, according to the Privileges of those several Houses, to debate, consult, and determine of those things which are propounded amongst them, is, and ever hath been, and ought to be, limited and regulated within the bounds of Moderation and Modesty, and of that Duty which Subjects owe to their Sovereign: and whereas your Majesty, for many weighty causes, and for the general good and defence of the Church and State of this your Kingdom, lately summoned a Parliament to be holden at your City of Westminster, the 17th day of March, in the third year of your Majesties Reign, which continued from thence by Prorogation until the 20th day of January last; from which day, until the 25th day of February following, the said Houses continued sitting. And although the great part of the House of Commons, being zealous of the Common Good, did endeavour to have effected

Anno 1629. effected those good things for which they were called thither; yet between the said 20th day of January, and the said 25th day of February, by the malevolent disposition of some ill-affected Members of the said House, sundry Diversions and Interruptions were there made, and many Jealousies there unjustly raised and nourished, to the disturbance of those orderly and Parliamentary proceedings, which ought to have been in so grave a Council. During which time of the said last Meeting in Parliament, as aforesaid, so it is, may it please your most excellent Majesty, that Sir John Elliot Kt. then and all the time of the said Parliament, being one of the Members of the said Commons House, wickedly and maliciously intending, under a feigned colour and pretence of debating the necessary Affairs of the present Estate, to lay a scandal and unjust aspersion upon the Right Honourable the Lords, and others of your Majesties most Honourable Privy Council, and upon the Reverend Judges, and your Counsel learned, and as much as in him lay to bring them into the hatred and ill opinion of the people; after the said 20th day of January, and before the said 25th day of February last, did openly and publicly in the said House of Commons, falsely and maliciously affirm, That your Majesties Privy Council, all your Judges, and your Counsel learned, had conspired together to trample under their feet the Liberties of the said Subjects of this Realm, and the privileges of that House. And further, so it is, may it please your most Excellent Majesty, that when your Majesty, upon the 25th day of February, had, by Sir John Finch Kt. then Speaker to the said House of Commons, signified your Royal pleasure to the said House, that the said House of Commons should be instantly adjourned until the second day of March then following, he the said Sir John Elliot, and Denzil Holles Esq; Benjamin Valentine Gent. Walter Long Esq; William Corison Esq; William Strode Esq; John Selden Esq; Sir Miles Hobert and Sir Peter Hayman, Knights, all Members at that time of the said Commons House, conceiving with themselves, that your Majesty, being justly provoked thereto, would speedily dissolve that Parliament; they the said Sir John Elliot, Denzil Holles, Benjamin Valentine, Walter Long, William Corison, William Strode, John Selden, Sir Miles Hobert, and Sir Peter Hayman, and every of them, by unlawful confederacy and combination between them in that behalf before had, did maliciously resolve, agree, and conspire, how and by what means, before that Parliament should be dissolved, they might raise such false and scandalous rumours against your Majesties Government, and your Counsellors of Estate attending your person, that thereby as much as in them lieth, they might disturb the happy Government of this Kingdom, by and under your Majesty; interrupt the course of Traffick and Trade; discourage your Merchants, and raise Jealousies and Suspitions in the hearts of your People, that the sincerity of the true Religion professed and established in this Kingdom, was neglected: and in pursuance of this their resolution and confidence aforesaid, the said Sir John Elliot, with the privy and consent of the said Denzil Holles, and all other the said Confederates, did prepare a Paper or Writing, wherein he had written, or caused to be written, divers false and scandalous Assertions touching your Majesties Government; and touching the persons of divers of your Privy Council, which he and they resolved, and conspired, and agreed, should be delivered into the said House of Commons, and there publicly read, to the wicked and seditious

intents and purposes aforesaid, and not with any purpose or opinion that those things that were therein contained, if they, or any of them had been true, as indeed they were not, should or could be at that time entertained, or pursued in any Legal or Parliamentary way, but meerly and only to express and vent his and their own malice and disaffection of your Majesty and your happy Government: And your Majesty, upon the said second day of March now last past, having signified your Royal pleasure unto the said Sir John Finch, then the Speaker of that House, That the said House should then be presently adjourned until the 10th day of the said Month of March, without any further speech or proceedings at that time; and the said Speaker then delivered your Majesties pleasure and commandment to the said House accordingly, and declared unto them your Majesties express charge and command unto him, That if any should notwithstanding disobey your Majesties command, that he must forthwith leave the charge, and wait upon your Majesty: unto which commandment of your Majesty, and signification of your Royal pleasure in that behalf, for a present Adjournment of the House, the greatest number of the Members of that House, in their Duty and Allegiance unto your Majesty, were willing to have given a ready obedience, as the Lords Spiritual and Temporal of the Lords House, upon the very same, upon the like signification made unto them of your Majesties pleasure, by your Lord Keeper of your Great Seal of England, the Speaker of that House had done: yet so it is, may it please your most Excellent Majesty, that the said Sir John Elliot, for the satisfying of his own malice and disloyal affections to your Majesty, and by the confederacy and agreement aforesaid, and in a high contempt and disobedience unto your Majesties command, aforesaid, and with set purpose to oppose your Majesties said command, did stand up, and several times offered to speak. Whereupon the said Speaker, in obedience to your Majesties said command, endeavouring to have gone out of the Chair, the said Denzil Holles and Benjamin Valentine, being then next the Speaker's Chair, and the one of them on the one hand, and the other of them on the other hand of the Speaker (where they so placed themselves of purpose on that day) out of their disobedience to your Majesty, and by the confederacy and agreement aforesaid, violently, forcibly, and unlawfully, and with purpose to raise a tumult in the said House, kept and held the said Speaker in the said Chair, against his Will; and the said Speaker again endeavouring to leave the Chair, and having then gotten out of the Chair, they, the said Denzil Holles and Benjamin Valentine laid violent hands upon the said Speaker, forcibly and unlawfully, and by strong hand thrust him into his Chair again; and then the said Sir John Elliot again stood up, and used these speeches; (*viz.*) We have prepared a short Declaration of our intentions, which I hope shall agree with the Honour of the House, and the Justice of the King. And with that he threw down a Paper into the floor of the said House, desiring it might be read: and the said Denzil Holles, Benjamin Valentine, and all other the Confederates aforesaid, in disobedience and high contempt of your Majesties said command, called and cried out to have the same Paper read. But some others of the House spake to the contrary, that it might not be read; and the House thereupon, by reason of the disorderly behaviour of the said Confederates, was much troubled, many pressing violently and tumultuously to have the said Pa-

Anno per read, and others dutifully and diligently urging
1629. the contrary, to the great disquiet and discomfort
 of many well-affected Members of that House.
 And the said *William Coriton*, in this distemper, de-
 meaned himself so passionately and violently, that
 he then & there violently, forcibly, and unlawfully
 assaulted and struck *Wimerton*, Gent. then being a
 Member of the said House: and divers of the
 Members of the said House being then desirous,
 and endeavouring to have gone out of the said
 House, the said *Sir Miles Hobart* did, of his own
 head, lock the door of the said House, and kept
 the Key thereof, and imprisoned the Members of
 the said House, being then in the said House a-
 gainst their wills, so that none of them could go
 out. And the said *William Strode*, for the further
 expressing of his malignity and undutifulness to-
 wards your Majesty, and in pursuance of the a-
 greement and confederacy aforesaid, openly mo-
 ved, and with much earnestness urged, that the
 said Paper or Declaration might be first read, to
 the end (as he then, in great contempt of your
 Royal Majesty, said) that we, meaning the Mem-
 bers of the House, may not be turned off like scat-
 tered Sheep, and sent home as we were last Ses-
 sions, with a scorn put upon us in Print; meaning
 thereby the words which your Majesty, in your
 own Person, spake at the ending of the last Ses-
 sion, and caused the same to be printed: And the said
Strode, in a very disorderly manner, further moved,
 That all those who would have the said Paper read
 should stand up; which divers of them thereupon
 did do accordingly, and he the said *Strode* amongst
 others did stand up; and in this heat of contention,
 and height of disobedience, by the confederacy a-
 foreaid, to have the said Paper read, the said *Sir*
Isaac Hayman, with rough and reproachful words,
 reprov'd the said Speaker, for being constant and
 resolute in his obedience to your Majesty, in not
 putting the reading of the said Paper to the Que-
 stion, as by all the said Confederates, with many
 Reasons and Arguments he was urged to do: and
 the said *Sir P. Hayman* then further said, That the
 said Speaker was made an Instrument to cut up the
 Liberty of the Subjects by the roots. But when by
 no means the said Speaker would be drawn to tran-
 sgress your Majesties Royal command aforesaid,
 and lest the said Paper should not be read, the said
John Selden moved, that the Clerk of the said
 House might read the same: And when the said
Sir John Elliot found, that he and his Confederates
 aforesaid, could not procure the said Paper to be
 read, he, the said *Sir John Elliot*, to the end he
 might not lose that opportunity to vent and pub-
 lish those malicious and seditious Resolutions,
 which he and his Confederates had collected and
 prepared as aforesaid, took back the said Paper
 again, and then immediately in the said House
 said, *I shall now express that by Tongue, which this Pa-*
per should have done; and then spake these words:
The miserable condition we are in, both in matters of
Religion and Policy, makes me look with a tender eye
both to the Person of the King, and to the Subjects.
 And then speaking of them whom he intended to
 be ill Instruments in this State, at whom he prin-
 cipally aimed, he said, *There are amongst them some*
Frelaues of the Church, the great Bishop of Winche-
ster and his Fellows; it is apparent what they have
 done, to cast an aspersion upon the honour and piety, and
 goodness of the King. These are not all, but it is ex-
 tended to some others, who, I fear, in guilt of Consci-
 ence of their own defects, do joyn their power with that
 Bishop and the rest, to draw his Majesty into a jealousy
 of the Parliament; amongst whom, I shall not fear

to name the great Lord Treasurer, in whose Person I
 fear is contracted all that which we suffer. If we
 look into Religion or Policy, I find him building upon
 the ground laid by the Duke of Buckingham his great
 Master; from him, I fear, came those ill Counsels which
 contracted that unhappy conclusion of the last Session of
 Parliament; I find, that not only in the affections of
 his heart, but also in relation to him, and I doubt not
 to fix it indubitably upon him: and so from the power
 and greatness of him, comes the danger of our Religion.
 For Policy in that great Question of Tonnage and
 Poundage, the interest which is pretended to be the
 King's, is but the interest of that Person so undermine
 the Policy of this Government, and thereby to weaken
 the Kingdom, while he invites Strangers to come in to
 drive our Trade, or at least our Merchants to Trade in
 Strangers Bottom, which is as dangerous. Therefore
 it is fit to be declared by us, that all that we suffer, is
 the effect of new Counsels, to the ruine of the Govern-
 ment of the State; and to make a Protestation against
 all those Men, whether greater or subordinate, that
 they shall all be declared as capital Enemies to the King
 and Kingdom, that will persuade the King to take
 Tonnage and Poundage without grant of Parliament,
 and that if any Merchants shall willingly pay those Du-
 ties without consent of Parliament, they shall be decla-
 red as Accessories to the rest. Which words of the
 said *Sir John Elliot*, were by him uttered as afo-
 said, falsely, and maliciously, and seditiously, out of
 the wickedness of his own affections towards your
 Majesty, and your gracious and religious Govern-
 ment, and by the confederacy, agreement, and
 privity of the said other Confederates, and to lay
 a slander and scandal thereupon, and not with a
 purpose, or in a way to rectifie any thing which he
 conceived to be amiss, but to traduce and blast
 those persons against whom he had conceived ma-
 lice; for so himself the same day in that House
 said, and laid down as a ground for that he in-
 tended to say, *That no man was ever blasted in that*
House, but a curse fell upon him.

And further, so it is, may it please your most
 Excellent Majesty, That when the said *Sir John*
Elliot had thus vented that malice and wickedness
 which lay in his heart, and as appeareth by his own
 words, were expressed in the said Paper, which
 was prepared as aforesaid, the said *Walter Long*,
 out of his inveterate malice to your Majesty, and
 to your Affairs, and by the confederacy aforesaid,
 then and there said, *That man who shall give away*
my Liberty and Inheritance (I speak of the Merchants)
I note them for capital Enemies to the Kingdom. And
 lest the hearers should forget these wicked despe-
 rate Positions laid down as aforesaid, and to the
 end the same might have the deeper impression,
 and be the more divulged abroad to the prejudice
 of your Majesty, and of your great Affairs, and
 to the scandal of your Government, the said *Den-*
zil Holles collected into several Heads what the
 said *Sir John Elliot* had before delivered out of that
 Paper, and then said, *Whoever shall counsel the ta-*
king up of Tonnage and Poundage, without an Act of
Parliament, let him be accounted a capital Enemy to
the King and Kingdom. And further, *What Mer-*
chants soever shall pay Tonnage and Poundage without
an Act of Parliament, let him be counted a Betrayer of
the Liberty of the Subjects, and a capital Enemy to the
King and Kingdom.

Which Positions thus laid, the said *Denzil Hol-*
les, neither being Speaker, nor sitting in the Chair
 as in a Committee by direction of the House, but
 in an irregular way, and contrary to all course of
 orderly proceedings in Parliament, offered to put
 these things so delivered by him as aforesaid, to the
 Que-

Anno 1629. Question, and drew from his Confederates afore-
said an applause and assent, as if these things had
been voted by the House.

And further: so it is, may it please your most
Excellent Majesty, That the disobedience of the
said Confederates was then grown to that height,
that when *Edward Grimston*, the Serjeant at Arms
then attending the Speaker of that House, was
sent for by your Majesty, personally to attend your
Highness, and the same was made known in the
said House, the said Confederates notwithstanding
at that time, forcibly and unlawfully kept the said
Edward Grimston locked up in the said House, and
would not suffer him to go out of the House to
attend your Majesty: And when also, on the same
day, *James Maxwell* Esq; the Gentleman-Usher of
the Black-Rod, was sent from your Majesty to the
said Commons House, with a Message immedi-
ately from your Majesties own person, they the said
Confederates utterly refused to open the door of
the House, and to admit the said *James Maxwell* to
go to deliver his Message. After all which, the
said House was then Adjourned until the said
Tenth day of *March* then following; and on the
said Tenth day of *March* the said Parliament was
Dissolved and ended. In consideration of all which
Premisses, and forasmuch as the contempt and
disobedience of the said *Sir John Elliot*, and other
the Confederates aforesaid, were so great, and so
many, and unwarranted by the privilege and due
proceeding of Parliament, and were committed
with so high a hand, and are of so ill example, and
so dangerous consequence, and remain all unpard-
oned. Therefore they prayed a Process against
them, to answer their contempts in the High
Court of *Star-Chamber*.

Memorandum, That the 29 of *May*, *Anno* quin-
to *Car. Reg.* these words, viz. After all which,
the said House was then Adjourned until the said
Tenth day of *March*; and on the said Tenth day
of *March* the said Parliament was Dissolved and
ended; were added and inserted by order of
the Court, immediately before, In tender con-
sideration, &c.

And at the same time Alderman *Chambers* was
proceeded against by his Majesties Attorney in the
said Court of *Star-Chamber*, and he was fined and
sentenced for saying these words derogatory to his
Majesties good Government, &c. That the *Mer-
chants* in England were more screwed than in Turkey,
or words to that effect. He was tendered a Re-
cantation and Submission, but he utterly refused
it; and by his wilfulness was at last reduced to
want. He Petitions *Olivers* Parliament in 1656:
for relief, but in vain.

His Majesty afterwards was pleased to proceed
against the Members of the House of Commons
imprison'd in the Tower, at the Common Law by
way of Information in the King's Bench, the Court
was content that they should be bailed, but they
refused to be of good behaviour, or to find Sure-
ties; therefore in the same Term this Information
is brought against *Sir John Elliot*, That he intend-
ing to stir up Discord, Evil-will, Murmuring, and
Seditions against the King's Majesty, &c. did falsely
and maliciously on the 23 of February, 4 *Car.* utter
these words, That the King's Privy Council, his Judges,
and his Counsel Learned, have conspired together

to trample under their feet the Liberties of the Sub-
jects of this Realm, and the Liberties of this House.
And that *Denzil Holles* and *Benjamin Valentine*,
after the King's pleasure signified to Adjourn the House
of Commons, did detain the Speaker, *Sir John Finch*,
in his Chair Vi & Armis, manu forti & illicita,
and the said *Sir John Finch* endeavouring to get out of
the Chair, and being out of it, they assaulted him in
the House, and evilly entreated him, violently, manu
forti & illicita, drew him into the Chair again;
whereupon great Tumults were raised in the House a-
gainst their Allegiance, in contempt of the King's
Crown and Dignity, for which &c.

Whether such Actions of these Members of
Parliament, called together by their Sovereign to
treat of some arduous Affairs which respect the
King's Crown and Dignity, now flying over the
Seas, or in former Parliaments influenced the
Commonalty of France to raise Commotions a-
gainst the Clergy of France in their Parliaments,
(we say not;) most certain it is, That the King
of France discontinued the Assemblies of the three
Estates upon far less provocations; for from the
ancient constitution of that Assembly it continu-
ed to the Year 1614. when first the third Estate,
representing (ours) [their Commons] encroach-
ed too busily upon their Clergy, and some pre-
eminency of the Nobility, enjoyed by favour of
their former Kings, so offended the Royalty, that
he resolved to Dissolve them, and never admit the
like, (the Justice of which Act we dispute) the
future Kings follow that President, yet with some
regret his Subjects remembering a former Constitu-
tion, it was therefore devised to communicate
with his People in another manner, called *L'assem-
ble des Notables*, some selected Persons out of each
Order of Estate, of his own election or naming;
and to them were added some Counsellor out of e-
very particular Court of Parliament (there being
eight of them in all France) through that King-
dom, and so being fewer in number, would not
breed such a confusion as the general Assembly of
States had done before. Their Acts are as oblig-
ing to all sorts of Subjects, as the others were,
only from Comptrollers they are become good
Counsellors still: And with this course the Estates
and People are as yet content, they thinking per-
haps it no shame to submit to that Power which it will
be Sin to resist.

In *Hillary* Term the Case of *Mr. Long*, one of the
Parliament men, came to a hearing in the *Star-
Chamber*; For that he being chosen Sheriff of the
County of Wilts, in or about November, in the third
year of his Majesties Reign, and received his Patent
of Sheriffwick for the said County about ten days after,
and that he took an Oath before one of the Masters of
the Chancery, for the due execution of the said Office of
Sheriff of the said County. In which Oath, as ap-
pear'd by the same there read in Court, he did
swear, That he would in his own person remain
within his Bayliffwick during all the time of his
Sheriffwick, unless he had the King's Licence to the
contrary; and that at an Election of Citizens for
the said City of Bath, the said Defendant Long
was chosen one of the Citizens to serve for the said
City of Bath in the Parliament then summoned, to
be holden and commence upon the 17th day of
March in the said third year of his Majesties reign;
and being so chosen, and returned by the Sheriff
of the County of Somerset, notwithstanding his
said Oath taken to remain in his proper person,
within

Anno 1629. within his Bayliffwick, unless he were licensed by his Majesty, he the said Defendant did make his personal appearance in the Commons House of Parliament, at the City of Westminster, in the County of Middlesex, and did, during the most part of the said Parliament, continue in and about the City of London and Westminster, and did attend in the Parliament as a Citizen for the said City of Bath: during all which time he likewise was, and continued High Sheriff for the said County of Wilts., and had no particular Licence from his Majesty to the contrary.

To this Information he put in his Demurrer and Plea, which by the Court were judged of no weight, but that also they were in derogation of the Jurisdiction of that High and Honourable Court, it was adjudged by the said Court, That the said Defendant should stand and be committed to the Prison of the Tower, there to remain during his Majesties pleasure, and also pay a Fine of Two thousand Marks to his Majesties use; and further, make his humble submission and acknowledgment of his offence both in the Court of Star-chamber, and to his Majesty, before his thence enlargement.

In this Term likewise the Attorney General Sir Robert Heath, prosecuted his Information against Sir John Elliot, and argued in defence of the said Information, upon which the whole Court agreed, That the Court of Kings Bench, as the Case now is, shall have Jurisdiction, although the Offences were committed in Parliament; and that the Members imprisoned ought to Answer. And more particularly Judge Jones delivered himself thus, That this Court hath power to punish Offences committed criminally in Parliament. Quia interest Reipublicæ ut maleficia non maneat impunita.

It hath been objected, That the Parliament is the Superiour Court to this, therefore this Court cannot examine their proceedings.

To this I say, That we do not question the judgments of Parliaments, but their particular Offences.

2. Object. It is a Priviledge of Parliament, whereof we are not competent Judges.

To this I say, That *privilegium est privata Lex & privat legem*. And 8 Eliz. (which was cited by Mr. Attorney) it was the Opinion of Dyer, Oatlyn, Welsh, Brown, and Southcot, Justices, That offences committed in Parliament might be punished out of Parliament. And 3 Ed. 5. 19. it is good Law. And it is usual near the end of Parliaments to set down some petty punishment upon offenders in Parliament, to prevent other Courts. And I have seen a Roll in this Court, in 6 H. 6. where Judgment was given in a Writ of Annuity in Ireland, and afterward the said Judgment was reversed in Parliament in Ireland; upon which Judgment, Writ of Error was brought in this Court, and reversed.

Hide, Lord Chief Justice, argued to the same purpose, and said, That the Reasons were the same which the Defendants had formerly offered to the Judges at Serjeants Inn in Fleetstreet, when it was resolved by them all, That any offence committed in Parliament (that being ended) might be punished out of Parliament, and that this Court was the fittest Court for that purpose.

Whitlock's opinion was the same, who said, *The Question was 'twixt some private Members of the House of Commons and the King, not betwixt the King and Parliament, &c.*

That the King well may question the Members for such their offences, that in every Commonwealth there is one Supereminent Power, which is not subject to be questioned by any other; and that is the King in this Commonwealth, who, as Bralton saith, *Solum Deum habet ultorem*. But no other within the Realm hath this Priviledge. It is true, That that which is done in Parliament by consent of all the House, shall not be questioned elsewhere; but if any private Members, *Exeunt personas judicium, & induunt malefacientium personas, & sunt seditiosi*.

Justice Crook, one of the Judges who argued against the levying of Ship-money, was very positive; he said, That the offences of these Members were punishable in this Court, or no where, nay, that all offences against the Crown were here to be punished: Indeed what was done in a Parliamentary way cannot here be punished; but what is done there in such a way, as now is pretended, falsely and unlawfully, that cannot be in a Parliamentary course, and therefore their offences, if such, are punishable here.

And accordingly the Defendants were ordered to plead further, which they not doing, Judgment was on the last day of the Term given against them by a *Nihil dicit*, and the Judgment was delivered by Judge Jones to this purpose; That forasmuch as the Defendants had admitted the Information as true, and that the Court had Judged their Plea insufficient, both for matter and manner; And that the Court did not go about to draw the true Liberties of Parliament men into question for such things as they do or speak in a Parliamentary manner; but in this Case, he said, that there was a Conspiracy betwixt the Defendants to raise Sedition and Discord 'twixt the King and his People: And therefore the Court gave Sentence,

1. That every of the Defendants shall be imprisoned during the Kings pleasure: Sir John Elliot to be imprisoned in the Tower of London, and the other Defendants in other Prisons.

2. That none of them shall be delivered out of Prison until he give security in this Court for his good behaviour, and have made submission and acknowledgment of his offence.

3. Sir John Elliot, inasmuch as we think him the greatest Offender, and Ringleader, shall pay to the King a Fine of Two thousand pounds; and Mr. Holles, a Fine of One thousand Marks; and Mr. Valentine, because he is of less ability than the rest, shall pay a Fine of Five hundred pounds. And with Judge Jones all the rest of the Judges of that Court agreed.

His

His Majesties Declaration to all His Loving Subjects, of the Causes which moved Him to Dissolve the last Parliament, March 10. 1628.

Howsoever Princes are not bound to give account of their Actions but to God alone; yet for the satisfaction of the Minds and Affections of our loving Subjects, We have thought good to set down thus much by way of Declaration, that We may appear to the World in the Truth and Sincerity of Our Actions, and not in those Colours, in which We know some Turbulent and Ill-affected Spirits (to Masque and Disguise their Wicked Intentions, Dangerous to the State) would Represent Us to the Publick View.

We Assembled Our Parliament the 17th. day of March, in the third Year of Our Reign, for the safety of Religion, for securing Our Kingdoms and Subjects at home, and Our Friends and Allies abroad. And therefore at the first sitting down of it, We declared the Miserable Afflicted Estate of those of the Reformed Religion in Germany, France, and other parts of Christendom; the Distressed Extremities of Our dearest Uncle, the King of Denmark, chased out of a great part of his Dominions; the strength of that Party which was United against Us; That (besides the Pope and the House of Austria, and their Antient Confederates) the French King Professed the Rooting out of the Protestant Religion; That, of the Princes and States on Our party, some were Over-run, others Diverted, and some disabled to give Assistance. For which, and other Important Motives, We Propounded a speedy supply of Treasure, answerable to the necessity of the Cause.

These things in the beginning were well Resented by the House of Commons, and with much Alacrity and Readiness, that they agreed to grant a Liberal Aid: But before it was brought to any Perfection, they were Diverted by a Multitude of Questions, raised amongst them, touching their Liberties and Privileges, and by other long Disputes, that the Bill did not pass in a long time; and by that delay, Our Affairs were put into a far worse case than at the first; Our Forreign Actions then in hand being thereby Disgraced and Ruined, for want of timely help.

In this, as We are not willing to Derogate from the merit and good Intentions of those Wise and Moderate men of that House, (to whose forwardness We Attribute it, that it was Propounded and Resolved so soon) so We must needs say, that the delay of passing it when it was Resolved, occasioned by causeless Jealousies, stirred up by Men of another Temper, did much lessen both the Reputation and Reality of that Supply. And their spirit, Infused into many of the Commissioners and Assessors in the Country, hath returned up the Subsidies in such a Scanty Proportion, as is infinitely short, not only of Our great Occasions, but of the Presidents of former Subsidies, and of the Intentions of all well-affected men in that House.

In those large Disputes, as We Permitted many of Our High Prerogatives to be Debated, which in the best times of Our Predecessors had

never been questioned, without Punishment or sharp Reproof; so We did endeavour to have shortened those Debates, for Winning of time, which would have much advantage Our great Affairs, both at Home and Abroad. And therefore both by Speeches and Mellages, We did often Declare Our Gracious and clear Resolution, to maintain, not only the Parliament, but all Our People, in their Antient and Just Liberties, without either Violation or Diminution; and in the end, for their full Satisfaction and Security, did, by an Answer, Framed in the Form by themselves desired, to their Parliamentary Petition, confirm their Antient and Just Liberties and Rights, which We Resolve, with all Constancy and Justice, to maintain.

This Parliament, howsoever besides the settling Our necessary Supply, and their own Liberties, they wasted much time in such Proceedings, (blasting Our Government) as We are unwilling to to remember, yet We suffered them to sit, until themselves desired Us to appoint a time for their Recess, not naming either Adjournment or Prorogation.

Whereupon by advice of Our Council, We resolved to Prorogue and make a Session; and to that end prefixed a day, by which they might (as was meet in so long a Sitting) finish some profitable and good Laws; and withal gave order for a Gracious Pardon to all Our Subjects: which, according to the use of Former Parliaments, passed the Higher House and was sent down to the Commons. All which being Gratioussly intended by Us, was ill Entertained by some Disaffected persons of that House, who by their Artifices, in a short time raised so much Heat and Distemper in the House, for no other Visible cause, but because We had declared Our Resolution to Prorogue, as Our Council Advised, and not to Adjourn, as some of that House (after Our Resolution declared, and not before) did manifest themselves to affect: That seldom hath greater Passion been seen in that House, upon the greatest occasions. And some Glances in the House, but upon open Rumors abroad, were spread, That by the Answer to the Petition, We had given away, not only Our Impositions upon Goods, Exported and Imported, but the Tunnage and Poundage, (whereas in the Debate and Hammering of that Petition, there was no Speech or mention of either House concerning those Impositions, but concerning Taxes and other Charges within the Land; much less was there any thought thereby to debar Us of Tunnage and Poundage, which, both before and after the Answer to that Petition, the House of Commons, in all their Speeches and Treaties, did profess they were willing to Grant.) And at the same time, many other Misinterpretations were raised of that Petition and Answer, by men, not well distinguishing between well ordered Liberty, and Licentiousness; as if by Our Answer to that Petition, We had let loose the Reins of Our Government. And in this distemper, the House of Commons, laying aside the Pardon, (a thing never done in any former Parliament) and other business, fit to have been concluded in Session, some of them went about to Frame and Contrive a Remonstrance against Our receiving of Tunnage and Poundage, which was so far proceeded in the Night before the prefixed time, for concluding the Session, and so hastned by the Contrivers thereof, that they

Anno 1628. meant to have put it to the Vote of the House the next Morning, before We should Prorogue that Session. And therefore finding Our Gracious Favours in the Session, afforded to Our People, so ill requited, and such Sinister strains made upon Our Answer to that Petition, to the Diminution of Our Profit, and (which was more) to the danger of Our Government: We resolved to prevent the finishing of that Remonstrance, and other dangerous Intentions of some ill-affected persons, by ending the Session the next Morning, some few Hours sooner than was expected; and by Our Own Mouth to declare to both Houses the cause thereof; and for hindring the spreading of those Sinister Interpretations of that Petition and Answer, to give some necessary directions, for settling and quieting Our Government, until another Meeting; which We performed accordingly the Six and Twentieth of June last.

The Session thus ended, and the Parliament risen, that intended Remonstrance gave Us occasion to look into the business of Tunnage and Poundage. And therefore, though Our necessities pleaded strongly for Us, yet We were not apt to strain that point to far, but resolved to guide Our Self by the practise of former Ages, and Examples of Our most Noble Predecessors, thinking those Counsels best warranted, which the Wisdom of former Ages, Concurring with the present Occasions, did approve; and therefore gave Order for a diligent search of Records: Upon which it was found, That although in the Parliament holden in the first Year of the Reign of King *Edward* the Fourth, the Subsidy of Tunnage and Poundage was not Granted unto that King, but was first Granted unto him by Parliament in the third Year of his Reign; yet the same was accounted and answered to that King, from the first day of his Reign, all the first and second Years of his Reign, and, until it was Granted by Parliament. And that in the succeeding times of King *Richard* the Third, King *Henry* the Seventh, King *Henry* the Eighth, King *Edward* the Sixth, Queen *Mary*, and Queen *Elizabeth*, the Subsidy of Tunnage and Poundage was not only enjoyed by every of those Kings and Queens, from the death of each of them Deceasing, until it was Granted by Parliament unto the Successor; but in all those times, (being for the most part peaceable, and not Burdened with like Charges and Necessities, as these Modern times) the Parliament did most readily and Cheerfully, in the beginning of every of those Reigns, Grant the same, as a thing most necessary for the Guarding of the Seas, Safety and Defence of the Realm, and Supportation of the Royal Dignity. And in the time of Our Royal Father of Blessed Memory, he enjoyed the same a full Year, wanting very few days, before his Parliament began; and above a Year before the Act of Parliament for the Grant of it was passed. And yet when the Parliament was Assembled, it was Granted without difficulty. And in Our Own time, We quietly received the same three years and more, expecting with Patience, in several Parliaments, the like Grant thereof, as had been made to so many of Our Predecessors; the House of Commons still professing, That Multitude of other Businesses, and not want of willingness on their part, had caused the settling thereof to be so long deferred. And therefore finding so much Reason and Necessity, for the receiving of the ordinary Duties in the Custom-house, to Concur with the Practise

of such a Succession of Kings and Queens, Famous for Wisdom, Justice, and Government; and nothing to the contrary, but that intended Remonstrance, hatched out of the passionate Brains of a few particular persons; We thought it was so far from the Wisdom and duty of a House of Parliament, as we could not think, that any Moderate and Discreet man, (upon Composed Thoughts, setting aside Passion and Distemper) could be against receiving of Tunnage and Poundage; especially since We do, and still must, pursue those ends, and undergo that charge, for which it was first Granted to the Crown; It having been so long and constantly continued to our Predecessors, as that in four several Acts of Parliament for the Granting thereof to King *Edward* the Sixth, Queen *Mary*, Queen *Elizabeth*, and Our Blessed Father, it is in expresse terms mentioned, to have been had and enjoyed by the several Kings, named in those Acts, time out of mind, by Authority of Parliament. And therefore upon these reasons, We held it agreeable to Our Kingly Honour, and necessary for the Safety and Good of our Kingdom, to continue the Receipt thereof, as so many of our Predecessors had done. Wherefore when a few Merchants (being at first but one or two) Fomented, as it is well known, by those Evil Spirits, that would have hatched that Undutiful Remonstrance, began to oppose the Payment of our Accustomed Duties in the Custom-house, We gave order to the Officers of our Customs to go on, notwithstanding that opposition, in the receiving of the usual Duties; and caused those, that refused, to be warned to Attend at the Council-board, that by the Wisdom and Authority of our Council, they might be Reduced to Obedience and Duty; where some of them, without Reverence or Respect to the Honour and Dignity of that Presence, behaved themselves with such Boldness and Insolency of Speech, as was not to be endured by a far meaner Assembly, much less to be Countenanced by a House of Parliament, against the Body of our Privy Council.

And as in this We did, what in Reason and Honour was fit for the present, so Our Thoughts were daily Intentive upon the Re-Assembling of our Parliament, with full Intention, on Our part, to take away all ill-understanding between us and our People; whose Loves, as We desired to Continue and Preserve, so we used our best Endeavours to prepare and Facilitate the way to it. And this end, having taken a strict and exact Survey of our Government, both in the Church and Common-Wealth, and what things were most fit and necessary to be Reformed: We found, in the first place, that much Exception had been taken at a Book, Entituled, *Appello Casarem*, or, *An Appeal to Caesar*; and published in the Year 1625. by *Richard Montague*, then Batchelor of Divinity, and now Bishop of *Chichester*; and because it did open the way to those Schisms and Divisions, which have since ensued in the Church, We did, for Remedy and Redress thereof, and for the Satisfaction of the Consciences of our good People, not only by our Publick Proclamation, call in that Booke, which Ministred matter of offence; but to Prevent the like danger for hereafter, re-printed the Articles of Religion, Established in the time of Queen *Elizabeth* of Famous Memory; and by a Declaration before those Articles

Anno
1628. cles, We did tie and restrain all Opinions to the sense of those Articles, that nothing might be left for private Fancies and Innovations. For, We call God to record, before whom We stand, that it is, and always hath been, Our Hearts desire, to be found worthy of that Title, which We account the most Glorious in all Our Crown, *Defender of the Faith*. Neither shall We ever give way to the Authorising of any thing, whereby any *Innovation* may Steal or Creep into the Church; but to preserve that Unity of Doctrine and Discipline, Established in the time of Queen *Elizabeth*, whereby the Church of *England* hath stood and flourished ever since.

And as We were careful to make up all Breaches and Rents in Religion at home, so did We, by Our Proclamation and Commandment, for the Execution of Laws against Priests, and Popish Recusants, fortifie all Ways and Approaches against that Forreign Enemy; which if it have not succeeded according to Our intention, We must lay the fault where it is, in the Subordinate Officers, and Ministers in the Country, by whose Remission, Jesuites and Priests escape without apprehension; and Recusants, from those Convictions and Penalties, which the Law and Our Commandment would have inflicted on them. For we do profess, That as it Our Duty, so it shall be Our Care to Command and Direct well; but it is the part of others to perform the Ministerial Office. And when We have done Our Office, We shall account Our self, and all Charitable Men will account Us Innocent, both to God and Men. And those that are negligent, We will esteem as Culpable both to God and Us; and therefore will expect, that hereafter they give Us a better account.

And, as We have been careful for the settling of Religion, and quieting the Church; so were We not unmindful of the preservation of the Just and Antient Liberties of Our Subjects, which We secured to them by Our Gracious Answer to the Petition in Parliament, having not since that time done any act whereby to infringe them. But Our care is, and hereafter shall be, to keep them Intire and Inviolable, as We would do Our Own Right and Sovereignty, having for that purpose Enrolled the Petition and Answer in Our Courts of Justice.

Next to the care of Religion, and of Our Subjects Rights, We did Our best for the provident and well-ordering of that Aid and Supply, which was Granted us the last Session, whereof no part hath been wastfully spent, nor put to any other use, than those for which it was Desired and Granted; as, upon Payment of Our Fleet and Army: Wherein Our care hath been such, as We chose rather to Discontent Our dearest Friends and Allies, and Our nearest Servants, than to leave Our Souldiers and Marriners Unsatisfied, whereby any Vexation or Disquiet might arise to Our People. We have also, with part of those Monies, begun to supply Our Magazines, and Stores of Munition, and to put Our Navy inco a constant Form and Order. Our Fleet likewise is fitting, and almost in a readines, whereby the Narrow Seas may be Guarded, Commerce Maintained, and Our Kingdom secured from all Forreign Attempts. These Acts of Ours might have made this Impression in all Good Minds, that We were careful to direct our Counsels, and dispose Our Actions, as might most Conduce to the maintenance of Religion,

the Honour of Our Government, and safety of Our People. But with mischievous men once ill-affected, *sem bene, sem mala facta premunt*; and whatsoever once seemed amiss, is ever remembered; but good endeavours are never regarded.

Now all these things that were the chief Complaints the last Session, being by Our Princely care so seriously reformed, the Parliament re-assembled the 20th. of *January* last. We expected, according to the Candour and Sincerity of Our own Thoughts, that men would have framed themselves for the effecting of a right Understanding between Us and Our People. But some few malevolent persons, Like Empericks and Lewd Artists, did strive to make new work, and to have some disease on Foot, to keep themselves in Request, and to be Employed and Entertained in the cure. And yet to manifest how much Offences have been Diminished, The Committees for Grievances, Committees for Courts of Justice, and Committees for Trade, have since the Sitting down of the Parliament, received few Complaints, and those such, as they themselves have not thought to be of that moment or importance, with which our Ears should be acquainted.

No sooner therefore was the Parliament set down, but these ill-affected men began to Sow and Disperse their Jealousies, by casting out some Glances and Doubtful Speeches, as if the Subject had not been so clearly and well dealt with, touching their Liberties, and touching the Petition answered the last Parliament. This being a Plausible Theam, thought on for an ill purpose, easily took hold on the minds of many, that knew not the Practice. And thereupon the second day of the Parliament a Committee was appointed to search, whether the Petition and Our Answer thereunto were Enrolled in the Parliament-Roll, and in the Courts at *Westminster*, and in what manner the same was done. And a day also was then Appointed, on which, the House being relolved into a Committee, should take into Consideration those things, wherein the Liberty of the Subject had been Invaded, against the Petition of Right. This, though it produced no other effect of moment or Importance, yet was sufficient to raise a Jealousie against Our Proceedings, in such as were not well acquainted with the Sincerity and Clearness of them. There followed another of no less skill; for although Our proceeding before the Parliament, about matters of Religion, might have satisfied any moderate men, of Our Zealous care thereof, (as we are sure it did the most) yet, as bad Stomachs turn the best things into their own nature, for want of good Digestion; so those distemper'd persons have done the like of Our good intents, by a Bad and Sinister Interpretation: For, when they did observe, that many Honest and Religious minds in that House, did Complain of those dangers that did Threaten the Church; they likewise took the same Word in their Mouth, and their cry likewise was, *Templum Domini, Templum Domini*, when the true care of the Church never came into their Hearts: And what the one did out of Zeal unto Religion, the other took up as a Plausible Theam, to deprave Our Government, as if We, Our Clergy, and Council, were either Senseless or Careless of Religion. And this Wicked Practise hath been, to make Us seem to walk before Our People, as if We Halted before God.

Having, by these Artifices, made a jealous impression in the hearts of many; and a Day being appointed to Treat of the Grant of Tunnage and Poundage, at the time prefixed, all express great willingness to grant it. But a new strain is found out, that it could not be done, without great Peril to the right of the Subject, unless we should disclaim any right therein, but by Grant in Parliament; and should cause all those Goods to be restored, which, upon Commandment from Us, or Our Council, were stayed by Our Officers, until those Duties were Paid, and Consequently should put Our selves out of the Possession of the Tunnage and Poundage, before they were Granted; for else, it was pretended, the Subject stood not in fit case to grant it. A Fancy and Cavil raised of purpose to trouble the business; it being evident, that all the Kings before named did Receive that Duty, and were in actual Possession of it, before, and at the very time, when it was Granted to them by Parliament. And although We, to remove all Difficulties, did from Our Own Mouth, in those clear and open Terms, that might have satisfied any moderate and well disposed minds, declare, That it was Our meaning, by the Gift of Our people, to enjoy it, and that We did not Challenge it of right, but took it *de bene esse*, shewing thereby, not the right, but the necessity, by which We were to take it, (wherein We descended, for their satisfaction, so far beneath Our Self, as We are Confident, never any of Our Predecessors did the like, nor was the like ever required or expected from Them.) Yet for all this, the Bill of Tunnage and Poundage was laid aside, upon pretence, they must first clear the right of the Subject therein; under colour whereof, they entertain the Complaints, not only of *John Rolles*, a Member of their House, but also of *Richard Chambers*, *John Fowkes*, and *Bartholomew Gilman*, against the Officers of Our Customs, for detaining their Goods, upon refusal to pay the ordinary Duty, accustomed to be paid for the same. And upon these Complaints, they send for the Officers of the Customs, enforcing them to attend, day after day, by the space of a Month together; they cause them to produce their Letters Patents under Our Great Seal, and the Warrants made by Our Privy Council, for levying of those Duties. They examine the Officers upon what questions they please, thereby to entrap them for doing Our service and Commandment. In these and other their proceedings, because We would not give the least shew of Interruption, We endured long with much Patience, both these, and sundry other strange and exorbitant Incroachments and Usurpations, such as were never before Attempted in that House.

We are not Ignorant, how much that House both of late years endeavoured to extend their Privileges, by setting up general Committees for Religion, for Courts of Justice, for Trade, and the like, a course never heard of until of late: So as, where in former times the Knights, and Burgesses were wont to Communicate to the House, such business, as they brought from their Countries; now there are so many Chairs erected, to make enquiry upon all sorts of men, where complaints of all sorts are entertained, to the unsufferable disturbance and Scandal of Justice and Government, which having been tolerated a while by Our Father, and

Our Self, hath daily grown to more and more height; insomuch that young Lawyers sitting there, take upon them to decry the Opinions of the Judges; and some have not doubted to maintain, That the Resolutions of that House must bind the Judges, a thing never heard of in Ages past. But, in this last Assembly of Parliament, they have taken on them much more then ever before.

They sent Messengers to examine Our Attorney General, (who is an Officer of Trust and Secrecy) touching the execution of some Commandments of Ours, of which, without Our leave first obtained, he was not to give account to any but Our self. They sent a Captious and Directory Message to the Lord Treasure, Chancellor, and Barons of the Exchequer, touching some Judicial Proceedings of theirs in Our Court of Exchequer.

They sent Messengers to examine upon sundry questions, Our two Chief Justices, and three other of Our Judges, touching their Judicial Proceeding at the Gaol-Delivery at *Newgate*, of which, they are not accountable to the House of Commons.

And where as Suits were Commenced in Our Court of Star-Chamber against *Richard Chambers*, *John Fowkes*, *Bartholomew Gilman*, and *Richard Phillips*, by Our Attorney General, for great Misdemeanours; they resolved, that they were to have privilege of Parliament against Us for their persons, for no other cause, but because they had Petitions depending in that House; and (which is more strange) they resolved, that a Signification should be made from that House, by a Letter, to issue under the hand of their Speaker, unto the Lord Keeper of Our Great Seal, that no Attachments should be Granted out against the said *Chambers*, *Fowkes*, *Gilman*, or *Phillips*, during their said privilege of Parliament. Whereas it is far above the power of that House, to give direction to any of Our Courts at *Westminster*, to stop Attachments against any man, though never so strongly privileged; the breach of Privilege being not in the Court that Grants, but in the Party or Minister that puts in Execution such Attachments. And therefore, if any such Letter had come to the Lord Keeper, as it did not, he should have highly offended Us if he had obeyed it. Nay, they went so far, as they spared not the Honour of Our Council-board, but examined their Proceedings in the case of Our Customers; interrogating what this or that man of Our Council said, in direction of them in the Business Committed to their Charge. And when one of the Members of that House, speaking of Our Counsellors, said, We had wicked Counsel; and another said, That the Council and Judges sought to trample under Feet the Liberty of the Subject; and a Third Traduced Our Court of Star-Chamber, for the Sentence given against *Savage*, they passed without Check or Censure by the House. By which may appear, how far the Members of that House have of late swollen beyond the Rules of Moderation, and the modesty of former times; and this under pretence of Privilege and Freedom of Speech, whereby they take liberty to declare against all Authority of Council and Courts at their Pleasure.

They sent for our Sheriff of *London* to examine him in a cause, whereof they had no jurisdiction.

1628. diction: their true and antient jurisdiction extending only to their own members, and to the conservation of their Priviledges, and not to the censure of forreign Persons and Causes, which have no relation to their Priviledges, the same being but a late innovation. And yet upon an enforced strain of a Contempt, for not answering to their satisfaction, they commit him to the Tower of London, using that outward pretext for a cause of committing him, the true and inward cause being, for that he had shewed himself dutiful to Us and our Commandments, in the matter concerning Our Customs.

In these innovations (which we will never permit again) they pretended indeed Our service; but their drift was, to break, by this means, through all respects and ligaments of Government, and to erect an universal over-swaying power to themselves, which belongs only to Us, and not to them.

Lastly, In their proceedings against Our Customers, they went about to censure them as Delinquents and to punish them, for staying some Goods of some factious Merchants, in Our Storehouse, for not paying those Duties which themselves had formerly paid, and which the Customs, without interruption, had received of all other Merchants, many years before, and to which they were Authorised, both by Our Great Seal, and by several directions and commandments from Us and Our Privy Council.

To give some colour to their proceedings herein, they went about to Create a new Priviledge (which We will never admit) That a Parliament-man hath priviledge for his goods against the King; the consequence whereof would be, That he may not be constrained to pay any Duties to the King, during the time of priviledge of Parliament. It is true, they would have this case to have been between the Merchants and Our Farmers of Our Customs, and have severed them from Our interest and commandment, thereby the rather to make them liable to the censure and punishment of that House. But on the other side, We holding it both unjust and dishonourable, to withdraw Our Self from Officers, in any thing they did by Our commandment, or to disavow any thing that we had enjoined to be done, upon Monday the 23 of February, sent a Message to them by Secretary Cook, thanking them for the respect they had shewed, in severing the interest of Our Farmers from Our Own interest and commandment. Nevertheless we were bound in honour to acknowledge a truth, that, what was done by them, was done by Our express commandment and directions; and if for doing thereof Our Farmers should suffer, it would highly concern Us in honour. Which Message was no sooner delivered unto them, but in a tumultuous and discontented manner, they called, *Adjourn, Adjourn*, and thereupon, without any cause given on Our part, in a very unusual manner, adjourned, until the Wednesday following.

On which day, by the uniform wisdom of Our Privy Council, We caused both Houses to be adjourned until the second day of March; hoping that in the mean time, a better and more right understanding might be gotten between Us, and the Members of that House, whereby the Parliament might come to an happy issue.

But understanding by good Advertisement, that their discontent did not in that time digest,

and pass away; We resolved to make a second Adjournment, until the Tenth of March; which was done, as well to take time to Our Self, to think of some means to accommodate those difficulties, as to give them time to advise better; and accordingly, We gave commandment for a second Adjournment in both Houses, and for cessation of all business till the day appointed; which was very dutifully obeyed in the Higher House, no man contradicting or questioning it. But when the same commandment was delivered in the House of Commons by their Speaker, it was streightways contradicted; and although the Speaker declared unto them, it was an absolute right and power in Us to Adjourn, as well as to Prorogue or Dissolve; and declared and read unto them divers presidents of that House, to warrant the same; yet Our Commandment was most contemptuously disobeyed; and some rising up to speak, said, They had business to do before the House should be Adjourned.

Whilst the Duke of Buckingham lived, he was entituled to all the distempers and ill events of former Parliaments; and therefore much endeavour was used to demolish him, as the only Wall of separation between Us and Our People. But now he is dead, no alteration was found amongst those envenomed Spirits, which troubled then the blessed harmony between Us and our Subjects, and continue still to trouble it. For now under the pretence of publick care of the Commonwealth, they suggest new and causeless fears, which in their own Hearts they know to be false; and devise new Engines of mischief, so to cast a blindness upon the good affections of Our People, that they may not see the truth, and largeness of our Heart towards them. So that now it is manifest, the Duke was not alone the mark these men shot at, but was only as a near Minister of Ours, taken up, on the By, and in their passage to their more secret designs; which were only to cast Our Affairs into a desperate condition, to abate the powers of Our Crown, and to bring Our Government into obloquy; that, in the end all things may be overwhelmed with Anarchy and Confusion.

We do not impute these disasters to the whole House of Commons, knowing that there were amongst them many Religious, Grave, and well-minded men; but the sincerer and better part of the House was over-born, by the practices and clamours of the other, who, careless of their duties, and taking advantage of the times, and Our necessities, have enforced Us to break off this meeting; which, had it been answered with like duty on their parts, as it was invited and begun with love on Ours, might have proved happy and glorious, both to Us and this whole Nation.

We have thus declared the manifold causes We had, to dissolve this Parliament, whereby all the World may see, how much they have forgotten their former engagements at the entry into the War, themselves being perswaders to it; promising to make Us feared by our Enemies, and esteemed by Our Friends. And how they turned the necessities grown by that War, to enforce Us to yield Conditions incompatible with Monarchy.

And now that Our People may discern, that these provocations of evil men (whose punishments We reserve to a due time) have not changed

* Here are the passages concerning the Members deportment in the House, mentioned in this Declaration, which we forbear to repeat, in regard the same are at large expressed in the Information in the Star-chamber, before-mentioned.

Car. 4.

Anno 1628. changed Our good intentions to Our Subjects, We do here profess to maintain the true Religion and Doctrine, established in the Church of England, without admitting or conniving at any back-sliding, either to Popery or Schism. We do also declare, That We will maintain the ancient and just Rights and Liberties of Our Subjects, with so much constancy and justice, that they shall have cause to acknowledge, That under our Government and gracious Protection, they live in a more happy and free Estate, than any Subjects in the Christian World. Yet let no man hereby take the boldness to abuse that liberty, turning it to licentiousness; nor misinterpret the Petition, by perverting it to a lawless liberty, wantonly or frowardly, under that or any other colour, to resist lawful and necessary Authority. For as We will maintain Our Subjects in their just liberties, so We do and will expect, that they yield as much submission and duty to Our Royal Prerogatives, and as ready obedience to Our Authority and Commandments, as hath been performed to the greatest of Our Predecessors.

And for Our Ministers, We will not that they be terrified by those harsh proceedings, that have been strained against some of them. For, as we will not command any thing unjust or dishonourable, but shall use Our Authority and Prerogatives for the good of Our People; so We will expect, that our Ministers obey Us, and they shall assure themselves, We will protect them.

As for our Merchants, We let them know, We shall always endeavour to cherish and enlarge the Trade of such as be dutiful, without burthening them beyond what is fitting: but the Duty of Five in the Hundred, for guarding of the Seas, and defence of the Realm, to which We hold our Selves still obliged (and which Duty hath continued without interruption so many succession of Ages) We hold no good or dutiful Subject will deny it, being so necessary for the good of the whole Kingdom. And if any factious Merchant will affront Us, in a thing so reasonable, and wherein We require no more, nor in no other manner, than so many of our Predecessors have done, and have been dutifully obey'd: Let them not deceive themselves, but be assured, that We shall find honourable and just means to support our Estate, vindicate our Sovereignty, and preserve the Authority which God hath put into our Hands.

And now having laid down the truth and clearness of our proceedings, all wise and discreet men may easily judge of those rumours, and jealous fears, that are maliciously and wickedly bruited abroad; and may discern, by examination of their own Hearts, whether (in respect of the free passage of the Gospel, indifferent and equal administration of Justice, freedom from oppression, and the great peace and quietness which every man enjoyeth under his own Vine and Fig-tree) the happiness of this Nation can be paralleled by any of our Neighbour-Countries; and if not, then to acknowledge their own blessedness, and for the same be thankful to God, the Author of all goodness.

A Pro-

A Proposition for His Majesties Service, to bridle the Impertinency of Parliaments. Afterwards questioned in the Star-chamber; and found to be a Seditious and false Libel.

THE Proposition for your Majesties service containeth two parts: the one, to secure your State, and to bridle the impertinency of Parliaments: the other, to encrease your Majesties Revenue, much more than it is. Touching the first, having considered divers means, I find none so important, to strengthen your Majesties Revenue, much more than it is. Touching the first, having considered divers means, I find none so important, to strengthen your Majesties Regal Authority, against all oppositions and practises of troublesome spirits; and to bridle them, than to fortifie your Kingdom, by having a Fortres in every chief Town, and important place thereof, furnished with Ordnance, Munition, and faithful men, as they ought to be, with all other circumstances fit for to be digested in a business of this nature; ordering withall, the Trained Souldiers of the Countrey to be united in one dependency with the said Fort, as well to secure their beginning, as to succour them in any occasion of suspect; and also to retain and keep their Arms for more security, whereby the Countries are no less to be brought in subjection, than the Cities themselves; and consequently the whole Kingdom; your Majesty having by this course the power thereof in your own hands. The reasons of the suggests are these. 1. That in policy, it is a greater tie of the People by force and necessity, than merely by love and affection; for by the one, the Government resteth always secure; but by the other, no longer than the People are contented. 2. It forceth obstinate subjects to be no more presumptuous, than it pleaseth your Majesty to permit them. 3. That to leave a State unfurnished, is, to give the Bridle thereof to the Subject; when, by the contrary, it resteth only in the Prince's hands. 4. That modern Fortresses take long time in winning, with such charge and difficulty, as no Subjects in these times have means probable to attempt them. 5. That it is a sure remedy against Rebellions, and popular Mutinies, or against Forreign Powers; because they cannot well succeed: when by this course the apparent means is taken away, to force the King and Subject upon a doubtful fortune of a set Battel, as was the cause, that moved the pretended invasion against the Land, attempted by the King of Spain in the Year 1588. 6. That your Majesties Government is the more secure, by the People's more subjection; and by their subjection, your Parliament must be forced consequently to alter their style, and to be conformable to your will and pleasure; for their words and opposition import nothing, where the power is in your Majesties own hands, to do with them what you please; being indeed the chief purpose of this discourse, and the secret intent thereof, fit to be concealed from any English at all, either Counsellors of State, or other.

For these, and divers other weighty reasons, it may be considered in this place, to make your Majesty more powerful and strong, some orders

orders to be observed, that are used in fortified Countries, the Government whereof imports as much as the States themselves, I mean, in times of doubt or suspect, which are these. *Imprimis*, That none wear Arms or Weapons at all, either in City or Country, but such as your Majesty may think fit to privilege, and they to be enrolled. 2. That as many High-ways as conveniently may be done, be made possible through those Cities and Towns fortified, to constrain the Passengers to travel through them. 3. That the Souldiers of Fortresses be sometimes chosen of another Nation, if subject to the same Prince; but howsoever, not to be born in the same Province, or within Forty or Fifty Miles of the Fortrefs, and not to have Friends or Correspondency near it. 4. That all the Gates of each walled Town be appointed Officers, not to suffer any unknown Passengers to pass, without a Ticket, shewing from whence he come, and whither to go. And that the Gates of each City be shut all Night, and Keys kept by the Mayor or Governour. 5. Also Inkeepers to deliver the Names of all unknown Passengers that lodge in their Houses; and if they stay suspiciously at any time, to present them to the Governour: whereby dangerous persons seeing these strict courses, will be more wary of their actions, and thereby mischievous attempts will be prevented. All which being referred to your Majesties wise consideration, it is meet for me withall to give you some satisfaction, of the charge and time to perform what is purposed, that you may not be discouraged in the difficulty of the one, or prolongation of the other; both which doubts are resolved in one and the same reason, in respect that in *England* each chief Town commonly hath a ruined Castle, well seated for strength, whose foundation and stones remaining, may be both quickly repaired for this use, and with little charge and industry made strong enough, I hope, for this purpose, within the space of one year; by adding withall Bulwarks and Rampiers for the Ordinance, according to the Rules of Fortification. The ordinance for these Forts may be of Iron, not to disfigure your Majesties Navy, or be at a greater charge than is needful.

To maintain yearly the Fort, I make account an ordinary pay, Three thousand men will be sufficient, and will require Forty thousand pound charge *per annum*, or thereabouts, being an expence that inferiour Princes undergo, for their necessary safety. All which prevention, added to the invincible Sea-force your Majesty hath already, and may have, will make you the most powerful and obeyed King of the World. Which I could likewise confirm by many examples, but I omit them for brevity, and not to confuse your Majesty with too much matter. Your Majesty may find by the scope of this Discourse, the means shewed in general to bridle your Subjects, that may be either discontent or obstinate. So likewise am I to conclude the same intent particularly, against the perverseness of your Parliament, as well to suppress that pernicious humour, as to avoid their oppositions against your profit, being the second part to be discoursed on: and therefore have first thought fit, for better prevention thereof, to make known to your Majesty the purpose of a general Oath your Subjects may take for sure avoiding of all rubs, that may hinder the conclusion of these businesses. It is further

meant, that no Subject upon pain of High Treason, may refuse the same oath, containing only matter of Allegiance, and not scruples in point of Conscience, that may give pretence not to be denied. The effect of the oath is this, That all your Majesties Subjects do acknowledge you, to be as absolute a King and Monarch within your Dominions, as is amongst the Christian Princes; and your Prerogative is great: whereby you may and shall of your self, by your Majesties Proclamation, as well as other Sovereign Princes doing the like, either make Laws, or reverse any made, with any other Act, so great a Monarch as your self may do, and that without further content of a Parliament, or need to call them at all in such Cases; considering, that the Parliament in all matters, excepting causes to be sentenced as the highest Court, ought to be subject unto your Majesties will, to give the negative or affirmative conclusion, and not to be constrained by their impertinencies to any inconvenience, appertaining to your Majesties Regal Authority; and this, notwithstanding any bad pretence or custom to the contrary in practice, which indeed were fitter to be offered a Prince elected, without other right, than to your Majesty, born successively King of *England*, *Scotland*, and *Ireland*, and your Heirs for ever; and so received, not only of your Subjects, but also of the whole World. How necessary the dangerous supremacy of Parliament's usurpation is to be prevented, the example of *Lewes* the Eleventh King of *France*, doth manifest, who found the like opposition as your Majesty doth, and by his wisdom suppressed it. And, to the purpose here intended, which is not to put down altogether Parliaments and their Authority, being in many cases very necessary and fit, but to abridge them so far, as they seek to derogate from your Majesties Regal Authority, and advancement of your greatness. The caution in offering the aforesaid oath, may require some policy, for the easier passage at first, either by singular, or particular tractation, and that so near about one time over the Land, as one Government may not know what the other intendeth; so it may pass the easier, by having no time of combination or opposition. There is another means also more certain than this, to bring to pass the Oath more easily, as also your profit, and what else pretended; which here I omit for brevity, requiring a long Discourse by it self, and have set it down in particular instructions to inform your Majesty.

2. The second part of this Discourse is, touching your Majesties Profit, after your State is secured: Wherein I should observe both some reasonable content to the People, as also consider the great expences that Princes have now adays, more than in times past, to maintain their greatness, and safety of their Subjects; who, if they have not wit or will to consider their own interest so much indifferently, your Majesties wisdom must repair their defects, and force them to it by compulsion; but I hope there shall be no such cause, in points so reasonable, to encrease your Majesties Revenue, wherein I set down divers means for your gracious Self to make choice of, either all, or part at your pleasure, and to put it in execution by such degrees and cautions, as your great wisdom shall think fit in a business of this nature.

Imprimis

Anno 1628. *Imprimis*, The first means or course intended to encrease your Majesties Revenues or Profits wirhall, is of greatest consequence, and I call it a *Decimation*, being so termed in *Italy*, where in some part it is in use, importing the Tenth of all Subjects Estates, to be paid as a yearly Rent to their Prince, and as well monied men in Towns, as landed men in the Countries, their value and estates esteemed justly as it is to the true value, though with reason; and this paid yearly in Money: Which course applied in *England* for your Majesties service, may serve instead of Subsidies, Fifteens, and such like, which in this case are fit to be released, for the Subjects benefit and content, in recompence of the said *Decima*, which will yield your Majesty more in certainly, than they do usually by five hundred thousand pounds

2. To buy out all Leases upon the Crown-Lands.

2. To take the Salt into his Majesties own hands.

4. To demand a rate for Sealing the Weights every year.

5. To demand an Impost for Wools.

6. To put a Tax upon every Lawyers Fees.

7. To put a Tax upon Inns and Victualling-houses for a Week.

per annum at the least. *Item*, That when your Majesty hath gotten Money into your hands by some courses to be set down, it would be a profitable course to encrease your *Entrada*, to buy out all Estates and Leases upon your own Lands, in such sort, as they be made no losers; whereby having your Lands free, and renting it out to the true value, as it is most in use, and not employed as heretofore, at an old Rent, and small Fines, you may then Rent it out for at least four or five times more Money, than the old Rent comes unto. So as if your Majesties Lands be already but sixty thousand pounds *per Annum*, by this course it will be augmented at the least two hundred thousand pounds *per Annum*; and to buy out the Tenants Estates will come to a small matter by the course, to make them no losers, considering the gain they have already made upon the Land: And this is the rather to be done, and the present course changed, because it hath been a custom used meerly to coulsen the King. *Item*, whereas most Princes do receive the benefit of Salt in their own hands, as a matter of great profit, because they receive it at the lowest price possible, and vent it at double gain yearly; the same course used by your Majesty, were worth at least one hundred and fifty thousand pounds *per Annum*. It is likewise in other parts, that all Weights and Measures of the Land, either in private Houses, Shops, or publick Markets, should be viewed to be just, and settled once a year, paying to the Prince for it; which in *England*, applied to your Majesty, with order to pay six pence for the sealing of each said Weight or Measure, would yield near sixty thousand pounds *per Annum*. *Item*, Though all Countries pay a *Gabella* for transportation of Cloath, and so likewise in *England*; yet in *Spain* there is Impost upon the Wools; which in *England* is so great a wealth and benefit to the Sheep-masters, as they may well pay you five pound *per cent.* of the true value at the Shearing, which I conceive may be worth one hundred and forty thousand pounds *per Annum*. *Item*, Whereas the Lawyers Fees and Gains in *England* be excessive, to your Subjects prejudice; it were better for your Majesty to make use thereof, and impose on all Causes sentenced with the party, to pay Five pound *per cent.* of the true value that the Cause hath gained him; and for recompence thereof, to limit all Lawyers Fees and Gettings, whereby the Subject shall save more in Fees and Charges, than he giveth to your Majesty in the *Gabella*, which I believe may be worth, one year with another, fifty thousand pounds. *Item*, Whereas the Inns and Victualling-houses in *England* are more chargeable to the Travellers, than in o-

ther Countries, it were good for your Majesty to limit them to certain Ordinaries, and raise besides a large Imposition, as is used in *Tuscany*, and other parts; that is, a prohibiting all Inns and Victualling houses, but such as shall pay it; and to impole upon the chief Inns and Taverns, to pay ten pounds a year to your Majesty, and the worst five pounds *per Annum*, and all Ale-houses twenty shillings *per Annum*, more or less, as they are in custom. Of all sorts there are so many in *England*, that this Impost may well yield one hundred thousand pounds *per Annum* to your Majesty.

Item, in *Tuscany*, and other parts, there is a *Gabella* of all Cattel, or Flesh, and Horses sold in markets, paying three or four *per cent.* of what they are sold for, which by conjecture may be worth in *England*, two hundred thousand pounds *per Annum*; using the like Custom upon Fish, and other Victuals (Bread excepted) and for this cause, Flesh, and Fish, and Victuals in the markets, to be priced and sold by weight, whereby the Subject saveth more in not being coulsed, than the Imposition impaireth them.

Item, In *Tuscany* is used a Taxation of Seven *per cent.* upon all alienation of Lands to the true value. As also seven *per cent.* upon all Dowries, or Marriage-monies. The like, if it be justly used in *England*, were worth at least one hundred thousand pounds *per Annum*; with many other Taxations upon meal, and upon all merchandises in all Towns, as well as Port-Towns, which here I omit, with divers others, as not so fit for *England*. And in satisfaction of the Subject for these Taxes, your Majesty may be pleased to release them of VVardships, and and to enjoy all their Estates at eighteen years old; and in the mean time, their profits to be preserved for their own benefit. And also in forfeitures of Estate by condemnation, your Majesty may release the Subject, as not to take the forfeiture of their Lands, but their Goods, High-Treason only excepted; and to allow the Counsel of Lawyers in case of Life and Death; as also not to be Condemned without Two Witnesses, with such like benefit, which importeth much more their good, than all the Taxations named can prejudice them. *Item*, Some of the former Taxations used in *Ireland* and in *Scotland*, as may easily be brought about by the first example thereof used in *England*, may very well be made to encrease your Revenue there, more than it is, by Two hundred thousand pounds *per Annum*.

Item, All Officers in the Land, great and small, in your Majesties grant, may be Granted, with condition, to pay you a part yearly, according to the value: This in time may be worth (as I conceive) one hundred thousand pounds *per Annum*, adding also Notaries, Attorneys, and such like, to pay some proportion yearly towards it, for being allowed by your Majesty to practise, and prohibiting else any to practise in such places.

Item, To reduce your Majesties Household to Board-wages, as most other Princes do, reserving some few Tables; this will save your Majesty sixty thousand pounds *per Annum*, and ease greatly the Subjects besides, both in Carriages and Provision, which

8. To put a Tax upon all Cattel, Flesh, and Horses sold in the Market.

9. To put a Tax upon all Lands alienated.

10. To demand a rate upon all Offices in his Majesties grant.

11. To reduce his Majesties Household to Board-wages.

which is a good reason that your Majesty in honour might do it. *Item*, I know an assured course in your Majesties Navy, which may save at least forty thousand pounds *per annum*, which requiring a whole Discourse by it self, I omit; only promise you to do it, whensoever you command.

Item, Whereas your Majesties Laws do command the strict keeping of Fasting-days, you may also prohibit on those days to eat Eggs, Cheese and White-meats, but only such as are contented to pay eighteen pence a year for the Liberty to eat them, and the better fort ten shillings. The employment of this may be for the defence of the Land, in maintaining the Navy, Garrisons, and such like, much after the fashion of a *Crusado* in Spain, as your Majesty knoweth, being first begun there, under the pretence to defend the Land against the *Moors*. And the same used in England, as aforesaid, may very well yield, one year with another, one hundred thousand pounds, without any disgust to any, because it is at every ones choice to give it or no.

Lastly, I have a course upon the Catholics, and very safe for your Majesty, being with their good liking, as it may be wrought, to yield you presently at least two hundred thousand pounds *per Annum*, by raising a certain value upon their Lands, and some other Impositions; which requiring a long Discourse by it self, I will omit it here, setting it down in my Instructions; it will save your Majesty at least one hundred thousand pounds *per Annum*, to make it pain of Death, and Confiscation of Goods and Lands, for any of the Officers to couzen you, which now is much to be feared they do, or else they could not be so rich; and herein to allow a fourth part benefit to them that shall find out the Couzenage. Here is not meant Officers of State, as the Lord Treasurer, &c. being Officers of the Crown. The Sum of all this Account amounteth unto two Millions, or twenty hundred thousand pounds *per Annum*: Suppose it to be but one Million and a half, as assuredly your Majesty may make, by these courses set down; yet it is much more than I promised in my Letter for your Majesties Service. Besides, some sums of Money in present, by the courses following: *Imprimis*, By the Princes Marriage, to make all the Earls in England Grandees in Spain and Principi, with such like Priviledges, and to pay twenty thousand pounds apiece for it.

2. As also, if you make them Feudatories of the Towns belonging to their Earldoms, if they will pay for it besides, as they do to the King of Spain in the Kingdom of Naples. And so likewise Barons to be made Earls and Peers, to pay nineteen thousand pounds apiece, I think might yield five hundred thousand pounds, and oblige them more sure to his Majesty. 3. To make choice of two hundred of the richest men of England of estate, that be not Noblemen, and make them Titulate, as is used in Naples, and paying for it; that is, a Duke Thirty thousand pounds; a Marquis Fifteen thousand pounds; an Earl Ten thousand pounds, and a Baron or Viscount Five thousand pounds. It is to be understood, that the Ancient Nobility of Barons made Earls, are to precede these as Peers, though these be made Marqueses or Dukes; this may raise a Million of pounds and more unto your Majesty. To make Gentlemen of low quality, and Francklins, and rich Farmers, Esquires, to precede them, would yield your Majesty also a great Sum of Money

in present. I know another way to yield your Majesty at least Three hundred thousand pounds in Money; which as yet the time serveth not to discover, until your Majesty be resolved to proceed in some of the former courses; which till then I omit. Other courses also, that may make present money, I shall study for your Majesties Service; and, as I find them out, acquaint you withal. Lastly, to conclude all these Discourses, by the application of this course used for your profit, That it is not only the means to make you the richest King that ever England had, but also the safety augmented thereby to be most secure; besides what shewed in the first part of this Discourse; I mean, by the occasion of this Taxation, and raising of Monies, your Majesty shall have cause and means to employ in all places of the Land so many Officers and Ministers, to be obliged to you for their own good and Interest, as nothing can be attempted against your Person, or Royal State, over Land, but some of them shall, in all probability, have means to find it out, and hinder it. Besides, this course will detect many Disorders and Abuses in the publick Government, which were hard to be discovered by men indifferent. To prohibit Gorgeous and Costly Apparel to be worn but by persons of good quality, shall save the Gentry of the Kingdom much more money than they shall be taxed to pay unto your Majesty. Thus withal I take my leave, and kiss your Gracious hands, desiring pardon for my Errour I may commit herein.

This Project was contrived long since by Sir Robert Dudley at Florence, 1619. (that discontented Catholick) who descended from the *Dudleys*, Earls of Warwick; and so he stiled himself. It was a Rapsody of several Projects for increase of the Kings Revenue, and somewhat in prejudice of Proceedings in Parliaments. Sundry Copies thereof were dispersed by such as meant not much honour to the King, and therefore suspected to contrive the Book, though pretended for his Majesties Instruction, as the manner had been, to force such feigned discoveries, and fix them for the Kings Designs; and therefore the Earls of Bedford, Somerset and Clare, Sir Robert Cotton, Mr. Selden and Mr. Saint-John were committed; and an Information entred in the Star-Chamber against them; but Sir David Fowles upon Oath, cleared the Suspition, and discovered the Author, and so it ended.

No sooner was the Parliament Dissolved, but the members that were not well affected to his Majesty, gave it out amongst others of their own perswasion, that his Majesty went about to destroy the Liberties of the People in taking Tunnage and Poundage without their consent in Parliament; that our Trade was destroyed and gone, and our Religion in danger, &c.

To prevent and suppress such false and groundless Reports, his Majesty issued out his Proclamation.

‘THat notwithstanding his Majesties late Declaration for satisfying of the minds and affections of his loving Subjects, some ill disposed persons do spread false and pernicious Rumors abroad, as if the scandalous and seditious Proposition in the House of Commons, tumultuously taken up by some few, after that by his Majesties Royal Authority he had commanded their Adjournment, had been the Vote of the whole House; whereas the contrary is the Truth:

Against
false Ru-
mors of
Parliam.

Anno 1628. which Proposition was a thing of a most wicked and dangerous consequence to the good Estate of this Kingdom, and it appeareth to be so by those impressions which this false Rumor hath made in mens minds, whereby, out of causeless Fears, the Trade of the Kingdom is disturbed, and Merchants discouraged to continue their wonted Traffique. His Majesty hath thought it expedient, not only to manifest the Truth thereof, but to make known his Royal Pleasure; that those who raise or nourish false Reports, shall be severely punished; and such as cheerfully go on with their Trades, have all good encouragement; not purposing to overcharge his Subjects by any new Burdens; but to satisfy himself with those Duties that were received by the King his Father, of Blessed Memory, which his now Majesty neither can, nor will dispence withal. And Whereas, for several ill ends, the calling again of a Parliament is divulged, howsoever his Majesty hath shewed by his frequent meeting with his People, his Love to the use of Parliaments; yet the late Abuse, having for the present, driven his Majesty unwillingly out of that Course; he shall account it presumption for any to prescribe any time to his Majesty for Parliaments; the Calling, Continuing, and Dissolving of which, is always in the King's own power. And his Majesty shall be more inclinable to meet in Parliament again, when his People shall see more clearly into his Intents and Actions; when such as have bred this interruption, shall receive their condign punishment, and those who are misled by them, and such ill Reports as are raised upon this Occasion, shall come to a better understanding of his Majesty and Themselves.

The Protestant Interest in France decaying, the Duke of Rohan, and the Deputies of the Protestants there address themselves to our King, to crave his Assistance once again; though 'tis not to be forgotten how that People refused the English Fleet, sent to their Relief, under Buckingham, entrance into their Haven of Rochel, in the Expedition to the Isle of Ree; but the Tide was changed; and he writes to his Majesty, as followeth.

The Duke of Rohan's Letter to the King.

SIR,

THE deplorable Accident of the Loss of Rochel, which God hath pleased to permit to humble us under his hand, hath redoubled in the Spirit of our Eneemies, the passion which they have for our Ruine; and the hopes to attain thereunto: but it hath not taken away from those Churches of the Provinces that Courage or Affection of opposing, by a just and vigorous Defence, to their unjust Designs. This is that which hath made them take up a resolution, and assemble themselves together, and to stand in a Body amidst these Commotions, to assist me with their good Counsel, and provide, with me, means for their Deliverance. And because the most powerful Means, which God hath raised them upon Earth, is the Aid which our Churches have received, and do expect from

your Majesty, the General Assembly have desired, that my Letter (which solely hitherto represented unto your Majesty the Interest of the publick Cause) might be joyned to the most humble Supplication, which they represent. I do, Sir, with so much the more Affection, because I am witness, that this poor People breath after your Assistance, having once laid down their Arms, which the Oppression of the Enemy made so necessary: and because they knew it was your desire, took them up again, when they learned that your Majesty obliged them to it by your Counsel, and by your Promises. Upon this sole Assurance, they have exposed themselves to all Dangers; overcome all Obstacles, consumed their Goods, and are still ready to spill their Blood, even unto the last Drop. Your good will they have found more dear than their Lives; and notwithstanding the Promises and Menaces, which their Enemies have made use of to move them, they have not been induced to make any breach of those Oaths, by which they were tied never to hearken to any Treaty, but with your Majesties consent. All the Churches of this Kingdom, which are linked together to an unexampled fidelity, are glorious Objects of your Charity and Power. You are (Sir) Defender of that Faith, which they profess. Do not suffer it to be unjustly oppressed! You have stirred up their Affections by your Royal Promises, and those Sacred Words, That your Majesty would employ all the Power of your Kingdoms to shield those Churches from the Ruine that threatned them, and have been, next to the favour of God, the only Foundation of their Hopes; they have also thought it to be one of the highest Crimes they could commit, to doubt of the performance thereof. If the beginning of their Miseries hath moved your Compassion, this sad Subject hath increas'd upon them with so much violence, that there is nothing but your assistance can prevent their absolute Destruction; for at this day the greatest Misdemeanors which our Enemies accuse us of, and publish, that it cannot be expiated, but by our Blood, is the imploring and hoping for your Assistance. Our Goods for this are confiscated and destroyed; our Farms desolate, and burned to Ashes; our Heads exposed to the Block; our Families banished; our Temples demolished. And every where, where the cruelty of our heinous Enemies can extend, Men and Women are beaten to Mass with Staves. In short, the Honour and Persecution we endure is so great, that our Words are too weak to express them.

Furthermore, We see, even at our doors, the powerful Armies, which only wait the time to destroy those retiring places that are left; and after that banish the exercise of Religion, and massacre the Faithful throughout the Kingdom. Hereupon, if I should entreat your Majesty not to abandon us; I fear by these Words to offend a great King, so powerful and so faithful; but I will take upon me the boldness, by reason of our pressing necessities, to supplicate your ready Assistance, to hinder our falling under the strength of our Enemies. Your Majesty need not search elsewhere, but in your own profound Wisdom and Experience, to render your succour redoubtable to those that despise it, and advantageous to those People that expect it. By this means you will gain the greatest Glory that can be desired; you will free

Anno 1629. free from Fire and Sword 300000 Families, which pray to God continually for your Prosperity; will preserve a People, whom God hath purchased by his Blood, and that have kept their Faith towards God and Man amidst the greatest Distractions and cruel Sufferings; will place the Fidelity of your Word, the Reputation of your State, and your Armies in a point worthy of so much Grandeur, and in checking the boldness of those who undertake to blast it daily with unworthy Reproaches, will add to your Title that of the Restorer of the most innocent People in the World, and the most inhumanely persecuted.

As to my own Concerns, Sir, I make no mention to your Majesty of my Interest. I might (having the Honour to be what I am) do it without blame, as to outward appearance; but it is so long since I had consecrated them to the use of the Publick, that I shall always esteem my condition happy enough, provided the Church be not miserable; and that I may have this advantage, to be known by such occasions which your Majesty doth not disprove of, that I am,

At Rohan the 12th. of March, 1629.

Your Majesties most Humble & most Obedient Servant,

HENRY of ROHAN.

And because a Treaty which afterwards took effect, was then in hand betwixt the two Crowns of England and France, the Deputies of the Protestant Churches pray his Majesty, that he would insist upon the Capitulation made betwixt them and his Majesty of France, That no Forces should be kept in Cittadels or Forts, and they on their part would also truly perform what they had stipulated: In answer to both of these his Majesty returns Answer.

The effect of the Kings Answer.

That his Majesty understands there is an Intention, by the Mediation of some Foreign Princes, to propose a Peace between the two Crowns of England and France, which probably he may incline unto; and therefore adviseth the said Duke, and those of the Reformed Religion, timely to apply themselves to the French King, and to get as advantageous Terms for himself, and those engaged with him, as he could procure: The King further informing the Duke, that he was constrained to dissolve the Parliament, which he had lately re-assembled, and from whom he expects further Supplies of Money; but failing thereof, he was not in a condition to receive further Aid and Assistance, either by Money or Arms, as the Duke of Rohan, and those that adhered unto him, might expect, and their present Necessities require; his Majesty expressing his sorrow, that the Condition of his Affairs was such, that he could not answer his and their Expectation.

And accordingly a peace betwixt both these Parties was concluded, and Hostages given reciprocally.

The Wars in Italy began two years since, about the Succession of the Duchies of Mantua and Monferrat, which after the Death of the Duke Vincent, without Children, fell to the Duke of Trevers. The Spaniards (through Jealousie) without Right or Title take Arms; so did the Duke of Savoy; he seized some Places in Monferrat, and they be-

sieged Casal. The Venetians are in suspicion of the Spaniards further progress in Italy, and joyn with Trevers; so doth France, who passeth by force through Savoy, to the Streight of Susa; and after the taking many Towns of Savoy, falls upon the Spaniard, takes Cambrey, besieges Montmelian, sends before to Piemont, and follows himself in person; where he was victorious: leaving the poor Duke of Savoy to seek preservation in desert and inaccessible places. Yet the Spaniard continues the Siege of Casal, under Command of Spinola; and the French defends the Cittadel by force of Toras, two successful Generals, the one in the Low-Countries, and the other against the English at the Isle of Rhe. The Business came to this, the Town and Castle were already yielded to Spinola, and the Cittadel had capitulated to surrender by such a Day, if Succour came not; in the Interim, Spinola dies of Infection, the Duke of Savoy was sick in his Bed, when by intercession of the Pope and Cardinal Mazarines first Negotiation and Dexterity, the Peace was concluded with the Emperor at Vienna, and all carested in that Treaty; the French restores all to the Savoyard; Trevers begs pardon, and is invested; the Spaniard renders Monferrat, and all are Friends again, which the Fume of Ambition had caused with much Bloodshed.

And really those two Nations, having stoutly wrangled, by Famine, Sword, and Sicknes in Italy, with the loss of above two Millions of men, reaped no other Salary but Vain-Glory, and all their Neighbours about suffered by siding to their several humors.

When the French had broken that puissant party of the House of Austria in Italy, he devises new Alliance to attack the Spaniard; and first by mediation of the Venetians, they are put upon it to propose a Treaty for Peace between the two Crowns of England and France; which was not difficult for us to accept, King Charles being more manacled at home by his own Subjects, than the French were with outward Forces, and so both parties having their several Designs, they soon agreed into these Articles.

1. That the two Kings shall renew former Alliances inviolably, with free Commerce; and in this particular, such things may be proposed to add or diminish, as either part shall judge convenient.

2. That for what is past during the last Difference, satisfaction shall be demanded on either side.

3. That the Article of Marriage of the Queen of Great Britain shall be confirmed, and concerning her Domesticks, to propose Expedients to be added or diminished.

4. All former Alliances between the Crowns shall stand good, unless changed by this present Treaty.

5. And the two Kings being thus remitted to their former Affections, shall respectively correspond towards the Assistance of their Allies (so far as the continuation of Affairs, and the general Good shall permit) for procuring of the Repose of the Troubles of Christendom.

6. Ambassadors on either part to be dispatch'd for Ratifications and Residencies in either Court.

Anno 1619. 7. And touching Ships at Sea, with Letters of Marque on either side, that for two Months following shall not prejudice this Agreement, provided to restore either Prize after that time upon Demand.

8. These Articles to be jointly Signed the 14th. of this present April, and instantly to be consigned into the hands of the Lords Ambassadors of Venice, to be delivered to each King at a day prefix'd; all Acts of Hostility to cease, and to be proclaimed in both Kingdoms the 20th. of May following.

And in September Sir Thomas Edmonds Controller of the Kings Household, and the Marquess of Chasteauneut were sent reciprocally from either King, to take confirmation of these by Oath.

In regard the Peace of the Church here, was very much disturbed at this time, through a party then growing up; but afterwards prevailing to the ruine thereof, Dr. Land, Bishop of London, put into his Majesties hands some Considerations in order to the Establishment thereof; and they are said to be these which follow.

Considerations for the better settling of the Church-Government.

The Bish. of London presents a Paper to the King concerning the Church-Government.

THAT his Majesty would be graciously pleased,

1. To command the Lords, the Bishops, to their severall Sees, excepting those which are in attendance at Court.

2. That none of them reside upon his Land, or Lease that he hath purchased, or on his Commendam, if he hold any, but in one of his Episcopal Houses; and that he waste not the Woods where any are left.

3. That they give Charge in their Triennial Visitations, and at other times, both by themselves, and the Arch-Deacon, that the Declaration for settling the Questions in difference be strictly observed,

4. That a special Charge be given them against frequent and unworthy Ordinations.

5. That a special Care be had over the Lecturers in every Diocess, which by reason of their Pay, are the People's Creatures, and blow the Bellows of their Sedition.

For the abating of whose Power, these ways may be taken.

1. That the Afternoon-Sermons in all Parishes may be turned into Catechizing, by Questions and Answers, according to an Order set out by King James of Blessed Memory.

If this cannot be, then,

2. That every Bishop Ordain in his Diocess, That every Lecturer do read Divine Service in his Surplice before the Lecture.

3. That where a Lecture is set up in a Market-Town, it be read by a Combination of Grave and Orthodox Divines near adjoining.

4. That if an Incorporation do maintain a Lecturer, that he be not suffered to Preach, till he take upon him Cure of Souls within that Incorporation.

5. That the Bishop do countenance and encourage the grave orthodox Divines of his Clergy, and gain them in the severall Quarters of his Diocess, to be present at such Lecturer's Sermons, as are near them; that so the Bishop may have knowledge.

6. That the Bishop suffer none under Noble-men, and Men qualified by Law, to have any private Chaplain in his House.

7. That his Majesty may be graciously pleased, that men of Courage, Gravity and Experience in Government, be preferred to Bishopricks.

8. That Emanuel and Sydney Colledges in Cambridge, which are the Nurseries of Puritanism, may from time to time be provided of Grave and Orthodox men for their Governors.

9. That his Majesties high Commission be countenanced by the Presence of some of his Majesties Privy Council, so oft at least as any matter of Moment is to be Sentenced.

10. That some Course may be taken that the Judges may not send so many Prohibitions.

11. That his Majesty would be graciously pleased, once in half a year, to call for an Account of all, or so many of these as he in his Wisdom shall think fit.

A Consideration also to be had,

1. As to the General Feoffees for Benefices and Preferments.

2. A new Authorizing of the Injunctions.

And because the People were much amused through the perswasion of that sort of men before spoken of, his Majesty did farther declare himself as to Religion, and Property; 'That it is, and always hath been our hearts desire to be found worthy of that Title, which we account the most Glorious in all our Crown, Defender of the Faith. Neither shall we ever give way to the Authorizing of any thing, whereby any Innovation may steal or creep into the Church, but to preserve that Unity of Doctrine and Discipline established in the time of Queen Elizabeth, whereby the Church of England hath stood and flourished ever since; and that we have by our Proclamation and Commandment, ordered the Laws to be put in execution against Priests and Popish Recusants, to fortifie all ways and Approaches against that Foreign Enemy.

'And as we have been careful (saith his Majesty) for the settling of Religion, and quieting the Church, so were we not unmindful of the preservation of the just and ancient Liberties of our Subjects, which we secured to them by our gracious Answer to the Petition in Parliament, having not since that time done any Act whereby to infringe them; but our Care is, and hereafter shall be, to keep them entire and inviolable, as we would do our own Right and Sovereignty, having for that purpose enrolled the Petition and Answer in our Courts of Justice.

And as to the Duties of Tunnage and Poundage, which were the Matters of the great Contest in the last Parliament, The council passed these Orders;

1. That Warrants should be directed to the Officers of the Customs in the Port of London, and elsewhere, to seize and detain the Goods of any

Customs of Tunnage and Poundage required to be paid

any that shall attempt to Land without Warrant, till the Customs be paid.

2. And they farther Ordered, That such Merchants Goods as remained on Ship-board, be removed into Store-houses at the *Custom-house-Key*, and for want of Room, into the *Tower*, to remain there, till his Majesties Duties, and the Freight due to Ship-Masters, were satisfied.

3. And whereas Attempts were made by *Replevin*, directed to the Sheriff of *London*, to obtain those Goods out of the King's Store-houses, the Messengers of the Council were appointed to detain them in their keeping; and to apprehend, and keep in safe Custody all Persons that should make resistance in this Case.

4. Also Letters of Command were sent unto the Officers and chief Magistrates of most Ports of the Kingdom, to assist the Officers of the Customs, in case of opposition, that might be made by refractory Persons.

5. In like manner, Sir *Francis Cottington* was Authorized to call before him those Merchants that had been trusted by the Collectors for Sums grown due by Customs, and protracted the payment thereof; and to require them, without delay, to pay in the several Sums which they owe to his Majesty; and upon refusal, to enjoin them to attend the Lords of the Council.

6. *Richard Chambers*, whose Goods were detained in the Commissioners hands for non-payment of Customs, being Fined to his Majesty in the Sum of 2000 *l.* in the Court of *Star-Chamber*; and the Fine estreated in the *Exchequer*; and from thence Process of Extent issued out to levy the same. It was afterwards ordered by the Court of *Exchequer*, that the Goods should be delivered to the said *Chambers*, upon payment of so much Money into the Court, as the Duties demanded for the King did amount unto; or levying of so much Goods as should amount to double the Value of those Monies. The Privy-Council required the Commissioners not to deliver the Goods until the Fine was Levied; the Order of the *Exchequer* no wayes intending, or being intended to prevent the same, and then to observe the Order of the Court.

7. About the same time, a Ship returning from the *Streights*, laden with store of fine Wares, belonging to the *London-Merchants*, and consign'd for *London*, was appointed by the Merchants to come to an Anchor in *Dover-Road*: Whereupon, the Council being informed that the Merchants intended to defraud the King of his Customs, by unlading their Goods into Ketches, and other small Vessels, and Landing at unlawful hours, in obscure places, commanded the Officers of *Dover* to take a particular account of the Goods, and to put them into Store-houses, unless Security was given to send them to the *Custom-House-Key* at *London*. But a farther ground of the Warrant was this; because the Merchants were purposed to send their Goods into *Holland* in Ketches, and not to Land them at all; which purpose was held by divers Merchants; and afterwards an Order was made against this secret conveying of Wares and Merchandizes beyond Sea in Ketches, and other small Vessels, to defraud the King of his Customs.

8. There was also a strict Order made, enabling the Messengers of the Council-Table to enter into any Ship, or Vessel, House,

Ware-house, or Cellar; and to search in any Trunk or Chest, and to break any Bulk whatsoever, in default of the payment of Customs; and to apprehend all Persons that shall give out any scandalous Speeches against his Majesties Service, or cause any disturbance.

Car. 5.
In case
a default
be made
to pay Cu-
stoms.

Care is likewise taken by the Council for putting the *Militia* of the Kingdom into good Order; and accordingly they express in their Letters to the Lords Lieutenants of the respective Counties, the King's Displeasure at the great neglect of Musters in most parts of the Kingdom, and required them to take care that the Trained Forces, both Horse and Foot, be compleat, according to the Modern Fashion, and be perfectly instructed in the Exercise of Arms: And that the Captains and Officers be able to perform their several Charges; and that both Officers and Souldiers be not only able and sufficient men; but well-affected in their Religion; that they take the Oaths of Allegiance and Supremacy; and if a Souldier enroll'd remove his dwelling out of the Town or Parish of his Abode, notice be given thereof to the Deputy-Lieutenants of that Division; to the end that in case he have Licence to depart, his Company may be made up again. And in case any Manor, Mansion-Houses, or Lands, which formerly found, or contributed toward the finding of Horse or Foot, do not furnish the Musters, as formerly, by reason of the dividing of such Estate among Co-heirs, or coming into the hands of any Joynters, or Tenant in Dower, or the Purchase of new Owners or Occupiers thereof, that no such alteration may diminish the Bands, which should rather be increased, especially the Horse. That the best sort of Men provide themselves Arms for their particular use; that the Beacons be repaired, and continued in good Order; that a proportion of Powder, Match and Bullets be kept in the Magazines. And in regard of the great deficiency in the Horse-Bands, and neglect in those that should shew their Horses, it was required that good Bond be taken for his Majesties use, of those that shew not, or whose Horses, Arms and Furniture are deficient, that they shall personally appear with their Horses and Arms, to shew them on the first of *October* next.

Militia of
the King-
dom for
publick
defence &
safety.

The Lord Mayor of *London* received the like Command concerning the Trained Forces within the City, and concerning the Arms and Furniture, the Commanders and Officers, and a convenient Magazine.

L. Mayor
of Lond.
Order for
Militia.

Moreover, the Council taking into Consideration the Unwillingness, Excuses and Refusals of some Gentlemen to undertake and perform the Discharge of Captains of Trained Bands, which are the ordinary Forces and Strength of the Kingdom: Declared and Ordered, That the Lord-Lieutenants, in the Counties of their Lieutenancy, shall appoint for Captains, upon the vacancy of the Charge, such Gentlemen as they shall find most fit and capable; and they shall return to the Board the Names of all such as shall refuse to undertake, or execute the same, that they may be proceeded with in such manner as their Contempt in a Case of this nature and importance shall deserve.

Captains
of Train'd
Bands.

And for the exercising and keeping of the Train'd Bands in good Equipage and Order, each County was Assessed at a certain Rate, for the

Muste-
r. Matter.

Anno 1629. the entertainment of a *Muste-Master*, who was appointed for that Service: this Money was to be granted by the Grand Jury, and collected by the High Constables of every Hundred; the persons refusing this payment, are to be return'd to the Council-Table.

And because the Pulse of the Parliament beat so high against Popery, and so much clamour was made thereabout, his Majesty took all care imaginable for the prosecution thereof, as by this publick Act may appear.

Popish
Recusants
to be pro-
secuted.

AS We were careful to make up all Breaches and Rents in Religion at home, so did we by our Proclamation and Commandment for the execution of the Laws against Priests and Popish Recusants, fortifie all ways and approaches against that Foreign Enemy; which if it hath not succeeded according to our Intention, we must lay the fault where it is, in the subordinate Officers and Ministers in the Country, by whose Remissness Jesuites and Priests escape without Apprehension, and Recusants from those Convictions and Penalties which the Law and our Commandment would have inflicted on them.

Recusants
going to
Ambassa-
dors Hou-
ses prohi-
bited.

And also by Order of Council a strict Order to seize upon all *English* going to Ambassadors Houses to hear Mass, requiring the Lord Mayor and Sheriffs, Justices of Peace, and others, to assist the Kings Messengers, in the apprehending of any of the King's Subjects going to Mass, requiring the Laws to be put in execution against them. And, to shew the clearness of his Intention, doth declare that he hath begun already at his own House, not permitting any to go to the Queens Chappel, but those of the Queens own House, who do attend her; and requires the Privy-Council to acquaint Foreign Ambassadors with this his Intention.

The Stat.
3 Jac. to
be put in
execution

And the Attorney General had order to take care that the Statute 3 *Jacobi* be put in execution against Recusants dwelling within 10 Miles of London; and that the Statute of Confinement be executed against all such of them as are Lodgers about the City; and that he cause a Bill of Indictment to be exhibited at the next Sessions, against the Keeper of New Prison, for suffering Priests committed to his Custody, to walk abroad at their pleasure.

Recusants
in Nor-
thumber-
land,
not pro-
secuted ac-
cording
to Law.

And Instructions were also sent to the High Sheriff and Justices of the Peace in *Northumberland*, expressing how his Majesty was credibly informed that the Number of Popish Recusants in that County, which of late years was very small, is now through too much remissness in the execution of the Laws against them, increased to such an excessive number, as hath given his Majesty just cause to be highly displeased therewith, and may justly give exceeding great offence to all his well affected Subjects. Wherefore they thought fit (as they Declare) for the timely preventing the farther growth of such an insufferable Evil, whereby Almighty God is dishonoured, his Majesties most Gracious and Religious Government may be traduced, and the Peace and Safety of the Kingdom endangered, to signifie unto them his Majesties express Pleasure, that they make exact Enquiry into the number of Popish Recu-

fants Convicted, or Unconvicted, which may be justly suspected, and return a Certificate. Also that they take care that the Laws against them be put in execution without Partiality or Connivance; and that they give unto the Board a faithful Account of their Proceedings herein, as they tender the Good of Religion, the happy Government of the Commonwealth, and as they would avoid his Majesties great Displeasure.

And all Priests and Jesuites convict, are ordered to be sent to *Witch*, there to remain in safe Custody; and in regard that Party also in *Scotland* had been no less active, chiefly under the Patronage of the Marquess of *Huntley*, the Earls of *Niddale*, *Athol* and *Abercorn*, &c. who being all put to the Horn in *Scotland*, and flying into *England* for Refuge, were all of them forced to return, and to submit themselves respectively.

About this time, his Majesties Affairs requiring supplies of Money, some persons advised the setting up a new Corporation for the making of *Starch*; and also the delivery out of Commissions for taking the Forfeitures of *Recusants*, that all persons concerned might repair to the Commissioners appointed by the King for that purpose.

And now a Second Proclamation was issued forth for the Apprehending of *Richard Smith*, Titular Bishop of *Chalcedon*, to the effect following:

THAT his Majesty by his Proclamation, bearing Date the 11th. Day of *December* last past (for the Reasons therein expressed) did straitly command, That none of his Subjects should harbour or conceal the said *Smith*, but that forthwith they should arrest and apprehend his Body, and bring him before the next Justice of the Peace to the Place where he should be apprehended; whom his Majesty thereby commands to be committed to Prison without Bail or Mainprize; and presently to inform his Majesty, or his Privy Council of his Apprehension. And the King did thereby declare, That if any person should then after, directly or indirectly harbour or conceal the said *Smith*, or use or connive at any means whereby the said *Smith* might escape from being apprehended or arrested, that his Majesty should extend the utmost severity of his Laws against every such Offender, as by his Proclamation more at large appears. Which Proclamation hath not yet wrought that good Effect which his Majesty expected; the said *Smith* being still hidden and harboured by those, who being infected and blinded with Popish Superstition, prefer their Respects to him, before their Duty to their King, and the fear of his high Displeasure, and the Consequence thereof. His Majesty therefore, by the Advice of his Privy Council, hath thought fit by this his second Proclamation, to renew his former Command in that behalf.

And to the end that none of his Subjects may hereafter excuse themselves, by a pretended Ignorance of the danger they shall fall into, if they shall harbour or conceal him, his Majesty doth hereby publish and declare, That the said *Smith* is not only a Popish Priest, and with high presumption taketh upon him to exercise

Anno
1629.
exercise Ecclesiastical Jurisdiction, pretended to be derived from the See of Rome, within this Realm, and endeavoureth to seduce the King's Subjects from the true Religion established in the Church of England (which by God's assistance, his Majesty shall ever constantly maintain) but doth also seditiously and traiterously hold correspondence with the Kings Enemies, tending to the disturbance of the State.

And therefore his Majesty doth now again renew his former Command for the Apprehension of the said Smith; and doth hereby farther signify, That whosoever shall lodge, harbour, or relieve the said Smith, or any other Priest, Jesuit, or other, having taken Orders by Authority pretended to be derived from the See of Rome, shall incur the danger of the King's Laws made against the Harbourers, Lodgers, and Relievers of Priests, to the full extent thereof, which by the Statutes of this Realm is Felony.

And the King doth further hereby declare, That whosoever shall discover the said Smith, and cause him to be apprehended, as aforesaid, shall have a Reward of one Hundred pounds in Money, to be presently paid unto him by the King; and shall also have the benefit of such Penalties and Forfeitures which shall or may accrue unto his Majesty, and be forfeited by that Person in whose House the said Smith shall be found to have been harboured or concealed.

And his Majesty doth farther charge and command hereby (as by his former Proclamation his Majesty did) all and singular the Judges, Justices of the Peace, Mayors, Sheriffs, Constables, and all other his Officers, Ministers, and Loving Subjects, that if they shall find any Person offending herein, that then they, and every of them, proceed with all diligence and readiness, not only against the said Smith, but also against all such as shall harbour, conceal, or connive at his concealment, or shall not use their best endeavours for his Discovery and Apprehension, according to the utmost extent of the Laws.

It may be here noted that there had been long since a great Feud betwixt the Secular and Regular Priests of the Church of Rome; the former had laboured to obtain from that See a Bishop both for Ordination, and for the Government of their Church here; but their Endeavours herein were always opposed by all the Regulars; but more particularly by the Jesuites; those of the Benedictines only siding with the Seculars; at last the Seculars and Benedictines prevailed with Urban the Eighth, who, by a special Order, Dated Octob. 4. 1625. created Richard Smith Bishop of Calcedon, and sent him into England, to exercise the Episcopal Jurisdiction here; he is oppos'd by the Regulars by Printed Books and otherwise; and on the other side, the Regulars write in defence of their Bishop, and of Episcopacy. At last Matters on both sides were referred to the Judgment of the Theological Faculty of Paris; where the Jesuites and Regulars were Censured; though here they raised such troubles against the Titular Bishop, that he was forced to flee into France, where he was most courteously entertained by Cardinal Richelieu, the Learned Bishop of Lussion, who was his intimate Acquaintance; they being educated together in the same Stu-

dies. Rudecindus President of the English Benedictines, writes in behalf of Smith to the Congregation at Rome de propaganda fide, and in his Letter, he doth with great grief of mind lament the opposition given to Matthew Kellyson and Richard Smith, ancient Priests, who, among others, were nominated to his most holy Lord, to undergo the Episcopal Charge in the English Mission (for he reckons above 60 Benedictine Monks in England subject to his Congregation, and does prepare far more in their Convents to the Function of Mission) and doth testify that the said venerable Priests, Dr. Matthew Kellyson and Dr. Richard Smith are in great veneration in England; and that Dr. Kellyson was chief Professor of Divinity for many years in the University of Rhemes; and that Dr. Smith was first conjoyned in the Society of Studies to the most Learned Bishop of Lussion, now Cardinal of Richlieu; and concludes, We Benedictines, your humble Servants and Sons, do humbly pray that you will be pleased to grant a Bishop to our England, seeing that no Province of the Catholick World hath more need of one; the observance of Ecclesiastical Discipline being not able to be preserved without Episcopal Authority. Neither is it to be doubted, for we have already seen the good success under the first Bishop, that another Bishop being constituted, you would behold more joyful Fruits within one two years in the English Mission, than hitherto ye have beheld for 60 years now elapsed. And we see not why the Regulars, with their Priviledges given them by the Apostolick See, may not as happily agree with a Bishop and Secular Clergy in the English Mission, as well as we see they every where do out of England, &c.

At this time there came over an Address from Ireland, by permission from the Lord Deputy Falkland; whereby he gives the Nobility and Gentry of that Kingdom leave to present unto his Majesty here what they had to offer on the behalf of themselves and the People; which accordingly they did in the Petition following.

The Humble Petition of your Majesties Subjects appointed Agents to prefer certain Humble Requests and Petitions to your Highness, in the behalf of your Kingdom of Ireland.

Humbly sheweth.

THAT your Majesties Suppliants did in the behalf of your Subjects of Ireland, offer unto your Majesty to remit and release unto your Highness 150000*l.* or thereabouts already borrowed from them, or paid to your Majesties Army there, and further to grant three Subsidies to be paid in the next three Years, which humble Offers your Petitioners are now only authorized to make; as also do present certain humble Requests to your Highness, according to the Instructions given them, of your Majesties faithful Subjects of your Kingdom of Ireland: which Offers, though they do not extend to that Greatness, as from your Highnesses other more flourishing Kingdoms may be expected, yet considering the State and Poverty of the said Kingdom, they are as much as the Subjects are possibly able to afford at this time. And lest it might be conceived, or be objected by any, that these Offers are in any such kind, as though

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though your Highness's said Subjects did intend to contract with your Highness, and that they would not after the said three years express their Loyal and Dutiful desires to do your Majesty Service, by further contributing to your Highness's occasions, your said Petitioners do most humbly beseech your Highness to call to mind with what Celerity, Alacrity, and true hearty Affection and Duty your said Subjects and their Ancestors in all the times of your Majesties Royal Predecessors, have made demonstrations of themselves, by shedding their Blood, and extending their Means in the Service of the Crown from time to time; and to conceive of your said Subjects, that as they must acknowledge themselves most bound to your Majesty, so they will be ever willing with all their Ability, Means and utmost Power, to contribute to your Majesties Affairs from time to time, not doubting that your Highness will in your Paternal Care of your Loyal and Faithful Subjects there, take such courses that they shall never be prest beyond the necessity of Times and their Abilities.

And in regard the said Kingdom hath lately, and now doth sustain great Burdens, as well by your Petitioners Attendance here, as otherwise, that your Highness will be graciously pleased to give a favourable and speedy dispatch to this Affair, that your said Subjects being eased of a great Charge, might be better able to satisfy your Highness, according to their desire and true intention.

And they will ever most humbly pray, &c.

The Grievances were many; in all 55; to each of which his Majesty gave a particular and gracious Answer; especially to that about the Calling of a Parliament there; which his Majesty granted: whereupon, they too hastily, and contrary to course of Law, Issue out Writs for the Convening the Parliament there, though they had not yet a Grant under the Great Seal of England enabling them to do it; which gave occasion to the ensuing Order of the Council here, and the Matter it self was referr'd to the consideration of the Judges.

Order of
Reference
to the
Judges.
concern-
ing a Par-
liament in
Ireland.

V Hereas the Board hath understood by Letters from the Lord Deputy and Council of Ireland, that they had already issued the Writs for the Summoning of a Parliament to be held in that Kingdom in November next. Forasmuch as the Writs of Summons have been issued illegally, contrary to the Statute made in that behalf, *Anno* 10. Hen. 7. and 3 Eliz. and the due formality of a Licence, which ought to have been first obtained of his Majesty under the Great Seal of England, was not obtained, whereby the said Summons is in self Null and of none effect, and the Parliament (if any should ensue thereupon) would be utterly void and fruitless. The Board for this Consideration, thought fit and Ordered, that all the Judges of his Majesties Court at Westminster, that are now in or near the City of London, shall be pray'd and requir'd forthwith to meet together, and calling to their Assistance the Commissioners for Irish Causes, especially Sir Francis Ainslow, Vice-Treasurer of Ireland, and Sir Henry Holcroft, together with the King and Queens Attorneys and Solicitors General, or as many of them as may be had, and take into their consi-

deration as well the said Letters written to the Board concerning the said Summons, and the Errors committed in precipitately Issuing of the said Writs, as a Certificate made by the said Commissioners, touching the due Preparations for the Calling of a Parliament in Ireland, and upon the whole matter, as soon as may be, to certify their Opinions in writing, what course they think fittest to be held for redress and rectifying of the before-rehearsed erroneous Proceedings; whether by revoking the former Summons, superseding or respiting them for a time, or issuing out of new, and by what means it may be done, either by Letters, Proclamations, or otherwise, as they shall think best and most expedient for his Majesties Honour and Service; that satisfaction and full Assurance may be given to his Subjects of that Kingdom, of his Royal Intention to proceed in the Calling of a Parliament, so soon as things may be done in such manner and form as they ought to be, according to the ancient Custom.

The Judges Opinion about the Parliament in Ireland.

May it please your Honourable Lordships.

A According to your Lordships Order the 19th of September last, we have taken into our consideration the Letters written from the Lord Deputy of Ireland, touching the Summons of a Parliament already made there, and the former Certificate made by his Majesties Commissioners for Irish Causes, as was directed by the said Order. Upon Consideration whereof, we find that the said Summons already made, is unwarrantable; and that if a Parliament should be assembled and proceed thereupon, all that should be done therein, would be utterly void.

The Statute of 10 Hen. 7. commonly called *Poyning's Act*, and the Statute 3 and 4 of Phil. and Mary, expounding and explaining the doubts conceived upon that Act, do prescribe an absolute form of summoning a Parliament in that Kingdom, which must be by a Certificate first made by the Lord Deputy and Council, from thence, of such Acts as they would offer to his Majesties consideration, with the Reasons and Motives for the same to be enacted there, and that Certificate to be under the Great Seal of Ireland: Which Acts, so propounded, must be returned back from hence, approved or altered by his Majesty, as by him shall be thought fit; together with his Majesties Licence for summoning of a Parliament under the Great Seal of England, and then, and not before, the Summons of a Parliament there is to issue; wherein if any failure be of those Circumstances prescribed by these two Laws, which continue in force in that Kingdom, all that shall be done will be utterly void. We have also taken into our consideration the Lord Deputies Commission, wherein he hath power given him to Summon the Parliament; but that is limited to be according to the Laws, Statutes, and Customs of that Kingdom, and with the King's consent first had, and not otherwise; which hath not been observed in the Summons of this intended Parliament in any of the points before mentioned, and therefore this Summons, notwithstanding that power, is illegal and void.

We have also observed the passage in the Lord
 Deputies Letter, as if by an Adjournment this
 might be Remedied; but we are of opinion that
 that is not a right way, because it fails in the
 ground of the Summons; so that upon the whole
 matter we humbly offer our Opinions, That the
 best course to be held for the rectifying of the
 Premises, and for avoiding of all mis-instructi-
 ons thereupon, will be this: That directions be
 given from hence with all possible speed for a
 Proclamation to be there made, wherein this
 mistaking, and the reasons thereof, may be pub-
 lished, that so the Assembly may be preven-
 ted, until by a due and orderly preparation,
 Summons may be legally, according to the
 said Laws and Statutes, and that by the same
 direction they be advised to make due preparati-
 on for a Parliament, according to the recited
 Acts. Whereupon His Majesty may be Graci-
 ously pleased to send his Licence and Consent
 under the Great Seal of *England* for the Sum-
 moning of the Parliament, and so all may af-
 ter proceed legally, although with some loss of
 time, which cannot now be prevented. And
 if your Lordships shall so approve thereof,
 we humbly conceive it would not be amiss
 for the better expedition of the Service, and
 for the avoiding of all mistakings, that the
 form of a Proclamation to the effect aforesaid
 were sent thither, but to be made and Pro-
 claimed there, that the Error may appear to
 have come from themselves, as the truth is;
 which will most probably take away all Jeal-
 ousie from the People. But we are of Opi-
 nion that no General Writ of *Superfedeas* of
 the former Writ of Summons can be award-
 ed, because there neither was, nor can be
 any one General Writ of Summons, and af-
 terwards particular Writs of *Superfedeas* to
 every one Summoned, would be Infinite and
 Inconvenient. All which we most humbly sub-
 mit to your Majesties great Wisdom and Judg-
 ment. *Serjeants-Inn in Chancery-lane, Octob. 2.*
 1628.

Signed by

Thomas Richardson,
 Hen. Yelverton,
 Geo. Vernon,
 Rob. Heath,
 Henry Holcroft,
 Will. Jones,
 George Trevour,
 Fran. Ainsly,
 Rich. Shilton,
 John Finch,
 Richard Hadzor.

Whereupon this Proclamation following was
 issued forth by the Lord Deputy of *Ireland* in the
 King's Name, against Priests and Jesuites.

Inasmuch as we cannot but take notice that
 the late intermission of legal Proceedings a-
 gainst Popish Pretended or Titulary Arch-Bi-
 shops, Bishops, Abbots, Deans, Vicars Gene-
 ral, Jesuits, Friars, and others of that sort,
 that derive their pretended Authority and Or-
 ders from the See of *Rome*, hath bred such an
 extraordinary Insolence and Presumption in
 them, as that they have dared of late not only
 to Assemble themselves in Publick Places to ce-

lebrate their Superstitious Services in all parts
 of this Kingdom, but also have Erected Hou-
 ses and Buildings, called Publick Oratories,
 Colleges, Mass-Houses, and Convents of Fri-
 ars, Monks and Nuns, in the eye and open view
 of the State and elsewhere; and do frequently
 exercise Jurisdiction against his Majesties Sub-
 jects, by Authority derived from the See of
Rome, and (by colour of teaching and keeping
 Schools in their pretended Monasteries and Col-
 leges) to train up the Youth of this Kingdom
 in their Superstitious Religion, to the great
 Derogation and Contempt of His Majesties Re-
 gal Power and Authority, and great offence of
 many of His Majesties good Subjects, contrary
 to the Laws and Ecclesiastical Government of
 this Kingdom, and the Impoverishment of His
 Majesties Subjects in the same.

These are therefore to will and require, and
 in His Majesties Name straitly to Charge and
 Command all, and all manner of such Pretend-
 ed or Titulary Arch-Bishops, Bishops, Deans,
 Vicars General, Arch-Deacons and others,
 Deriving any Pretended Authority, Power,
 or Jurisdiction from the See of *Rome*, That they,
 and every of them, forbear from henceforth to
 exercise any such Power, Jurisdiction, or Au-
 thority within this Kingdom; and that all such
 Abbots, Priors, Jesuits, Friars, Monks, Nuns,
 and others of that sort, as aforesaid, do forth-
 with break up their Convents and Assemblies
 in all Houses of Friars, Colleges, Monaste-
 ries, and other Places, wheresoever they are,
 or shall be Conventually or Collegiately As-
 sembled together within this Kingdom, and
 to Relinquish the same, and to dispose and se-
 parate themselves.

And that all and every of the Orders before-
 named, and other Priests whatsoever, do from
 henceforth forbear to Preach, Teach, or Ce-
 lebrate their Service in any Church, Chappel,
 or other Publick Oratory or Place, or to
 Teach any School in any place or places what-
 soever within this Kingdom.

And we do further Charge and Command
 all and singular the Owners of such Houses of
 Friars, Colleges, Monasteries, Schools, Ora-
 tories, Mass-houses, and Nunneries, That
 they and every of them respectively, in de-
 fault of the Persons before-named, their Vo-
 luntary Relinquishing of the said Houses of
 Friars, Colleges, Monasteries, Schools, O-
 ratories, Mass-houses, and Nunneries, do
 forthwith Expel and thrust forth all and sin-
 gular such Friars, Jesuits, and other Mo-
 nasticall Persons out of the same, and do
 Convert the same to more lawful Uses, upon
 pain to have their said Houses Seized upon
 to His Majesties use; and both the one and
 the other to be proceeded against for their
 unlawful Assemblies, and Maintenance of such
 unlawful Conventicles and Corrupt Nurture
 of Children, in the severest manner that by
 the Laws and Statutes of this Kingdom, and
 Ecclesiastical Government of the same, may
 be had or Extended; whereof they and eve-
 ry of them are to take Notice, and to yield due
 Obedience thereunto, as they and every of
 them will avoid His Majesties High Indignation,
 and the Consequence thereof.

Anno 1630. The Estate of Spain was now in no good Condition, which was wittily at Rome proclaimed by *Pasquin*, habiting the Universal Monarch in that Attire of a Begging Fryer to make amends for the Grandeur of the Emperour; another Branch thereof, who was now in Medal Represented by a King under his Feet, [*the Unfortunate Palsgrave*] and the Imperial Eagle Loaden with Feathers, plucking the Crown from his head; thus we see Monarchies as well as private persons have their Fates and vicissitudes, *Hodie mihi, Cras tibi*. Therefore the lofty Spaniard being a little concerned at the new Peace lately entred into by the Kings of England and France, dispatcheth hither *Don Carlos Colonnas* for that great work of Peace-making on his part also, which was brought to pals in November following, being Sworn to by our King, Sunday, December 17. in the Chappel at Whitehall.

And whereas some have vainly imagined that *Peter Reuben* the Famous Painter of *Antwerp*, afterwards Knighted by our King, came hither upon any such account is Vain and Groundless; for the King having lately Finished the Sumptuous Banqueting House at Whitehall, and *Reuben* being the most Famous Man in his Art of those times, having done those most Excellent Figures in the Historical Pieces in the Queen Mothers Palace at *Paris*, on the same Errand he was sent for hither, and pourtray'd what we now see in that Banqueting House, viz. the Painting over head in the Room Foreshortned and looking downwards, the Pourtrait of King *James* in several Relations with all imaginary Similitude of him, looking down from the Clouds, in the rarest Postures, that perhaps these later Ages can Parallel, tending (as one saith) towards Eternity, for which he was very well rewarded, and dubb'd, as before, with the Honour of Knighthood.

The Grand Seignior resolved on the Siege of *Babylon* lately Revolted, and sends the Grand Vizier on that design with 200000 Men, whose Military Discipline was most exemplary; for he Punished with Death every Souldier wronging in the least matter any Person, who Arriving at *Aleppo*, is Entertained there by a Complaint of the French Consul against the English, for that some of our Men of War had Plundered in the Port of *Alexandria* some small Barges of *Marseilles*, who sending for the English Consul, Threatned with Death for the same, and Hanged immediately his Interpreter, he saving his Life by a Present of 30000 Ducatoones. *A rare Example of Turkish Justice.*

In October the King Declares his Pleasure about the repair of Churches to this effect.

To repair Churches and Chapels in decay.

That having of late taken special notice of the general Decay and Ruin of Parish-Churches in many parts of this Kingdom; and that by Law the same ought to be Repair'd and Maintain'd at the proper charge of the Inhabitants, and others having Land in those Chappels, and Parishes respectively; who had wilfully neglected to repair the same, being Consecrated Places of God's Worship and Divine Service: His Majesty doth therefore Charge and Command all Arch-Bishops and Bishops, That they take special care of the Repairing and Upholding the same from time to time, and by themselves, and

their Officers, to take a View and Survey of them, and to use the power of the Ecclesiastical Court, for putting the same in due Execution; and that the Judges be requir'd not to Interrupt this good Work, by their too easy granting of Prohibitions.

And also for Ornament for the City of London, there was an Order of Council-Board.

That Forasmuch as his Majesty hath received Information of the Unseemliness and Deformity appearing in *Cheap-side*, by reason that divers Men of mean Trades have Shops there amongst the *Gold-smiths*; which disorder, it is his Majesties expresse pleasure to have reformed; Whereas by occasion that Sir *Henage Finch* Kt, and some Aldermen, did this day Attend the Board upon other business, there was the same time also mention made of the aforesaid Deformity. It was thereupon thought fit and accordingly Ordered, That the two Lord Chief Justices, with such other Judges as they shall think meet to call unto them, shall consider what Statutes, or Laws there are, to enforce the *Gold-smiths* to Plant themselves for the use of their Trade, in *Cheap-side*, *Lombard-street*, and the parts Adjacent, and thereupon return Certificate to the Board in Writing, with all Convenient expedition. Of which Order the said Lord Chief Justices are hereby Prayed and Required to take Notice, and to perform the same accordingly.

And in December following Provision was made against the Transportation of Timber.

Whereas his Majesty and the Board, having been Informed of the great decay of Timber, as well within the Kingdom of *Ireland* as here in *England*, and that Ship-Timber, and Pipe-Staves, and more particularly Knee-Timber, is grown very scarce both here, and in that Kingdom, and therefore the preservation thereof doth much concern the good and safety of his Majesties Dominions. Their Lordships being careful to prevent the Transportation thereof, have this day thought fit and Ordered, that the Lord Treasurer do forthwith give effectual Order and Directions to the Officers of the Ports of *England*, That no Ship-Timber, especially Knee-Timber, or Pipe-Staves, be Transported to any parts out of this Realm, without special direction from His Majesty, or this Board. And that the like Order be given to the Officers of the Ports of *Ireland*, for the Restraining of all Transportation out of that Kingdom.

This Year was made Famous by the Death of *Bethlehem Gabor* Prince of *Transylvania*, who by his last Will Divided his Estate betwixt the Grand Seignior, the Emperour of *Germany*, and his Wife the Princess.

On the 30th. of January there were Instructions came from his Majestic to both the Arch-Bishops to this effect.

Instructions

Anno 1630. *Instructions for the most Reverend Father in God, Our Right Trusty, and Intirely Beloved Councillor, George Lord Arch-Bishop of Canterbury, concerning certain Orders to be observed, and put in Execution by the several Bishops in his Province.*

Afterwards called *Regal Instructions*, differing in some things, from the Bishop of London's Considerations before mentioned.

That the Lords the Bishops give Charge in their Triennial Visitations, and at other Convenient times, both by themselves, and the Arch-Deacons; that the Declaration for the settling all Questions in difference, be strictly observed by all Parties. That there be a special Care taken by them all, that their Ordinations be Solemn, and not of unworthy Persons.

That they take great Care concerning the Lectures in their several Diocesses, for whom We give these special Directions following.

1. That in all Parishes the Afternoon Sermons be turn'd into Catechising by Question and Answer, where, and whensoever there is not some great Cause apparent to break this Antient and profitable Order.

2. That every Bishop ordain in his Diocess, That every Lecturer do read Divine Service, according to the Liturgy Printed by Authority, in his Surplice and Hood, before the Lecture.

3. That where a Lecture is set up in a Market-Town, it may be read by a Company of Grave and Orthodox Divines near adjoining, and in the same Diocess; and that they Preach in Gowns, and not in Cloaks, as too many do use.

4. That if a Corporation do maintain a single Lecturer, he be not suffered to Preach; till he profess his willingness to take upon him a Living with Cure of Souls within that Corporation; and that he do actually take such Benefice, or Cure, so soon as it shall be fairly procur'd for him.

5. That the Bishops do Countenance and Encourage the Grave and Orthodox Divines of their Clergy, and that they use means, by some of the Clergy or others, that they may have Knowledge how both Lecturers and Preachers within their Diocesses behave themselves in their Sermons, that so they may take order for any Abuse accordingly.

6. That the Bishops suffer none, under Noblemen, and Men qualified by Law, to have any private Chaplain in his House.

7. That they take special care that Divine Service be diligently frequented, as well for Prayers and Catechisms, as Sermons; and take a particular note of all such as absent themselves, as Recusants, or otherwise.

8. That every Bishop, that by Our Grace and Favour, and good Opinion of his Service; shall be nominated by Us to another Bishoprick, shall, from that day of nomination, not presume to make any Lease for three Lives, or 21 Years, or concurrent Lease; or any ways to renew any Estate, or Cut any Wood or Timber, but merely to receive the Rents due, and quit the Place: For we think it a hateful thing, that any Man's leaving the Bishoprick, should almost undo the Successor. And if any Man shall presume to

break this Order, We will refuse Our Royal Assent, and keep him at the place he hath so abus'd. *Car. 6.*

9. And lastly; We command you to give Us an account, every Year, the second of January, of the performance of these Our Commands.

These Regal Injunctions were sent to the Arch-Bishops of Canterbury and York, and by them to all the Bishops in both the Provinces.

On occasion of which the Bishop of London, Dr. Laud, Summon'd the Clergy of his Diocess in a Solemn Speech pressing their Obedience thereto.

There happening some Tumult in the City of Chichester, about the Billeting of Souldiers, the Mayor and some of the Aldermen, with two of the Burgesses, were sent for up to London by Order of the Council.

And in regard as before we intimated the Insolencies of the Papists in Ireland, did every day more and more Encrease insomuch as they proceeded to create Convents of Monks and Nuns openly by Authority from home, the King and Council here being acquainted therewith Wrote the Letter following thereupon to the Lords, Justices, and Council of Ireland.

A Letter to the Lords Justices, and Council of Ireland.

BY your Letters we understand how the Seditious Riot, moved by the Fryars and their Adherents at Dublin, hath by your good Order and Resolution been happily suppress'd; And we doubt not but by this occasion, you will consider how much it concerneth the good Government of that Kingdom, to prevent in time the first growing of such evils. For where such People are permitted to swarm, they will soon make their Hives, and then endure no Government but their own, which cannot otherwise be restrained, than by a due and seasonable Execution of the Laws, and such Directions as from time to time have been sent from his Majesty and this Board. Now it redoundeth much to his Majesties Honour, that the World shall take notice of the Ability and good Service of his Ministers there, which in Person he hath been pleas'd openly in Council, and in most Gracious manner to approve and commend, whereby you may be sufficiently encouraged to go on with like Resolution and Moderation till the Work be fully done, as well in that City, as in the other places of that Kingdom. The Carriage whereof we must leave to your own good Discretions, whose particular knowledge of the present state of things, can guide you best when and where to carry a hard or a softer hand; only this we hold necessary to put you in mind, that you continue in that good Agreement among your selves, for this and other Services, which your Letters do express, and for which we commend you much. That the good Servant of the King and State may find encouragement equally from you all, and the ill-affected my find no support or Countenance from any, or other Continuance used, than by general Advise, for avoiding further evils, shall be allowed. And such Magistrates or Officers, if any shall be discovered, that openly, or under-hand, favour such disorders, or do not their duties in suppressing them, and Punishing the Offenders, you shall do well to take all fit and safe Advantages,

ages, by the Punishment or Displacing of a few, to make the rest more cautious. This we Write not as mistaking the fair course you have taken, but to express the Concurrence of our Judgments with yours. And to assure you of our Assistance in all such Occasions, wherein for your further Proceedings, we have advised, and His Majesty requireth you accordingly to take Order, First, That the House where so many Fryars appeared in their Habits, and wherein the Reverend Arch-Bishop and the Mayor of Dublin received the first Affront, be speedily Demolished; and be a mark of Terror to the Resisters of Authority: And that the rest of the Houses erected, or Employed there, or elsewhere in Ireland, to the use of Superstitious Societies, be Converted to Houses of Correction, and to set Idle People on work, or to other publick uses, for the Advancement of Justice, good Art or Trade. And further, that you use all fit means to discover the Founders, Benefactors, and Maintainers of such Societies and Colledges, and Certify us their Names. And that you find out the Lands, Leases, Rents or Revenues applied to their uses, and dispose thereof according to the Law. And that you Certify also the Places, and Institutions of all such Monasteries, Priories, Nunneries, and other Religious Houses, and the Means of all such Persons as have put themselves to be Brothers or Sisters therein, specially such as are of Note, to the end such evil Plants be not Permitted any more to take root in that Kingdom, which we require you to take care of. As for the supply of Munition, which you have reason to desire, we have taken effectual order that you shall receive it with all Convenient speed. And so, &c.

Signed by

Lord Keeper.
 Lord Treasurer.
 Lord President.
 Lord Privy Seal.
 Lord High Chamberlain.
 Earl of Suffolk.
 Earl of Dorset.
 Earl of Salisbury.
 Earl of Kelley.
 Lord Viscount Dorchester.
 Lord Newburgh.
 Mr. Vice Chancellor.
 Mr. Secretary Cook.
 Sir William Alexander.

Mr. Chancy Minister of Ware, and Mr. Palmer Minister of St. Alphage in the City of Canterbury, were now questioned in High Commission Court, the former for that in his Sermon he had said, That Idolatry, Atheism and Popery, was crept into the Church, and that the Gospel was likely to be Suppressed. He was ordered by his Diocesan the Bishop of London, Submission, which he performed; the other had never read the Prayers of the Church, nor used the Surplice, and therefore he was removed from his said place.

At this time there came from beyond the Seas several Exile Ministers out of the Palatinate who were there Relieved: His Majesty under the Broad Seal Commending their Distressed Estate and Condition very Pathetically to all his Loving Subjects.

And now God having given his Majesty Peace on all hands, he takes care of the Interest of his only Sister the Queen of Bohemia, and of her

Children, their Antient Patrimony being taken from them by the Emperour, and given by him to the Duke of Bavaria, he therefore Leagues himself with the French King to mediate a Peace betwixt the King of Poland and Sweden, then in open Hostility, which was speedily Accomplished by the two Kings, the one hereby Intending a new Enemy for the Austrian Family, and our King the Recovery of the Palatinate: The Sweed finding his Army ready for any Enterprize of War acquaints them an intended Expedition into Germany, for the restoring Peace and Liberty to the Distressed Protestants Estates and Princes there, which they like very well; presently after he sends his Embassador hither with the King and Queen of Bohemia's Letters to our King for Assistance in so good a cause; with whom his Majesty Complies and Agrees to send him 6000 Men under the Command of the Marquis of Hamilton; yet so as these were sent and raised only out of good will by his Subjects, that so no umbrage might be given to the Emperour by the action of the Kings, and accordingly there were made certain Stipulations and Agreements betwixt the King of Sweden and the Marquis; which afterwards were made Publicque.

And now at Ausburgh the Exercise of the Protestant Religion was quite Abolish'd by the Emperours Edict, and the Act of his Commons, as also at Halberstedt, and their Ministers Banished; and likewise the Catholick Bishops are Restored in those places, to Exercise Ecclesiastical Jurisdiction as formerly. The Dukedome of Mecklenburgh was likewise taken by the Emperour from the lawful Duke, and bestowed upon Wallestein his old General, and he Invested therewith, of all which Violent Proceedings, the Sweeds being Advertised and desirous to find work for his Veterane Army (but whether he ever intended the Liberty of Germany or not, only God knows, most certain it is he was not over kind or just to the Palgrave, when God had put an opportunity into his hand, as we shall afterwards hear;) he makes ready for his German expedition, expecting the Supplies under the Marques to meet him in Germany, according to Orders and Appointment. And thus ends the Year, 1629.

This Year beginning, Died William Earl of Pembroke Kt. of the Garter, and Chancellor of the Universitie of Oxford, a proper person and full of Gracefull Deportment, and of a Truly Generous mind, of the Antient Stock and manner of our Nobility, a person always Adverse to Men of Forein Mode and Manners, and an Enemy to the Scotch Faction at Court: he left his Honour to his Brother Phillip Herbert; and his Chancellorship of the University of Oxon to Dr. Laud Bishop of London, who was chosen thereto by that University, and presently afterward install'd at London by the Vice-Chancellor and Convocation.

About this time the Arch Bishop and Mayor of Dublin, Seize upon several Priests in that City in the Act of Massing, their Trinkets were taken from them, the Images Battered and Destroyed, the Priests and Friars were delivered up to the Souldiers, whom some Papists endeavour to Rescue, but in Vain, for a far stronger Power appearing with the Magistrates, they were Repelled, 12 Popish Aldermen were Imprisoned for not Assisting the Mayor, and upon their Misbehaviour and

Anno 1630. and mutiny 15. Houses were seized and forfeited to the King, the Friars and Priests were ordered to be prosecuted, and two of them to avoid Justice hang'd themselves in Prison; And yet notwithstanding all this, some would have us believe that Popery was connived at, nay tolerated in Ireland in their times, and that by the Governours and Government of that Kingdom, but how truly such things are said, may sufficiently from hence appear.

The Ministers of the City of York now Petition the Board for augmentation of their respective Salaries to the sum of Twenty Four pounds per Annum, referring to some instances in the like Cases in the Cities of London and Norwich, which was granted by the Council accordingly, and an order was sent to the Lord Archbishop of York, for the encrease of maintenance out of every mans House-rent.

The Lords of the Council in Ireland, as well for the encrease of his Majesties Revenue, as for the securing mens Estates as to defective Titles, put forth a Proclamation declaring the Kings will to confirm to his Subjects their defective Titles and appointed Commissioners to treat with the Kings Subjects about that work, which they did accordingly.

The Earl of Essex, of whose divorce from the Body of *Katharine Howard* you have formerly had an ample account; had some thoughts after his return from the VVar in the Netherlands of a second marriage, and accordingly he set his affections on *Madam Paulet*, a Lady by extraction of the Family of the Marquess of Winchester, of whom this account was given, by one who was acquainted with the Court in those days. That pretty she was, but poor, Beauty hath price enough, and a good Fortune would not be courted by him; In March he was Married, but being mistaken in his abilities, finding 'tis thought some defects in himself, he retired out of the Town, and thereby gave occasion to others to court his Countess, proposing to himself [be like] the advantage of another Divorce whereto he might possibly be drawn, by some of his Dependants and Servants, whose design it was to watch their Countess, who was thought wanton enough for such a Husband, and by a Ladder to her Chamber Window, saw so much as made them bold to force the Door, where they found Mr. Udall sitting upon her Beds side very late, and unbooted, who was said to have followed in pursuit of her Sister into the Countesses Chamber where he went to seek her, but the Conclusion is reported to have been Divorce, though her innocence was pleaded and sealed with all possible protestations, and so generally believed until she proved with Child, &c. But enough of this Story, which I had not mentioned, but that another faith, these matters had been charged to the account of the best of Kings, and in revenge the Earl became the Head of an Army, giving his Sovereign battel in a pitch'd Field; which Act of his, the Act of Amnesty hath pardoned, and I shall no further mention it.

On the Twenty Ninth of May Prince Charles our now Gracious Sovereign was born about One of the Clock P. M. at whose Birth there appeared a Star visible at that very time of the Day when his Majesty his Father, was going to St. Pauls Church, to render thanks to Almighty God for so great a blessing to Himself and Nation, and for the safe delivery of her Majesty; who wrote to the Bishop of London to give him notice of it as followeth,

CHARLES REX.

Car. 6.

Right Reverend Father in God, Right Trusty The King's Letter to the Bishop of London concerning the Birth of the Prince
 and Wellbeloved Counsellor, VVe Greet you well. VVhereas it hath pleased God of his infinite Grace and Goodness to vouchsafe unto us a Son born at our *Mansour* of St. James, the Twenty Ninth day of this present month of May, to the great comfort not only of our selves in particular, but to the general Joy and Contentment of our Loving Subjects, as being a principal means for the establishment of the prosperous estate and Peace of this and other our Kingdoms, whose VVelfare VVe do and will ever prefer before any other earthly Blessing that can befall us in this Life. VVe therefore according to the laudable Custom of our Royal Progenitors in like case heretofore used, have thought fit to make known unto you these glad tidings, being well assured that with all dutiful and loving Affection you will embrace whatsoever may make for the prosperous advancement of the publick Good.

Shortly after the King of Sweden signed the Articles agreed unto by our King, the Marquess and himself, about the bringing of an Army of Six thousand men into Germany for that Kings assistance, in asserting of the German liberties, as well as the recovery of the Palatinate, the Tenor of those Articles follow.

WE *Gustavus Adolphus* by the Grace of God King of the Swedes, Goths, and Vandals, Great Prince of Finland, Duke of Esthonia and Caryl, and Lord of Ingria, &c. To all and sundry whom it concerns, make it known and certain, That whereas the Illustrious and our sincerely beloved Lord *James Marquess of Hamilton*, Master of the Horse to the most Serene King of Great Britain, out of his Zeal for the publick Good, and for acquiring eternal Fame, hath resolved, to dedicate himself, and the Fortunes and Forces of all he is concerned in for restoring our oppressed Friends in Germany, and for that end hath offered to us by the Illustrious and our sincerely faithful Colonel *Alexander Hamilton*, his Fidelity and Service; and that he will on his own expence gather a strength of six thousand Men, and bring them over as soon as may be, to any place we shall appoint, either against the Imperialists, or any other of our Enemies, and maintain them on his own Charge, and do us all faithful and vigorous Service with them, till this great Affair be brought to a good issue; Provided we shall Authorize this his Design with our Protection, and give him the underwritten Assistance: Therefore there being nothing dearer to Us than to make all vigorous resistance to the common Enemies of Liberty, and having in high estimation the brave Undertakings of Generous men, we not only would not reject, but have heartily embraced the nobleness of so good Resolutions: We have therefore admitted like as by the vigour of these Presents, We admit the said Lord Marquess in our Service, Armies, and Military Councils, on the following Conditions.

The Condition of Agreement between the King of Sweden and Marquess Hamilton.

1. Whenever he shall signifie to Us that he is ready to bring over his Forces, We shall assign him a place for his Landing, either to come and joyn

Anno 1630. joyn with our Armies, or to make an Impression elsewhere, as we shall think fit.

2. 'If we appoint him to Land in any place, from whence he shall not come straight to us, We shall for strengthening his Forces send, to the place we shall assign for his Landing, four thousand Foot out of our Armies, whom we shall furnish with all Necessaries, and maintain on our Charges a whole Year.

3. 'Because the said Marquess thinks Two thousand Horse are necessary for his Foot, for whose Levy and Pay he promises all Assistance; We shall therefore think of all ways and means for raising and maintaining these.

4. 'We not only give the said Illustrious Marquess the Absolute Command of this Army in our Absence, but shall also joyn to him a Counsellor, with whom he may consult in all things, that so his Deliberations be more expedite and clear.

5. 'Whatever the Illustrious Lord Marquess shall take from the Enemy, the Lands and Territories shall belong to Us, but the Revenues and all the Emoluments shall go to him, and to the Relief of his Army; yet so as these Revenues shall be gathered decently and in order, without Depredations or Plunderings: Since Our Design is not to oppress those who have been already enough pressed, but rather to deliver them from the Oppressions of others, as much as by the Divine Assistance we can.

6. 'That the Marquess may more effectually perform what he hath bravely resolved, and may sooner make those Warlike Instruments of his own Invention, on which he relies much in his Expedition, VVe shall not only (with the first occasion) furnish him with a hundred Ship-pounds of crude Iron, but shall also assign Hammers for working it according to his Design; of which Instruments he hath promised to leave a Model with Us, and VVe shall be careful that none of our Servants shall make use of them, before he hath first made trial of them himself.

7. 'VVe shall also furnish him with Three hundred and seventy Ship-Pounds of Iron Ball for his Guns, and Two thousand five hundred Pikes, and as many Musquets.

8. 'VVenever the Marquess shall advertise us of his needing Gun-Powder, we shall assign him Bills of Exchange in Holland for buying seventy two Ship-pounds of Gun-powder.

9. 'If any other Kings or States shall concur with us, all they contribute shall be at our Disposal: but if the Marquess his necessities require further assistance, VVe shall not abandon him, but faithfully assist him as much as our Affairs shall permit.

10. 'For all which the said Illustrious Lord Marquess with all his Forces hath promised Fidelity to us, and shall be bound to it, as well as our men, and those who receive our Pay, are; for which both he, and all his Captains shall be particularly engaged.

'But because there is to be a treaty betwixt our Commissioners and the Imperialists at Dantzick; therefore if a Peace shall be there concluded, so that VVe shall not need the service of the Marquess and his Army, he hath obliged himself to pay for the foresaid materials at their entire Value.

'All which things being thus concluded, and to be firmly observed by Us, We have subscribed these Articles with our Hand, and commanded our Royal Seal to be put to them,

at our Castle in Stockholm the last of May, Anno Dom. 1630.

Signed,

Locms
Sigilli.

Gustavus Adolphus.

The Counterpart of which Agreement was afterwards signed by the Marquess of Hamilton.

And now we shall give you a most signal instance of the Effrontery, as well as intemperate Zeal and ignorance of the Scotch Presbytery in one Doctor Leighton a Scotch man born, who had wrought a most scandalous Book against our King and his Father King James, their Governments and Councils, as well as the discipline of our Church; whose assertions and positions in the said Book follow.

1. 'That we do not read of greater Persecution and higher Indignities done upon God's People in any Nation professing the Gospel, than in this our Island, especially since the death of Queen Elizabeth.

2. 'He terms the Prelates of this Realm Men of Blood, and Enemies to God and the State, and saith, That the maintaining and establishing of Bishops within this Realm is a main and master-Sin established by Law, and that Ministers should have no Voices in Council Deliberative and Decisive.

3. 'He avowed the Prelacy of our Church to be Antichristian and Satanical, and terms the Bishops, Ravens and Magpies, that prey upon the State.

4. 'He terms the Canons of our Church, made Anno 1603. Non-sence Canons.

5. 'He disallowed and contemned the Ceremony of Kneeling in the receiving of the Sacrament, alledging that the suggestion of false fears to the King by the Prelacy, and the seeking of their own unlawful standing, brought forth that received Spawn of the Beast, Kneeling at the receiving of the Sacrament.

6. 'He affirms that the Prelates did corrupt the King; forestalling his Judgment against God and Goodness, and most audaciously and wickedly calleth his Majesties Royal Consort, our gracious Queen, the Daughter of Heth.

7. 'He most impiously seems to commend him that committed the barbarous and bloody Act of Murdering the late Duke of Buckingham, and to encourage others to second him in the like wicked and desperate Attempt, to the destruction of others.

8. 'He layeth a most seditious Scandal upon the King, State, and Kingdom, wickedly affirming, that all that pass by us spoil us, and we spoil all that rely upon us. And amongst other particulars, instanceth the black pining death of the famished Rochelers, to the number of 15000 in four Months: by which Passages and wicked Positions and Assertions, he did as much as in him lay, scandalize his Majesties Sacred Person, his Religious VVife, and just Government, the person of his Royal Consort the Queen, the Persons of the Lords and Peers of this Realm, especially the Reverend Bishops.

9. 'That in another place of the said Book, endeavouring to slander not only his Majesties Sacred Person and Government, but also to de-

Anno 1630. tract from his Royal Power, in making Laws and Canons for Government Ecclesiastical, and in matters concerning the Church, he saith, That the Church hath her Laws from the Scripture, and that no King may make Laws in the House of God: For if they might, then the Scriptures might be imperfect.

10. And further charged, that in another place of the said Book, thinking to salve all with an expression of his Sacred Majesty, he hath these words following; *What pity it is, and indelible dishonour it will be to you the States Representative, that so ingenuous and tractable a King should be so monstrously abus'd, to the undoing of himself and his Subjects?*

He confesseth the Book to be of his own Penning, and the Lords Chief Justices say it was Treasonable, but he was Adjudged Imprisonment during Life, a Fine of 10000*l.* to the King, and to be degraded, whipt, and set upon the Pillory, having his Nose slit, and his Face branded with a double S. for a *Sower of Seditions*, but he escaped out of Prison, and the Hue and Cry overtaking him in Bedfordshire, he was again Committed to the Fleet, and the Sentence Executed on him. Novemb. 16. in the New Palace Yard at Westminster.

The punishment of Leighton was much resented by the discontented party, but shortly after two other persons who were concerned in his escape received sentence in the same, and were fined at Five hundred pound each, and committed to the same Prison of the Fleet, during the Kings pleasure.

The Tax for Knighthood came now to be lookt into, it was as old as Edward the Second, and call'd *Statutum de militibus*, that all who had 30 pounds *per an.* and were fit, *ad armagerenda*, should be made Knights. A plentiful revenue it was in those times, and if the persons were not found fit of Body for the Kings service, others might be found that were fitting, and these were excused from service, paying the King so much money, but this ancient Statute was taken away by the Long Parliament, that the King wanting any supplies of this nature from his Subjects out of Parliament might solely depend upon Parliamentary Aides.

It was about Midsummer when Gustavus Adolphus King of Sweden crossed the Baltick, and descended into Germany, invited, as he said, by the Germans, with promised assistance from them; his Reasons be published to the Emperour with this Protestation or Manifesto.

That he meant no Hostility unto the Empire, or Person of the Emperour: Declaring further, that his coming was principally to Relieve that Distressed Prince, his Cousin and Confederate the Duke of Stetin and Pomeran, who at that time, and for Three years before, had been injuriously oppressed by the Emperour; That he was not only engaged by ancient Alliances and Confederacies to aid the State of Pomerland (thus distressed, spoiled, taken and disarmed) but it concerned him also in point of State and good Policy, not to suffer the Duke's Enemy to be Master of those Coasts of the Baltick-Sea, whence he might at pleasure infest Sweden, and at his leisure and opportunity invade it. That his League with the said Duke

was Defensive only, and not for any Offensive War against the Emperour.

Car. 8.

His pretences you see were fair and plausible, the defence of the Protestant Cause and Religion, the succouring of his distressed Allies, and reason of State to boot; but he was told from the Emperour, that the Imperial Majesty was not to be controuled by Foreign Princes, that his Ears were and should be open to their Intercessions, but not to their Commands; and so this cause bringing no redress, for a further justification of his proceedings, and by way of Apology he enlargeth himself in the manner following, and the whole was Printed for the World to Judge.

That being by his oppressed Neighbours and Confederates invited to their relief; He for a long time rather expected the Emperour's goodness towards the Subjects of Germany, than desired to interest himself against him, with whom he so much wished the continuation of Amity. That the Quarrel was first begun by the Emperour, who in the late Wars of Prussia, between Sweden and Poland, had prohibited the King of Sweden to make any Levies of Men, or Provision of Victuals, or Ammunition in Germany, apparently granting the same liberty unto his Enemy, the King of Poland. That the Emperour himself had heretofore sent Two several Armies under his own Ensigns into Prussia, in the aid of the Pole, his Enemy. The first in the Year 1627. under the Command of the Duke of Holstein, and the second 1630. conducted by Arnheim, Marshal of the Field unto Waisstein. That his Courier riding Post with his Packets, hath been stayed; his Letters unto Bethlem Gabor opened, and false Copies published of them; that his Embassadors had been slighted, not admitted to Audience, nor vouchsafed an Answer, forbidden to stay in Germany. That upon the seeking of peace by mediation of the King of Denmark, he obtained nothing but affronts and delays: and that writing to the Colledge of Electors, then assembled at Lubbeck 1629. he found in their Answers by their Letters the main point of the business not once toucht upon; and so no remedy that way neither.

That the poor Town of Stralsund, notwithstanding it had no way wronged the Emperour, and had received Assurances and Promises of protection from the Emperour; yet had it been block'd up by Waisstein, Duke of Friedland, and the Island of Rugen, lying in the Sea, right against it, taken by the said Friedland. That the Town and Island aforesaid (his Confederates) had often complained unto him of this Injustice, and desired his peaceful Mediation first, and his armed Assistance afterwards. That considering how things stood betwixt the Emperour and Himself; it much concern'd him not to suffer that Island and Town to be possessed by his Enemies, seeing they lie so commodiously for the command of the Baltick-Sea, and so dangerously for infesting the Coasts of Sweden, which lie right against it: that the Emperour had actually molested those Coasts with Shipping, which he had newly gotten from Danzick; and other Hans Towns thereabout had hindered the Swedish Trade and Merchandizing upon the Coasts of Germany.

His

Anno 1630. His first descent was on the Isle of *Usedom*, not far from *Straelſond*; where being Entrench'd, after his whole Army Lands both Canon and Cavalry. In the beginning of July Embassadors came to him from the Duke of *Mecklenburgh, Pomeran, &c.* And in a short time he drove out of that Island under Col. *Alexander Leslyes* conduct, the whole power of the Emperour, and immediately transports his Army up the *Oder* to the City of *Stettin*, which was summon'd by the Van of his Army under the command, of *Grave Neeles*, and the Lord *Rea* a Scotch-man; upon which the City demurr'd a while, but his Army encompassing the Town, they presently yield: hereupon he sends another part of his Army to attack *Colberg* upon the *Baltick Sea*, while others take in the Castles and other fortified places in *Mecklenburgh* and *Pomerania*, of which you may expect more in the next Year.

And now arrives the Marquess of *Hamilton* in *England*, with the Stipulations and Agreements ratified betwixt himself and the *Swede*; and the King of Great Britain writes to his Sister the Queen of *Bohemia*, to acquaint her that the Marquess should speedily be dispatch'd hence with the *English* Succors, and that in the mean time he hoped to prevail by a treaty with the *Spaniards* for an entire restitution of the *Palatinate*, notwithstanding her thoughts to the contrary: His Letter here follows.

My only dear Sister,

The King's Letter to the Queen of Bohemia.

HAVING found that my last hath troubled you more than I could have imagined (for I did suspect that at the first it would a little Rattle you, before you had well considered of it; but upon debate, I thought you would not have still remained unsatisfied, as I see you are) I would say no longer from giving you satisfaction (as I hope) in some things which without doubt you mistake. But first give me leave to tell you, that it is impossible in this unfortunate Business of yours, either to give or take a Counsel absolutely good; but whosoever makes you believe otherwise, deceives you; so that the best Counsel in this, being but the best Ill, must have many Objections against it; therefore I will not undertake a Disputation, but clear those things (if I spoil not a good Cause in the telling) which you apprehend to be most prejudicial unto you, which (as I take it) is, That if I make a Peace with *Spain*, it will both hinder the Assistance of our Friends, and lay my Arms asleep for doing you Service. As for our Friends that can do us most good (I mean *France* and the *United Provinces*) they cannot be further from doing you good than now they are: What the Cause is I cannot say, but what it is not I can; For notwithstanding my Treaty with *Spain*, I have passed them both, the one for making a League for the *Palatinate*, and Liberty of *Germany*: that that is made to that same purpose (which indeed was the true intent of it) they both deny, though in a diverse fashion; so that the Treaty of *Spain* is not the Cause. As for *Sweden*, I confess he is to be heartned and used as much as may be; but I will assure you, I shall be the better able by a Peace with *Spain* to help and hearten him. Now for me, I am so far from forgetting or leaving your Interests in my peaceable disposition; That *Spain* not only promiseth as much as I can ask for his Part for your entire Restitution, but confesseth, That if his Perform-

ance answereth not his Words, I have a just Cause to renew the War upon him; so that when I have opportunity, I shall not want a just Quarrel even with *Spain* by his own Confession; and in the mean time, though the Peace be made, I shall not rest, but do what lies in me to engage my Friends in an Offensive and Defensive League for the *Palatinate* and Liberty of *Germany*. Lastly, Whatsoever may be informed you, or your Husband, the Peace of *Spain* is so far from being concluded, that as yet I have not seen a Draught of the Articles; and I earnestly entreat you to believe, that what I shall do in this, shall be chiefly to do you the best service that may be; and as I shall proceed in this, you shall have a true account, as on my credit you have had hitherto; assuring you that howsoever change of Affairs may alter Councils, my Actions shall ever prove me to be

Your Loving Brother to serve you,

Charles R.

THE King of *Sweden's* success hastened forward the Marquess of *Hamilton* in his intended design to wait upon that Kings fortunes, that was his outward aim; though his ambition had an Eye homeward in that undertaking: for he having sent hither *David Ramsay* a Gentleman of the Kings Privy Chamber, a most turbulent Boute-feau (Sir *James* and *Alexander Hamilton*, and *Robert Meldram*, and also to endear the Marquess to the Scots Officers in that Army) to proffer his service to the King, with the aid of some Regiments of foot, this Mad man, more like an Ambassador from a great Prince, than a Messenger from a Peer, took his place before the Lord *Rey* his Countryman, and a Colonel in Arms, who to honour him the more, procured the other Scots Officers to make addresses, and to attend him; discovering thereby that the Marquess his aim was of deeper consequence, not to fight under the *Swede*; and following his apprehension with prudent observations, he won upon *Ramsay*, to History out the mystery of the Marquesses design, by this means to raise Forces under a formal colour, but in earnest, to make himself King of *Scotland*, and thereon he draws a pedigree of his Right and Title from King *James* the First, and in several frolicks of Mirth and Wine, to ascribe unto him Sovereignty; of which *Rey* returning into *England*, told it to the Lord *Uchiltry* (yet living) who forthwith acquainted the Lord Treasurer *Weston*, and he the King.

And at the same time Major *Borrick* accused the said *Meldram* to have under Oath of secrecy, communicated to him the whole design, the grounds and reasons which he justified before the King and Council, and *Meldram* faintly denied, and was committed to the Fleet Prisoner Two years, and then released by the Marquess.

Sometime before his discovery Sir *William Elphinston* Cup-bearer to the King, was sent over Convoy to the King of *Denmark*, and with him, the Marquess would enforce a Companion, *Meldram*, who had private instructions to the Principal Scotch Officers in the Armies, and thereby more respected than the Kings Messenger, *Elphinston*; but at their return to *Gravesend*, a Scotchman dependant of the Marquess, gave intelligence to *Meldram* that all was discovered; but was imboldned to come to Court, where he was accused.

The

Anno 1630. The Lord Ochiltry, for reporting the discovery to *Weston*, was afterwards sent prisoner to Scotland, where the Marquesses power was more dreaded, and there coming to Examination and Tryal, Ochiltry spake out so plainly, but without further hearing, he was conveyed close prisoner to the Castle of *Blackness*, where he remained till the English set him free.

Meldram was after preferred Secretary to General *Lesly* at *Newcastle*; and *Alexander Hamilton* with a Pension of 500 l. was afterwards General of the *Covenanters* Artillery. This Account is given by one who then was a Courtier, and one well versed in the Affairs of that time.

But Mr. *Rushworth* gives the Account following, 'That the Marquess of *Hamilton* arriving at the Court in the end of this year, there happened to be at that time *Mackay* Lord Ochiltry, a Lord in Scotland, by name *Stuart*, and who once bore the Name of the Earl of *Arran*, when by a Parliament which contracted a By-Name in that Kingdom, the *Hamiltons* were attainted of High Treason; but afterwards both Blood, Honour and Estate were restored to them. This Lord had no kindness for the Marquess of *Hamilton*, but nourished a Discourse, which *Ramsay* let fall to the Lord *Rea*, when they were beyond Seas; and prevailed so far with the Lord *Weston*, then Lord High Treasurer of England, as to impart the Business to the King, being a Treason of an high nature (if true) to this effect; 'That he raised this new Army, with design when he was at the head of them, to set himself up as King of Scotland. Much Credit was given to this Design by the Lord *Weston* Lord High Treasurer, who endeavoured to persuade the King not to permit the Marquess to come near his Sacred Person, and in no kind to have the privilege to lie in his Majesties Bed-Chamber, lest his Majesties Life were hazarded thereby.

The Lord *Weston* pressed this home unto the King; but his Majesty kept his thoughts private to himself: and having a great affection to *Hamilton*, as soon as he came into his Presence, embraced him with great kindness, and discovered to him what he was accused of, but said, I do not believe it; and that the World may know I have a confidence in your Loyalty, you shall lie in my Bed-Chamber this night. But the Marquess beseeched his Majesty to excuse him, till he had received a Trial, and was cleared of the Treason he was accused of; but the King would receive no Denial; yet told him he would put the Business into a way of Examination; but afterwards when the Examination was taken, it was found that the one affirmed the Accusation to be true; and the other as positively denied it, and that there appeared not then any concurrent proof of the same.

A Report of these Examinations was afterwards made to the King's Majesty, who was graciously pleased to refer the whole matter to a Trial before the Lord High Constable, and Earl Marshal, in the Court of Honour; of which the Reader will have a full account towards the end of the next Year in its proper time and place. In the mean time, the King caused *Rea* and *Ramsay* to be secured in order to that Trial; so the Marquess proceeded in making provisions for the embarking of his Army, and ordering those Forces in Scotland to be in readiness to be shipped, to come to the place of Rendezvous when they received Orders.

In Germany by this time, all parties concerned, both Protestant and Popish, had enough of the War; it had now continued 12 years almost to the Ruine of Germany, once the most flourishing part of Europe; which the Emperor seriously reflecting upon, and thinking of the great Impositions which it now underwent, if they should be continued, it would in fine set both the Parties against the Emperor, as now they were against his General *Wallenstein*; which as Mr. *Rushworth* hath well observed, had much disgusted the People against the Emperor; and if other Wars should thereupon ensue, the Chances thereof might happen to be uncertain, and the event in the end fatal. And further, that if at this Diet things unreasonable should be proposed unto him by the Confederate Protestant Princes, if he did refuse their Desires upon just grounds, he should thereby oblige the Confederate princes of the Catholick League the more firmly to assist him, than if he should refuse the Calling of a Parliament (or Diet) and act upon his Imperial Authority.

The Princes of the Catholick League, as also the Catholick Party, seemed very desirous of this Diet, having, as well as the Protestants, shared in the Insolencies of the Imperial Sculdiers under *Wallenstein*, and of the Charges of the War; and the more moderate sort of Catholicks were much dissatisfied at the Covetousness of the Duke of *Bavaria*, for his pressing the Emperor so hard to confer the Electorship and Patrimony of the Prince Elector *Palatine* upon him, as a Reward for his Services, they conceiving this action of disinheriting a Prince of so great Interest and Alliance, would at one time or other, raise up Friends that might disturb the Peace of the Empire: wherefore they wished the Emperor would rather confiscate the Estate for Life, as a Punishment for the Fathers Offence, than to disinherit the Children, who were innocent of their Father's forward and rash undertaking, as they termed it.

Those of the Catholick League expressed themselves as to the said Diet, That though they did much desire it, yet their hopes were, that the Emperor would never consent to let the Protestants go away without restitution of the Church-Lands and Goods, which they pretended the Protestants held from them.

The Princes of the Union and Protestant Party, were no less thirsty of Peace, having undergone the greatest of all hardships, being most of all overlaid with heavy Impositions, and with the Billeting of Souldiers of the Catholick League, and were desirous that there might be an absolute Oblivion of all things by-past, and the Empire settled in firm Peace. Great Joy therefore was throughout the Empire, expecting that there would be an end of further War, and a firm and settled Peace concluded at this Diet. But there wanted not those, who did insinuate unto his Imperial Majesty what was fit for him to insist upon at the Meeting of the Diet, from which it was not fit for the Emperor to recede;

Amongst which, one was,

1. That he should in no wise consent to a settlement until the Protestants should restore the Church-Lands and Goods unto the Catholick Party.

Private Resolves of the Emperor, from what things not to recede.

Anno 1629. 2. Not to diminish his Army, but in a small proportion, that he might keep up his Power by force, and a strong hand, lest the Deposed Princes, and others, should upon any opportunity of advantage, revenge themselves upon the Emperor.

3. And therefore resolved to keep up his Army, and not to restore the Prince Elector Palatine to his Dignity and Patrimony.

The Emperors Proposal at the Diet as to the Palgrave.

Notwithstanding all opposition, the Emperor met at the Diet; he represented unto the Princes then Assembled, that he was not the cause of so cruel a War as had been, nor would be a hinderer of the Peace; imputing all the mischief that fell out upon the War, unto the *Palgrave*, Count *Mansfield*, *Brunswick*, and the King of *Denmark*; and that it was high time to think of a firm and settled Peace: But as to the *Palgrave*, he proposed to the Diet to pass an Act, that he should continue a *Banished Man*, without all hopes of returning; and that they would never vouchsafe to entertain Peace or Amity with him.

That the *French* were concluding a League with the King of *Sweden*; and though there were causes of Enmity between Him, the Emperor, and the King of *Swedeland*, yet if the King of *Sweden* would not condescend unto the Imperial Ambassadors and the King of *Denmark*'s Mediation for a Peace, he was to be threatened with the Power of the *Roman Empire*, and to be chastised by Force of Arms.

Lastly, His Imperial Majesty proposed, that the Princes would consult to provide Money for maintaining a standing Army; for restoring of Martial Discipline, and of the manner of laying and levying Impositions.

In Answer to the Proposals of the Emperor, the Princes Electors laid open the general Grievances and Miseries of the Empire, the Outrages committed in War, and Excessiveness of the Impositions; and as the Emperor laid the fault upon the *Palgrave*, the Electors laid the fault of all the Misery that had happened, upon the new Duke of *Mecklenburgh* (*Wallenstein*) General of the Emperors great Army, to whom his Imperial Majesty had given such a large Commission, without the consent of the Princes of the Empire (as never before him any man had.) That the Impositions which by the Laws of the Empire, had wont to be assessed by the joynt consent of the Princes, had at the pleasure of the said Duke of *Mecklenburgh* been imposed, and most rigorously exacted; insomuch that the Elector of *Brandenburgh* had in a few years been forced to contribute about 20 Millions of *Florins*. The Duke of *Pomerland* complained that Ten Millions was paid out of his Principality of *Stetin*, all in one year only; besides other Charges and Expences with the Rabble of the Army.

The like complaint came from other Princes. In conclusion, the said Electors did more particularly fall upon the said Duke of *Mecklenburgh*, pressing the Emperor to cashier him, and to disband his Army, and to have Peace made with the *French* King, and the Princes of *Italy*, and with the King of *Swedeland* also.

The Complaints both of the Protestant and Catholick Princes were so many and very great against *Wallenstein*, and the Insolencies of his Soldiers in their Quarters, and of his Commissaries in their bold levying of Money upon the Empire, as that the Emperor hath nothing to

say for him, but consented to their Desires, that his Command should be taken from him. And two Barons of the Empire were sent to him, with the Proposals of the Diet presented to the Emperor, and the Emperor's Resolution thereupon, that he should deliver up his Commission.

All mens Minds were full of expectation what the event of this Message to a General so potent, and an Army so rude, should produce: but contrary to all imagination, *Wallenstein* complied with the Emperor's Command, left his Army, and went to *Nimwegen*, where he remained as a private person.

The Electors having prevailed as to his Removal, proposed also unto his Imperial Majesty further to declare his purpose, that no war should be made upon any without the consent of the Princes, and that no Imposition should hereafter be levied at the pleasure of the General of the Army.

The Electors having obtained a safe Conduct of the Emperor for *Rusdorfe*, Ambassador of *Frederick* Prince Elector Palatine, he came to the Diet, in the company of Sir *Robert Anstruther*, the King of *Great Britain*'s Ambassador, who much pressed for Audience, about the time that News came how the King of *Swedeland* was active in *Pomerland*, which made most of Opinion his Landing would contribute to get Restitution of the said Elector Palatine to his Dignity and Patrimony. And Audience being granted to the *English* Ambassador, he thus delivered his Errand.

'That nothing could affect (his Master) the King of *Great Britain* more, than the consideration of the daily Calamities undergone by his Brother-in-Law the Prince Elector, his Wife and Children. That no place was more expedient to Treat of Peace, Reconciliation, and Re-establishment than in the Diet; therefore he made it his ardent Request to his Imperial Majesty, That having regard to the many intercessions of his late Father, and other Kings and Princes, he would remit the Displeasure conceived against his Brother, and recal the Proscription issued out against him.

'True it was, his Brother had offended, and was inexcusably guilty, unless the rashness and precipitation of Youth might somewhat plead for him; but others had been as culpable, whom yet his Imperial Majesty had received into favour.

'And would he be pleased to extend to him the same Clemency, it would oblige his Master to demonstrations of the greatest Gratitude, and raise a glorious Emulation in others, to imitate so excellent a Pattern.

'That the *Palgrave* would entertain this Favour, with an heart so firmly devoted to his Service, so as all the intentions of his Spirit should be disposed to Compensation and Reparation of his former Miscarriage.

'That his Majesty held nothing so dear as the Affection of his Imperial Majesty, and establishment of a durable Peace between them; and as upon all occasions he hath been forward to represent himself solicitous for it, so at this time he was ready to give more ample Testimony, if his Imperial Majesty was pleased to incline to a Treaty.

1630. All this being fair and full of respect, gained Civilities to the Ambassadors: but it was answered,

That the present Affairs of Germany, which occasioned the Diet, were so important, as not to admit of any Foreign Debate; and yet upon opportunity and leisure, the King of Great Britain should receive such satisfaction as would be agreeable to their Honour, and Confidence his Majesty had in him.

After that Caesar had granted Audience to the Ambassador of the King of Great Britain, an exact account was brought to his Imperial Majesty, that he had no reason to hope for any peace from the King of Sweden, who had made himself Master of Pomerania, and had put to flight the Imperialists, and was now possessed of Stettin; Hereupon the Catholick Princes and States advise the Emperor to continue the War, and promise him Assistance in it; and withal, that he should endeavour to get his Son Ferdinand chosen King of the Romans; which thing was much opposed by the Protestant Princes and States, as a thing against the Laws of the Emperor; that they had not now been called hither for that purpose; that Frankfurt was the proper place for that Election; and thus they endeavour to excuse themselves, and put off that Matter for that time; which being ill resented by the Emperor, therefore to be quit with them, he Decreed,

That those Gentlemen of the Upper and Lower Palatinate, Frankenhalm, and other Counties who had born Arms under Count Mansfeld, Duke of Brunswick, and others, that their Estates should be condemned as Confiscated. And with the Profits thereof, the Emperor did gratifie his Privy Council and others with Pensions for a Reward of their Services.

The Princes and Estates Protestant protest against these Proceedings as illegal; these Fees and Estates by ancient prescription belonging to those Noblemen, so proscribed and divested of their Inheritances; but all in vain; for he would not hearken thereto, declaring, that he was concerned in Honour and Justice so to do, that it might be a Terror to succeeding times to bear Arms, or raise War against his Imperial Majesty; and therefore he made a Decree for the restitution of Church-Lands; and published it by Proclamation; which was followed by a Decree against the Duke of Brandenburg, of Wittenberg, and the Count of Hohen, that they should surrender the Estates they had held ever since the Agreement at Passaw, which was in the Year 1555. In which there was an Article to this purpose; That those who should at any time violate that Agreement, should be accounted Enemies of the Empire: however the Catholick Princes seemingly interpose with Caesar, as fearing another War would hereupon ensue in the Empire: but at last these also were brought over from soliciting the Emperor, by the prevalency and Interest of their Popish Clergy; and more particularly, of the Jesuits. And on the Third of November the Diet broke up in great disorder, instead of a Settlement that was expected.

However, the Catholick Princes and Estates prevail with Caesar to call a Diet at Frankfurt, that an Accommodation might (if possible) be made; and in the mean time the Protestants meet at Leipsick, and agree upon a Letter to be sent to Caesar, to the effect following:

That they take notice that there had been a Conference between the Protestant and the Catholick Princes at the former Diet concerning Church-Lands, and that the further Treaty thereupon was referred unto a Diet to be held at Frankfurt in August following, and therefore besought his Majesty to give liberty to the Protestant Princes to hold a Diet by themselves in some convenient place, that so by their united Council, they might be provided with an Answer to the Catholick Princes, at their Meeting in the Diet at Frankfurt, concerning the said Church-Lands. The Address to the Emperor was recommended, with the Mediation of the Elector of Adria and Bavaria; and the Emperor agreed to what was desired; and Leipsick was the place appointed for the Meeting of the Protestant Princes, and the time was Feb. 8. then next following.

And at the appointed place they all met at the prefix'd time; when the Elector of Saxony proposed the Heads of their present Consultation; which were,

1. 'How the Church might be with a good Conscience maintained in her ancient Liberty and happy Estate.
2. 'How to keep their Obedience to the Emperor, and yet preserve the ancient Constitution and Peace of the Empire.
3. 'How to maintain Correspondency with the Catholick Princes, in order to the peace of the Empire.
4. 'What to answer for themselves, both in general and particular, as well concerning the Maintenance of the Reformed Religion, as to the Emperor's Edict concerning Church-Lands, when they should come to meet at the Diet at Frankfurt.

And after long Debate, they propose their Grievances to Caesar; and these were,

1. 'That the Golden Bull, or Magna Charta, and Constitution of the Empire might be firmly observed, which hath been violated by the Emperor's late Edict for the restitution of Church-Lands, and through his Endeavours, to root out the Protestant Religion; which hath been the main Cause of the late miserable Wars and Troubles.
2. 'They complained of particular Injustice done to particular Princes and Cities, by the violent taking away of the Church-Lands, as the Duke of Wurttemberg, the Duke of Brunswick, the Prince of Anhalt, and others.
3. 'And that some were hindered in the exercise of their Religion; as, Augustus and Frederick, Princes Palatine, and others; and that forty eight had their Estates confiscated, as the Lady Eleatrix Palatine, and her Son Lewis, Prince Palatine; the one being the Mother, the other the Brother of the King of Bohemia, and the Duke of Mecklingburgh, &c. For whom the whole College of Electors had interceded in the last Diet, but prevailed not.
4. 'A Complaint of the violent altering of the Feods of their Lands and Lordships, into which the Imperial Commissaries had by Force and Arms entered, changing the Tenure of the Tenants, and altering the Religion.
5. 'That their Lands had been given to Souldiers, as if they had been Conquered.

Grievances laid open to the Emperor.

Anno 1626. 6. That treble more Contributions have been raised against no Enemy, than ever were when the *Turks* were in *Germany*, with many other Particulars. Concluding, That all this is contrary to the Oath of the Emperor, and unto the Laws of the Empire, the Privileges of the Princes, and against the Honour and Safety of the Empire; of which the several Electors and Princes had complained, and which by them were protested against in the late Diet at *Ratisbon*.

Wherefore they now humbly Petition his Imperial Majesty to be relieved, protesting otherwise they are not able to endure the Burden, but shall be enforced to defend their Persons, Consciences, Estates and Subjects; resolving notwithstanding to continue their due Loyalty and Obedience to his Imperial Majesty; yet in the mean time to prepare for a War, in case the Matters complained of by them should not be redressed. This bore Date at *Lipswick*, March 18, 1631. and the Diet broke up upon *Palm-Sunday* following.

Communicated to the Catholick Electors. The substance of what they writ to the Emperor, they sent unto the three Catholick Electors, informing them, That War would undo all, that the Insolencies of the Commissaries and Souldiers were not to be endured.

Case hereof. Storms and makes ready the Ban Imperial against them, forbidding any persons to Assist them with either Money, Quarters, or Aydes, and commanding every one to destroy, pursue, take and kill them, as the publick Enemies of the Empire; and accordingly he orders *Tilly* to March against them, and the Count of *Pappenheim* to attack *Magdenburgh*, of which you may hear more in the next year.

Dr. Land, Bishop of *London*, as Dean of the Chappel, Christens Prince *Charles*, our now Gracious Sovereign, at *St. James's*; his Godfathers were the King of *France* and the Prince Elector, Represented by the Duke of *Lenox* and Marques of *Hamilton*, and his Godmother was the Queen Mother of *France*; and for her stood the Dutches of *Richmond*.

There was yet in being a Statute Termed *De Militibus*, and from time to time of all Kings and Sovereigns more or less put in execution since *Edward* the second's time; framed then more for the ease of the Subject, than profit of that King; then reduced to such to be Knights, that had twenty pounds *per Annum*; but before that time, all men of fifteen pounds *per annum* were required to take it, to appear at the Coronation, (*ad Arma gerenda*) and to be Knighted. The Statute is Entituled, *Statutum de Militibus*; as followeth.

That our Sovereign Lord the King hath granted, that all such as ought to be Knights, and be not, and have been distrained, to take upon them that Order before the Feast of the Nativity of our Lord, shall have respect to take upon them the foresaid Arms of Knighthood at the Vigil of *St. Hilary*, &c.

And certainly it was their quality of 40 Pound Rent *per annum*, a plentiful Revenue in those former times, made them capable, not their sufficiency of body to bear Arms, when thousands more of less Estates might be found fitter for Fighting;

But being in force now, notwithstanding those that refused it, they were brought into the Exchequer, and did pay above one hundred thousand pounds. And the long Parliament that succeeded, to please the People, repeal'd it; so that all the Advantages the King had to help himself, were either condemned as done but according to an old Law of the Land, or else some new Law must be made to deprive him of the other; that wanting all other means to support himself, (as one saith) he might be forced upon the Alms of the Parliament.

The original Ground was heretofore, when the Services were done by these men, and were taken in kind, it was then thought fit there should be some way of Trial and Approbation of those that were bound to such Services, after they came of age, and had possession of their Lands, and should be made Knights, that is, publicly declared to be fit for Service, divers Ceremonies and Solemnities were in use for that purpose; and if by the parties neglect this was not done, he was punishable by Fine.

And now his Majesties Affairs requiring all lawful Supplies from his Subjects, he calls upon those who held their Land by such Service, to appear, &c. and in regard it was for their conveniencies mostly to Fine off this Duty, he appoints Commissioners, as followeth.

That whereas the King having formerly sent forth Writs to several Sheriffs of the several Counties for the summoning of all that had forty pound Land or Rent by the year, to appear at the day of his Coronation, and prepare themselves to receive the Order of Knight-hood, did now award a Commission to certain Lords and others of his Privy Council, to treat and compound with all those who then made default, as well for their Fines and their Contempt, as for their Respite to take that Order upon them. Whereupon Multitudes were summoned to give attendance at the Council-Chamber at *Whitehall*.

The Names of the Commissioners of the Privy-Council touching the Order of Knight-hood were these.

Lord Keeper.
Lord Treasurer.
Lord President.
Lord Privy-Seal.
Lord High-Chamberlain.
Earl Marshal.
Lord Steward.
Lord Chamberlain.
Earl of Suffolk.
Earl of Dorset.
Earl of Salisbury.
Earl of Exeter.
Earl of Northampton.
Lord Vicount Dorchester.
Lord Vicount Wimbleson.
Lord Wentworth.
Mr. Vice-Chamberlain.
Mr. Secretary Cooke.
Mr. Chancellor of the Exchequer.

The

Anno 1630. *Car. 1.* The General Instruction which was given to the Commissioners was this; to take no less than after the Rate of thrice and a half as much as the persons compounding were Rated in the Subsidy, which was no immoderate Taxation, but repined at, and some put in Pleas in the Exchequer to the Kings Demands. The persons named of the Nobility as Commissioners to transact the Matter, were,

Lord Marquess of Winton.
 Earl of Arundel.
 Earl of Essex.
 Earl of Huntingdon.
 Earl of Peterborough.
 Earl of Kingston.
 Lord Vicount Say and Seal.
 Lord Vicount Montague.
 Lord Brook.

The Summons to the Refusers were as follow;

VHereas his Majesty is given to understand, that you whole Names are here under-written, dwelling in the County of have either neglected to appear, or appearing, refused to compound with his Majesties Commissioners appointed to treat with you in that behalf, for your not attendance at his Majesties Coronation, to receive the Order of Knighthood, according to the Law; you being all, as we are informed, Men of good Ability; at which his Majesty doth much marvel, considering that you cannot be ignorant how legal this Demand is; and consequently how much the said Commission is in your favour, that nevertheless you should refuse to accept of his Majesties Grace therein: His Majesty notwithstanding, out of his accustomed Goodness, is rather willing that those who out of mistake, or ill example of others, than out of their own wilful opposition to his Majesties Service, have been herein misled, should be reduced to conformity by fair means, and with least charge or trouble to them, than by any compulsory course of Law, which his Majesty in all cases between him and his People, doth in their favour, desire to avoid as his last Resort: We are therefore, in his Majesties Name, and by his expresse Command, hereby to signifie unto you, That his Majesty expects and requires you should (accordingly within ten days next after notice hereof) make your repair unto us at Whitehal, to the end that in pursuance of his Majesties pleasure, we may treat with you concerning your said Composition, before any further or more compulsory proceedings be had against you.

And because there had been resistance made to the Lord Mayor in Fleet-Street, on occasion of some Arrests made in Fleet-Street by the Sheriffs Officers, and on that occasion a great Riot and uproar was made, to the Breach of the King's Peace, his Majesties Proclamation was issued for the Discovery of the persons concern'd therein; and at last, besides the Gentlemen-Students of the Law, there happened to be concerned one Captain Vaughan, and one Stamford; the latter whereof was found guilty upon his Trial, and executed accordingly.

In Michaelmas Term one Mr. Vassal a Merchant put in his Demurrer into the Court of Common-

Pleas, against an Information exhibited against him in the Exchequer for Non-payment of the *Car. 6.* Duty of 4 s. 10 d. by the Hundred on Currans, and brought his Habeas Corpus in the King's Bench, but he was notwithstanding (for that Judgment in this matter had been before given for the King, and he committed in that Court in a Cause properly by them cognoscible) sent to Prison, by award of the Court.

In the same Term Mr. Selden's Case, for not putting in Sureties for his good behaviour, came to be argued, and the Process was as followeth.

John Selden was committed to the Marshalsey of the King's Bench, for not putting in Sureties for his good Behaviour. There were with him in the same Prison Hobart, Stroud and Valentine. In the end of Trinity-Term, 6 *Car.* the Sickness encreasing in Southwark, the three last named made suit unto the Judges of the King's Bench, to be delivered over to the Gatehouse in Westminster, to avoid the danger. The Judges thought it Charity, and by Writ to the Marshal of the King's Bench, commanded him to deliver them to the Keeper of the Gate-house, and sent him a Writ to receive them. Mr. Selden never sent unto them whilst they were in Town, but when they were all gone, made suit to the Lord Treasurer, to move the King, and to avoid this danger, he might be removed to the Gate-house; which he did, and sent a Warrant under his hand to the Marshal, signifying his Majesties pleasure to remove him to the Gate-house; accordingly he was remov'd. Thereupon when the Judges came to Town in Michaelmas Term, they called the Marshal to account for his Prisoner Mr. Selden; and he presenting unto them the Lord Treasurer's Warrant by the Kings direction, the Judges told him it would not serve, for he could not be removed but by Writ, and upon his Majesties pleasure, signified it might so have been done. And although the Judges were out of Town, yet the Clerk of the Crown would have made the Writ upon so good a Warrant, and it might have been subscribed by the Judges at their return. And to avoid the like Errour hereafter, the Court sent Justice Whislock to the Lord Treasurer, to let him know that Mr. Selden never looked after any of the Court, but sought a new and irregular way to be removed without them. The L. Treasurer made a very honourable Answer; That he would not move the King for Mr. Selden to be removed by this means, until he sent him word, on his credit, that it was a legal way; and told that Judge, that Mr. Selden was at the Judges dispose; to remove back when they would; for it was not the King's meaning to do any thing contrary to the Order of the Court, or their formal Proceedings: So Writs were sent this Michaelmas Term, to remove the four Prisoners back again to the Marshalsey.

J. Selden's Case.
 Judges except-
 on to the
 Warrant
 sent by
 the Lord
 Treasurer

And now to see the great and noble mind of Dr. Laud Bishop of London, these ensuing Acts of his Munificence and Piety, whereof some were by him performed in his Life-time, and the rest intended by him, had he not been cut off in the succeeding evil times, by the hands of Violence and Injustice. These were,

1. TO build at St. John's in Oxford, wherein he was bred up, for the Good and Safety of that Colledge.
2. To

Anno 1630. 2. To overthrow the Feoffments, dangerous both to Church and State, going under the specious pretence of buying Improvements.

2. To procure King Charles to give all Improvements yet remaining in the Crown within the Realm of Ireland to that poor Church.

4. To set upon the Repair of St. Paul's Church in London.

5. To collect and perfect the broken, crossing and imperfect Statutes of the University of Oxford, which hath lain in a confused heap some hundred years.

6. To settle the Statutes of all the Cathedral Churches of the New Foundations, whose Statutes are imperfect, and not confirmed.

7. To annex for ever some settled Commendations; and those, if it may be, *sine Cura*, on all the small Bishopricks, for Bristol, Peterborough, St. Asaph, Chester, and Oxford.

8. To find a way to increase the Stipends of poor Vicars.

9. To see the Tithes of London settled between the Clergy and the City.

10. To set up a Greek Press in London and Oxford, for printing the Library-Manuscripts, and to get both Letters and Matrices.

11. To settle 80 l. a Year for ever out of Dr. Fryer's Land (after the Death of Dr. John Fryer the Son) upon the Fabrick of St. Paul, toward the Repair, till that be finished, and to keep it in good state after.

12. To procure a large Charter for Oxford, to confirm their ancient Privileges, and obtain new for them, as large as those of Cambridge, which they had got since Henry the 8th. and Oxford had not.

13. To open the great Square at Oxford, between St. Maries and the Schools, Brazen-Nose, and All-Souls.

14. To settle an Hospital of Land in Reading, of 100 l. a Year.

15. To erect an Arabick-Lecture in Oxford, at least for his Life-time, his Estate, as he supposed, not being able for more, that this may lead the way, &c. The Lecture began to be read, August 10. 1636. and was settled for ever.

16. Then to settle the Impropriation of the Vicarage of Cudsdon to the Bishop of Oxford. Wednesday, April 19. 1637. and so the house built by the new Bishop of Oxford, Dr. John Bancroft, and settled for ever to that Bishoprick.

17. To get a Book in Vellum fair written, containing the Records which are in the Tower, concerning the Clergy. This Book he got done at his own Charge, and left it in his Study at Lambeth, for Posterity, June 10. 1637. *ab Anno* 20. *Edw.* 1. *ad An.* 14. *Ed.* 4.

18. To procure a new Charter for the College near Dublin, and a Body of new Statutes made to rectifie that Government.

19. A Charter for the Town of Reading, and a Mortmain of---

20. If he lived to see the Repair of St. Paul's near an end, to move his Majesty for the like Grant from the High Commission, for the buying in of Improvements that he already had for St. Pauls, and them he hoped to buy in two Year at least.

These things following the Bishop perfected in his Life-time, according as he had designed,

His building of St. John's College.

The overthrow of Feoffments.

Setled Improvements in Ireland.

Began the Repair of St. Pauls.

Regulated the Statutes of Oxford.

Setled the Statutes of the Cathedrals, and annexed Commendations to them.

Set up a Greek Press in London.

Obtain'd a large Charter for Oxford.

Setled an Hospital at Reading.

Setled an Arabick-Lecture in Oxford.

Setled an Impropriation on Cudsdon.

Obtain'd a Charter for the College near Dublin, and a Charter for the Town of Reading.

And in regard several Merchants of England minding their own private Lucre and Gain, had against the King's Proclamation, sold Arms to the Salvages and Natives of New-England, to the destruction of the English there, a Proclamation was issued out, Dated Decemb. 5. to prohibit the like bartering for the future: And on the same day came forth the Articles of Peace formerly sworn to by his Majesty betwixt Engl. and Spain; whereby it was signified by his Majesty to his loving Subjects, That all Acts of Hostilities were from henceforward to cease.

On the 5th. of January his Majesties Commission came forth in Print, for putting in execution the Statutes and Laws for the Relief of the poor, and the punishment of Rogues, and employment of Gifts to charitable uses; they were as followeth.

A Commission to the Lords, and others of the Privy Council, for putting in Execution of the Laws and Statutes for Relief of the Poor, Punishment of Rogues, and Employment of Gifts to Charitable uses, Jan. 5. 1630.

CHARLES, by the Grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, &c.

To the most Reverend Father in God, Our Right Trusty and Well-beloved Counsellor, George, Lord Archbishop of Canterbury, Primate and Metropolitan of all England.

And to our Right Trusty and Well-beloved Counsellor Thomas Lord Coventry, Lord Keeper of our Great Seal of England.

And also to the Right Reverend Father in God, Our Right Trusty and Well-beloved Counsellor, Samuel, Lord Archbishop of York, Primate and Metropolitan of England.

And likewise to our Right Trusty and Well-beloved Counsellor Richard, Lord Weston, Our High Treasurer of England.

And also to our Right Trusty and Right Beloved Cousins and Counsellors Edward Viscount Conway, Lord President of Our Privy Council.

Henry, Earl of Manchester, Keeper of Our Privy-Seal.

Robert, Earl of Lindsey, Lord Great Chamberlain of England.

Thomas

*Thomas Earl of Arundel and Surrey, Earl Mar-
tial of England.*

*Philip Earl of Pembroke and Montgomery, Lord
Chamberlain of our Household.*

*Theophilus Earl of Suffolk, Lord Warden of
our Cinque Ports.*

*Edward Earl of Dorset, Lord Chamberlain to
Our Dearest Consort the Queen.*

William Earl of Salisbury.

William Earl of Exeter.

John Earl of Bridgewater.

James Earl of Carlisle.

Henry Earl of Holland.

William Earl of Banbury.

Henry Earl of Danby.

William Earl of Moreton.

Thomas Earl of Kelly.

Edward Viscount Wimbeldon.

*Dudley Viscount Dorchester, one of our Princi-
pal Secretaries of State.*

*Thomas Viscount Wentworth, Lord President
of our Council in the North parts.*

Oliver Viscount Grandison.

Henry Viscount Faulkland.

And likewise to the Reverend Fathers in God,
Our Right Trusty and Well-beloved Counsellors,
William Lord Bishop of London.

Richard Lord Bishop of Winchester.

And also to Our Right Trusty and Well-be-
loved Counsellors, *Edward Lord Newburgh*, Chan-
cellor of our Dutchy of *Lancaster*.

Sir Thomas Edmunds, Knight, Treasurer of our
Household.

Sir Henry Vane, Knight, Comptroller of our
Household.

Sir Thomas Ferymyn, Knight, Vice-Chamberlain
of our Household.

Sir Robert Naunton, Knight, Master of our
Court of Wards and Liveries.

Sir John Cook, Knight, one other of our prin-
cipal Secretaries of State.

Sir Francis Cottington, Baronet, Chancellor of
our Exchequer.

Sir Julius Caesar, Knight, Master of the Rolls.

And *Sir William Alexander*, Knight: Greeting.

Whereas diverse good Laws and Statutes, most
necessary for these times, have during the happy
Reign of Queen *Elizabeth*, and of our late Fa-
ther of Blessed Memory, and since our coming
to the Crown of *England*, been with great Wil-
dom, Piety, and Policy, made and enacted in
Parliament, as well for the charitable Relief of
Aged and Impotent poor People, not able by
their Labours to get their Livings; and for the
training up of Youth in honest and profitable
Trades and Mysteries, by putting them forth to
be Apprentices, as also for the setting to work
of Idle Persons, who being of ability to work,
in some kind or other, do nevertheless refuse to
labour, and either wander up and down the City
and Country begging, or, which is worse, main-
tain themselves by filching and stealing; and for
the Punishment of sundry Rogues and Vagabonds,
and setting of them to work: and for the sup-
pressing of that odious and loathsome sin of
Drunkenness, and the repressing of Idleness,
the root of so many Evils; the due Execution of
which, and the like Laws and Statutes would
prevent and cut off many offences and crimes of
high Nature.

And whereas we are informed that the defect
of the execution of the said good and politick
Laws and Constitutions in that behalf made,

proceedeth especially from the neglect of Duty
in some of our Justices of the Peace, and other
Officers, Magistrates, and Ministers of the Peace
within the several Counties, Cities, and Towns
Corporate of this our Realm of *England*, and
Dominion of *Wales*, to whom the care and trust
of seeing the said Laws to be put in execution, is
by the said Laws principally committed; which
remisness and neglect of Duty doth grow and
arise from this, That by the most of the said
Laws, there are little or no Penalties or Forfeit-
ures at all inflicted upon the said Justices of the
Peace, Magistrates, Officers, and Ministers for
not performing their Duties in that behalf; or if
any be, yet partly by reason of the smallness
thereof, and partly by reason of their Power
and Authority in their several Places, whereby
they hold others under them in awe, there are few
or no Complaints or Informations made of the
neglects and want of due execution of the Of-
fices of the said Justices and other Ministers; and
although the care and diligence of our Judges
and Justices of Assize be never so great, yet by
reason of the shortness of their Assizes and Ses-
sions in every County, and multiplicity of Busi-
ness, they never have due information of the
said neglects, nor in those times can take such
exact courses as were requisite for redress of
such general abuses and inconveniences, so highly
importing the publick good of this our Realm,
by reason whereof the said Justices of Peace, Ma-
gistrates, Officers and Ministers are now of late
in most parts of this our Kingdom grown secure
in their said negligence, and the said politick
and necessary Laws and Statutes laid aside, or
little regarded as Laws of small use and conse-
quence, whereas upon the present making of the
said Laws, the same being then duly executed, as
also at this day in some Counties and Parts of
this our Kingdom: (where some Justices of the
Peace, and other Magistrates do duly and dili-
gently execute the same) there evidently appear-
eth great reformation, benefit and safety to re-
dound to the Commonwealth. And likewise,
whenas there was care taken, and diligence used
to have the Laws concerning charitable uses, well
executed, and all pious Gifts to be employed ac-
cording to the good intent of the Donors, these
poor people were better relieved than now they
are. All which we taking into our Princely care
for the preservation of the common Peace of
this Realm, the performance of mens pious In-
tentions in their Gifts of Charity, and the gene-
ral Good and Quiet of our Subjects.

After long and mature Deliberation, finding
that there is no better ways or means to have
the said Laws and Statutes put in full execution,
than by committing the trust and oversight there-
of to the special care and industry of certain
Persons of principal place, dignity, and order
near unto Our Person: Who upon their diligent
enquiry how the said Laws and Statutes are put
in Execution, may be able upon all occasions
from time to time to give us particular informati-
on thereof, and by their approved Wisdoms, Ex-
perience and Judgments, give directions, and
instructions from time to time for the better Exe-
cution of the said Statutes.

Know ye therefore that We out of that long
Experience and full Assurance We have had of
the great Integrity, Wisdom, Fidelity, and In-
dustry of you, and every of you, and
have Constituted, Authorized, and Appoint-
ed you to be Our Commissioners, and by these
pre-

Anno
1630. presents do Constitute, Authorize, Appoint, and strictly require you, or any 4 or more of you Our Commissioners, either by Examination upon Oath, or without Oath, or by all and every such good and lawful means, as to you, or any 4 or more of you, in your Wisdoms and Judgments shall seem convenient and requisite from time to time from henceforth to make Enquiry, and thereby to inform your selves how all and every the Laws and Statutes now in Force which any way concern the Relief of impotent or poor People, the binding out of Apprentices, the setting to work of poor Children, and such other poor people, as being able or willing to work, have no stock or means to employ themselves; the compelling and forcing such lazy and idle persons to work, as being of bodies able and strong, do nevertheless refuse to labour; the maintenance, government, and well ordering of Houses of Correction, and other places for Relief of poor, indigent and impotent people, the Rating, Collecting, and Imployment of all such Sums as by the Statute of the three and fortieth of *Elizabeth* are appointed for the Relief of Souldiers, and Mariners, the punishment, or setting on work of Rogues and Vagabonds: and all Laws and Statutes now in force for the repressing of Drunkenness and Idleness, the reforming of Abuses committed in Inns and Ale-houses, the Abridging of the number of Ale-houses, and the well-ordering of such as are Licensed, the keeping of Watches and Wards duly, and how other publick Services for God, the King, and the Commonwealth, are put in practice and executed.

To which end and purpose, to you Our Commissioners, or any six or more of you, We give full Power and Authority from time to time hereafter, to give such Directions and Instructions, and by all other good and lawful means to set down, and give such Orders and Directions as that all and every the said Laws and other necessary Statutes may be duly and effectually executed, and the pains and penalties thereof levied and employed according to the purport and true meaning of the same Laws.

And whereas no Nation of the world hath provided more liberally, or ordained better Laws for due employment of Lands, Goods and Stocks of Money, given to Charitable uses, than this Our Kingdom of *England* hath done: yet nevertheless the said Bounties and charitable Gifts have not been employed according to the mind and intent of the Givers, by reason of some Devices, Frauds, Breach of Trust, aim at private Gain; and partly by the negligence of those that have been trusted to perform the same.

Therefore our Will and expresse Pleasure is, that those Statutes of 39. and 43. *Eliz.* and all other Laws and Statutes concerning Hospitals, Almshouses, *Maisons de Dieu*, and other pious Donations, Collections, or publick Gifts for the benefit of the poor, or publick works, be strictly enquired and put in execution. And all Deeds of Foundations, Charters, Wills, Devices, Dispositions of Lands, Goods, Annuities, or Rents, given, appointed, or intended to any the Houses aforesaid, or to any charitable use or publick work, be diligently sought out and discovered, to the end there may be an employment of all the Profits, according to the Will and Mind of the Donors or Founders.

And we do further by these Presents, give full Power and Authority unto you, or any six, or more of you, to call unto you for your assistance

in the Premises, when you shall see it needful, all, or any of our Justices of Assize, Oyer and Terminer, and Gaol-delivery, for their several Circuits; as also to our Justices, Mayors, Bayliffs, and other Head-Officers, within Cities and Burroughs, Clerks of the Assize and Sessions, and other Officers and Ministers within our several Counties and Shires of this our Realm of *England*, and Dominion of *Wales*, and the several Divisions of the same, as to you, or any six or more of you in your wisdom shall seem meet and requisite, and shall be agreeable to the Laws and Statutes of this our Realm for the better execution of the Laws and Statutes in the time to come. All which Directions, Instructions and Orders at any time or times hereafter so to be made or taken by you or any six or more of you, by force of these Presents; We will and straitly charge and command you by these Presents, to be sincerely and duly from time to time obeyed, observed and kept by all and every Officer and Officers, Justice and Justices, Person and Persons, to whom it shall appertain.

And we do hereby further will and require you, that you, or any four or more of you, do from time to time give unto Us particular and true information of the care and industry of our Justices of the Peace in their several Divisions, Mayors, Bayliffs, and head Officers, in their several Cities and Towns Corporate, as upon the said enquiry you shall find to be diligent in putting the said Laws, Statutes, Orders, and Directions in Execution, that so by their service, and your report, they appearing to deserve well of their King and Country, may receive not only good acceptance at our hands, but all due encouragement and comfort to continue in their well-doings; and if contrariwise you shall find any of our said Justices of the Peace, or others the persons before-named to be negligent and remiss in their several places and duties touching the performance and execution of the said Laws and Statutes committed to their charge, or the Orders and Directions given by you, or any six of you, for the better execution of the said Statutes: Then our pleasure is, that you do likewise certify the Names of such as you shall find so remiss and negligent, that accordingly Order may be taken for their removing and displacing out of the Commission of the Peace, as men unworthy of their said Trust and Places; as also deserving to receive such further punishment in our Court of *Star-Chamber* or otherwise, as may be by Law inflicted upon them.

And further We do by these Presents give unto you, or any six or more of you, full power and authority to do and execute all and every other lawful and necessary Act & Acts, thing and things, for the better and more due execution of the premises, or any of them, as you, or any six, or more of you, shall in your Wisdoms and Judgments think to be fit and convenient.

And because you that are Attendants upon Our Person, or otherwise employed in your Services cannot at all times be in person in the several Shires of this our Kingdom to execute this our Commission in such sort as we have appointed it; And for that it will be very fit and requisite for you to have Persons of Trust under you, who may faithfully assist you in the execution of this Our Commission;

We do therefore give unto you for your better aid and assistance, and the better performance of this our Service, full Power and Authority from time to time, to Assign, Appoint, and Constitute

1630. tute by your Writing under your Hands and Seals, or the Hands and Seals of any Six or more of you, such sufficient meet Persons as you, or any Six of you, in your discretions shall from time to time think fit and appoint to be your Deputies in every, or any County, City, Burrough, or Town Corporate of this Our Kingdom of England, or Dominion of Wales.

And We do give unto such Persons, so to be by you Deputed, Assigned, and Appointed, as aforesaid, or to any two, three, or more of them full Power and Authority, to do and Execute in our said Counties, Cities, Burroughs, and Towns Corporate, as well within Liberties as without; all and every thing and things, which by vertue of this Our Commission, is to you Our Principal Commissioners, Intrusted, and Committed, or which you or any of you Our Commissioners, if you were personally Present, might, or ought to do; they your said Deputies pursuing such Directions and Instructions from time to time as you or any Six of you shall give unto them in Writing: And the better to enable them so to do, you shall deliver to such Deputies as you shall make in every County, City, or Town Corporate, as aforesaid, a Duplicate, or true Transcript of this our Commission, Subscribed with your Hands, or under the Hands of Six of you at the least.

And we do further by the Tenour of these Presents, Will and Command, and do give full power and Authority to Our Lord Chancellour, or Lord Keeper of Our Great Seal for the time being, to cause several Commissions to be made forth, under Our Great Seal of England, to such Persons of Trust and Quality as any Six, or more of you shall from time to time nominate unto him, and shall so signifie unto him by Writing under your Hands to the same Tenour and Effect, in every material thing, as in these Our Letters Patents is expressed, with a Clause to be Inserted in every such Commission and Commissions, commanding such Persons so to be nominated, that they certify all their proceedings thereupon to you Our foresaid Commissioners, or to any six of you, at such times and places as you, or any Six of you shall appoint. In witness whereof, we have caused these Our Letters to be made Patents, witness Our self at Westminster the fifth day of January, in the sixth Year of Our Reign.

ORDERS.

I. That the Justices of Peace of every Shire within the Realm do divide themselves, and allot among themselves what Justices of the Peace, and what Hundreds shall attend monthly at some certain places of the Shire. And at this day and place, the High Constables, Petty Constables, and Church-Wardens, and Overseers for the Poor of those Hundreds, shall attend the said Justices. And there enquiry shall be made, and information taken by the Justices how every of these Officers in their several Places have done their duties in execution of the Laws mentioned in the Commission annexed, and what Persons have offended against any of the said Laws.

II. Where neglect or defect is found in any of the said Officers, in making their Presentments, condign Punishment to be inflicted upon them by the Justices according to Law.

III. When Offences are Presented at one Meeting, then the Penalties of the Laws offended, to be levied and brought to the Justices at their next Meeting.

IV. When the Penalties are levied, the Justices are to take care that the same be employed accordingly as by the Statutes are appointed.

V. For encouragement to men that do inform and prosecute others for offending against these Laws, or a-

ny of them, liberty to be left to the Justices of Peace that do meet, to reward the Informer, or Prosecutor, out of part of the Money levied upon his, or their Presentments or Information. Car. 6.

Though the Statute do not prescribe this, yet this is not against the Law that gives the Penalty to the Poor, which Penalty, nor no part thereof would else come unto the poor but by this means.

VI. That the several Justices of the Peace of every Shire, do once every three Months certify an account in writing to the High Sheriff of the County, of their proceedings in this way, whom they have punished, what they have levied, and how they have employed it.

VII. That the High Sheriff, within fourteen days after this Account delivered, do send the same over to the Justices of Assize for that County, or to one of them, and the Justice or Justices that receive the same, to certify it in the beginning of every Term next after, to the Lords Commissioners: And if any of the Justices of Peace shall fail to make such account to the Sheriff, then the Sheriff shall certify such default to the Lords Commissioners.

VIII. The Justices of Assize in every Circuit, are to enquire, and specially to mark what Justices of the Peace are careful and diligent in Execution of these Laws, and the directions given, and who are negligent and remiss. And what other things of Note happen in their Circuits, to make report thereof to the King, upon their Return from their Circuits ever half year.

DIRECTIONS.

I. That the Lords of Mannors and Towns take care that their Tenants and the Parishioners of every Town may be relieved by work, or other wise at home, and not suffered to straggle and beg up & down in their Parishes.

II. That Stewards to Lords and Gentlemen, in keeping their Leets twice a year, do especially enquire upon those Articles, that tend to the reformation or punishment of Common Offences and abuses: As of Bakers and Brewers, for breaking of Assizes; of Foresters, and Regraters Against Trades-men of all sorts, for selling with under-weights, or at excessive prizes, or things unwholsom, or things made in deceit: Of People, Breakers of houses, common Thieves and their Receivers, Haunters of Taverns or Alehouses, those that go in good Cloaths, and fare well, and none knows whereof they live; those that be Night-walkers; builders of Cottages, and takers in of Inmates; Offences of Victuallers, Artificers, Workmen, and Labourers.

III. That the poor Children in every Parish be put forth Apprentices to Husbandry, and other Handicrafts, and money to be raised in the Parishes for placing them, according to the Law; and if any party shall refuse to take the said Apprentice, being put out according to the Law, such party as shall refuse to take the said Apprentice, to be bound over to the next Quarter Sessions, or Assizes, and there to be bound to his good behaviour, or otherwise ordered, as shall be found fit.

IV. That the Statute of Labourers, for retaining of Servants, and ordering of Wages, betwixt the Servant and the Master be not deluded by private Contracts, before they come to the Statutes, and the common fashion of Esjoying many absent, not to be allowed of course, as is used.

V. That the weekly Taxations for relief of the Poor, and other purposes mentioned in the Statute of 43 Eliz. be in these times of scarcity raised to higher Rates in every Parish, than in times heretofore were used. And Contributions had from other Parishes, to help the weaker Parishes, especially from those places where Depopulations have been, some good Contribution to come, for help of other Parishes. And where any Money or Stock hath been, or shall be given to the relief of the Poor in any Parish, such gift to be no occasion of lessening the Rates of the Parish.

Anno 1630. VI. That the Petty Constables in all Parishes be chosen of the abler sort of Parishioners, and the Office not to be put upon the poorer sort, if it may be.

VII. Watches in the night, and Warding by day, and to be appointed in every Town and Village, for apprehension of Rogues, and Vagabonds, and for safety and good order.

VIII. And because it is found by daily experience, that the remissness and negligence of Petty Constables is a great cause of the swarming of Rogues and Beggars: Therefore the High Constables in their several Divisions are specially to be charged to look unto the Petty Constables that they use diligence in their Offices, and the High Constables to present to the Justices of Peace the defaults of the Petty Constables, for not Punishing the Rogues, or not Presenting, those that are Relievers of the Rogues and Beggars, the Law inflicting a Penalty upon the Constable for not Punishing them, and upon such Party as shall relieve them.

IX. If in any Parish there be found any Persons that live out of Service, or that live idly, and will not work for reasonable Wages, or live to spend all they have at the Alehouse, those persons to be brought by the High Constables, and Petty Constables to the Justices at their meetings, there to be ordered and punished as shall be found fit.

X. That the Correction-houses in all Counties may be made adjoining to the Common Prisons, and the Gaoler to be made Governour of them, that so he may employ to work Prisoners Committed for small Causes, and so they may learn honesty by Labour, and not live idly and miserably long in Prison, whereby they are made worse when they come out than they were when they went in; and where many Houses of Correction are in one County, one of them at least to be near the Goal.

XI. That no Man harbour Rogues in their Barns, or Out-houses. And the wandering persons with Women and Children, to give account to the Constable or Justice of Peace, where they were Married, and where their Children were Christened, for these People live like Savages, neither Marry, nor Bury, nor Christen, which licentious liberty makes so many delight to be Rogues and Wanderers.

XII. And because the High-ways in all Counties of England are in great decay, partly so grown for that men think there is no course by the Common Law, or order from the State to amend the same: And the Work-days appointed by the Statute are so omitted or idly performed, that there comes little good by them; therefore the Justices of Peace at these monthly meetings are to take special care of: And not only the Surveyors of the High-ways to Present the same, but by their own view to inform themselves, that at the next Quarter Sessions after every meeting they may Present all such neglects and offences, (as upon their own view) and the Offenders there to be Punished according to Law.

The Church St. Catherine Greed being lately Rebuilt and Enlarged, was Consecrated by the Bishop of London, and some Precisians took offence at some Ceremonies used by him at the Consecration thereof, which that sort of Men called Innovations, which afterwards were laid to his charge in Parliament, and by him an answer was made thereto, to which a Member of the Commons House replied after the rate of the Divinity of those times, the whole of it you have in Mr. Rushworths Collection.

At the Bishops approach to the West door of the Church, some that were prepared for it, cried with a loud voice, Open, open, ye everlasting doors, that the King of Glory may enter in! And presently the Doors were opened: And the Bishop, with some Doctors, and many other principal Men, went in, and immediately falling down upon his Knees, with his Eyes lifted up, and his Arms spread abroad, uttered these words: This Place is

Holy, the Ground is Holy, In the name of the Father, Son, and Holy-Ghost I pronounce it Holy.

Then he took up some of the dust, and threw it up into the Air, several times in his going up towards the Chancel; when they Approached near to the Rail and Communion Table, the Bishop bowed towards it several times, and returning, they went round the Church in Procession, saying the 100 Psal. after that the 19 Psal. and then said a Form of Prayer; Lord Jesus Christ, &c. and concluding, We Consecrate this Church, and separate it unto thee, as Holy Ground, not to be Profaned any more to common use.

After this the Bishop being near the Communion-Table, and taking a Written Book in his hand, pronounced Curses upon those that should afterwards prophane that Holy Place, by Musters of Souldiers, or keeping Prophane Law Courts, or carrying Burdens through it, and at the end of every Curse, he bowed towards the East, and said, Let all the People say, Amen.

When the Curses were ended, he pronounced a number of Blessings upon all those that had any hand in Framing and Building of that Sacred and Beautiful Church, and those that had given, and should hereafter give any Chalice, Plate, Ornaments, or Utensils; and at the end of every Blessing, he bowed towards the East, saying, Let all the People say, Amen.

After this followed the Sermon; which being ended, the Bishop Consecrated and Administred the Sacrament, in manner following.

As he Approached the Communion-Table he made many several lowly Bowings, and coming up to the side of the Table where the Bread and Wine were covered, he bowed seven times, and then after the reading of many Prayers, he came near the Bread, and gently lifted up the corner of the Napkin wherein the Bread was laid, and when he beheld the Bread he laid it down again, flew back a step or two, bowed three several times towards it, then he drew near again, and opened the Napkin, and bowed as before.

Then he laid his hand on the Cup, which was full of Wine with a cover upon it, which he let go again, went back, and bowed thrice towards it, then he came near again, and lifting up the Cover of the Cup looked into it, and seeing the Wine he let fall the Cover again, retired back and bowed as before; then he received the Sacrament, and gave it to some principal Men; after which many Prayers being said, the Solemnity of the Consecration ended.

It is not inconvenient I hope to transgress in point of time, by acquainting the Reader that this matter was some years after objected against the Bishop of London in Parliament, as an Evidence of his Inclination to introduce Popery, and these matters of Fact before recited were then proved before the House of Lords; to which the Bishop made a learned Defence, by endeavouring to justify the Consecration of Churches from the practice of Moses, Solomon, Hezekiah, and other Princes of the Jews, in the time of the Ceremonial Law: And that it is expressed in the Old-Testament, that the Tabernacle, with all the Vessels and Ornaments thereunto belonging, were all solemnly Consecrated by Moses; and afterwards when the Temple was Built, was solemnly Dedicated and Consecrated to God by King Solomon, and all his Princes and People; He also argued out of Eusebius, in the time of Constantine and other Christian Princes, of the Antiquity of Consecrating Churches, and then he descended more particularly to answer the Charge as to the Consecration of Creed-Church.

1630. It was Testified (saith he) that I came thither in a Pompous manner. I deny it, it was only in a grave and seemly manner. It is objected, that as soon as I came within the Church door I fell down upon my Knees; True, It was no more than my Duty, being an Oratory. Moses and Aaron fell down on their Knees at the Door of the Tabernacle. Hezekiah and the People Bowed and Worshipped, as I have proved at large in my Speech in the Star-Chamber. And, O come let us Worship and fall down before the Lord our Maker, is the common Introitus in our own and other Liturgies. It is objected, I pronounced the Place and Ground Holy, I did so, and it is an ordinary and legal Speech, there being a Relative, though not an Inherent Holiness in Churches dedicated to God's Service. Whereas it was said, I threw up dust in the Air, This I deny, and where it was alledged that this was an Imitation of the Roman Pontifical; that (saith he) is a mistake: for the Pontifical Prescribes, (Cinis) Ashes, not Dust to be cast abroad. For my Form of Consecration, Bishop Andrews made it, from whom I desired a Copy, and had it, which I observed. It was objected that the form of Prayer I used, is in the Mass-Book and Roman Pontifical. It may be so, he replied, and many other very good Prayers are in it.

After the Bishop had made his Defence, a Reply was made by a Member of the House of Commons, appointed to manage the Evidence.

1. That Moses had an express Command from God himself to Consecrate the Tabernacle, with all the Vessels thereof, by Anointing them with Consecrated Oyl, Exod. 40. 10, 11, 12. they being Types of Christ to come: But we have no such Command from God to Consecrate Churches, Church-Yards, Chappels, Altars, Vestments, which are no Types of Christ already come.

2. This Consecration was made by Moses the Temporal Magistrate, (not by Aaron the High-Priest) without any other Ceremony than meer Anointing the Tabernacle and its Vessels and Implements with Oyl; therefore this was no Warrant for Bishop's Consecrating Churches, Church-Yards, Chappels, Altars, Vestments, with other Ceremonies, without any Anointing them with Oyl.

3. This Consecration was only Temporary, Jewish, Ceremonial, abolished by Christ's death, Col. 2. 14. &c.

4. King Solomon did not Consecrate the Temple, nor the Vessels and Court thereof with Oyl, as Moses did the Tabernacle, but after he had brought the Ark, Tabernacle, and all the Holy Vessels into it, with Praises, Thanksgiving and Instruments of Musick, and after the Cloud and Glory of the Lord had filled the House, he made an Heavenly Prayer only in the midst of the Court, not in the Temple, before all the Congregation of Israel.

1. That the most Holy Place was so stiled, though never Consecrated: So Jerusalem is very frequently called the Holy City, Matt. 4. 5. and 27. 53. though never Consecrated, and God told Moses, The place whereon thou standest is Holy Ground, Exod. 3. 5. though never Consecrated by a Bishop.

2. Our own Homilies inform us, That the Church is counted and called Holy, not of it self, (nor yet for its Consecration by a Bishop) but because God's People resorting thither, are Holy,

and exercise themselves in Holy and Heavenly things.

3. The Hearing and Preaching God's Word, Prayer and receiving the Sacraments therein, are sufficient of themselves to sanctifie, and make it Holy without any other Consecration.

4. Sanctification in its own nature, is nothing else but a sequestering of any thing from a common or ordinary use, to a Religious and Sacred purpose, and this may be done without a Bishop's Exorcism or Conjunction.

For his throwing up of Dust, two Witnesses expressly depose it, which must over-balance his bare Negotiation, and there is so little difference between Dust and Ashes, as they are usually coupled together as Synonymous in Scripture and Authors. That he took his Form from Bishop Andrews, is only averred by himself, not proved by any Witness; but that it agrees with that in the Pontifical, which we found in his Study even in terminis, is most clear, and therefore we cannot but presume he derived it from thence: However if Bishop Andrews imitated the Pontifical, and he Bishop Andrews, the Charge is much alike.

An Information being Exhibited in the Kings Bench against Sir Miles Hobert, and William Stroud Elq; about an Escape, the case afterwards to be Argued in that Court: These Persons being removed, they being formerly Committed to the Marshalsey, for Mildemeanours in the Parliament 28 Car. 1. from that Prison to the Gate-house, the Keeper whereof gives the Prisoners leave to go out of the said Prison, and both he and the said Prisoners, were Judged both of them by the Judges of the said Court, Punishable, though it could not be proved that they ever were Prisoners in the old Prison of the Gate-House; but only in the Keepers House Adjoyning, except it was by their Voluntary withdrawment to give themselves the benefit of Nature, at the stool in the Adjoyning old Prison, and this was, as I before said, an Offence Punishable in both the Goaler and Prisoners, the Judges likewise then determin'd that the Kings Bench Prison is not a Local Prison, but that every place where any person is restrain'd of his Liberty is his Prison, and if a Man enter Sanctuary, and thence depart, he may be said in Law to break Prison.

There had been a Project on foot, for the buying of Improprations, but there being a Snake in the Grass detected, by Authority it was dashed.

Concerning Mr. Sanderson gives us this account, that in the Year 1627. Feoffees were legally intrusted to purchase in the Improprations with their own and other good Mens Money, and with the profit to maintain a constant Preaching Ministry, where the Word was wanting. They consisted of four Divines to perswade the Conscience, 4 Lawyers for the Conveyances, and 4 Citizens, for no other end but their Money,

There are in England 9284. Parish Churches Endowed with Glebe and Tithes, but 3845 were either Appropriated to the Clergy, or Impropriated (as lay Fines) to private Persons, which latter these Feoffees endeavoured to redeem, and might have done it in Fifty Years, by the large Sums soon advanced: And no wonder, the Subtlety was not then discerned, for in time the Purchasers would become the prime Patrons, for number,

and greatness of Benefices, multiply their Dependence, and increase Nonconformity, and therefore the Attorney General Noy, Exhibited a Bill in the Exchequer to overthrow their *Apo-crypha Incorporatum*. First, breach of Trust, for Erecting a Morning Lecture at St. Antholines, London, (the Land of Goshen,) and not in other places far distant, were Souls Famished for want of Food.

Secondly, Preferred Nonconformists, and so their Proceedings were Censured, as dangerous to the Church and State, pronounced illegal, and dissolved, and their Money Confiscated to the King, which yet of late was accounted a Pious Project.

And now that the World might see that the King did really (more than his late Parliaments who only gave Words and not Money for the Recovery of the *Palatinate*) mind the concern of of his only Sister the Electress *Palatine*, he gave out Commissions for raising six Thousand Men more, for the Assistance of the King of *Sweden*, in so good a work, who as we shall afterwards see never really Intended it. The Colonells were these, Sr. Jacob Astley, Sr. James Hamilton, Sr. James Ramsey.

After which His Majesty was busied about a good work, the Repair of St. Pauls Church London, that most Venerable and August piece of Antiquity, which Mr. Rushworth by way of Jeer, saith the Devotion of those times caused him to undertake, but in truth the thing was Intended by King James, as may appear by His Majesties Letter to the then Bishop of London, *Anno Regni sui sexto*, which followeth.

To the Right Reverend Father in God our Right Trusty and well Beloved the Lord Bishop of London.

JAMES REX.

Right Reverend Father in God, Right Trusty and well Beloved, we Greet you well. The desire we have to Remove the Scandal that hath long lyen upon our City of London especially, but in a manner upon the whole Realm, for the neglect of the Repairing of the Steeple of St. Pauls Church, moved us to quicken them by our Letters to think upon some means how the same might be taken in hand, and to offer of our own Bounty to Contribute Liberally towards it, by occasion whereof we have been Informed that the whole Body of the Church is not only in decay, but in some danger of Ruine in some parts thereof, if the same be not in time prevented, which grieved us not a little that in a time of Peace and Plenty, which this Realm hath of late Years enjoy'd, and in the Flourishing Estate of a Church, so much Neglect should be used by those, to whose care it Appertaineth to preserve in their Estate and Decency, such Monuments as though they be not of the Essence of Religion, yet never were neglected but

with Blemish and Disgrace as well to the Ministers as to the Religion it self, to the use whereof they are Dedicated, and do not leave Unattainted the Honour and Zeal of those Princes in whose times such Errours happen, because it is no small part of their Charge to have an Eye to the Preservation, as in general, of all Publick Monuments, so especially of those that have been Designed to the Honour and Service of God, from the sense whereof it ariseth, that at this time we Summon the Duties of you whom it concerneth, and require you to enter into present Consideration, how the Decays of that Church may be forth with Repaired, and the same Restored not only to Strength and Safety, but to such Decency as is comely for so Worthy and Famous a Monument of the Piety of our Ancestors: for it is not unknown to us that amongst the Possessions which Appertain to that See, there be Lands especially Appropriated to the *Fabrick* of the Church, which if they had been continually employed to that use, those Decays could not have got so far, notwithstanding if the former neglects have made the Decays greater than the Yearly Revenues of those Lands can Repair; we shall be willing to give furtherance to any other means of Supply; which shall be Presented unto us. But because we would not have their Ruines to run on, but some speedy cause to be taken for the Redress thereof and to the end we may understand what the State of the Structures of that Church is, we Require you to cause the same to be Viewed by Skilful Persons, and a Survey to be made in Writing, of all the Decays thereof, and what the Charge of the Reparation may amount unto, and likewise a Certificate to be made to us of such Possessions of the Church as be Appropriated to the *Fabrick* thereof, and what Yearly Rent they be of, that we may see how the means do stand in Proportion to the Charge, and what will be Requisite for Supply, all which to be Presented to us at our Return and settling at our Winter abode, and assuring your self that we will not fail to call for an account thereof, given under our Signet at *Tud-dington* the 24th. of July, in the Sixth Year of our Reign of Great Britain, France and Ireland.

Concerning the Decays and Repayrs of this Venerable Structure, take what followeth from Mr. Sanderfon.

THE Famous Fabrick of St. Pauls Church and Steeple, made so in Process of time, from the Piety of Primitive Christians, and their Devout Zeal to good works: And since by several Additions of Benefactors, Raised to a Structure of Admiration, a Pile huge and honourable. Not the like left to our last Age to be Sampled in the whole World. What the hands of Good Men had made wonderful, the hand of Wasting, had extremely Decayed. Only the Hand of Heaven, by Accident of Lightning had Burnt down the High Spire, in the time of Queen Elizabeth, who then had Designed not only to Rebuild that, but to Repair the whole Church, and to that end some materials were provided.

Afterwards in the time of King James the Religious Patriot Sir Paul Pindar of worthy memory returned into England some years since, from his Ambassie, Lier in Constantinople, and afterwards one of the great Farmers of the Kings Customs, and of ample fortune, the most in money, he became the great example of Charity to many, and the Patron of Piety to all, in his magnificent re-edifying

re-edifying of this Church. First, he repaired the Entry, Front and Porches to all the upper Church, Quire and Chancel, and enriched them with marble Structures, and Figures of the Apostles with Carvings and Guildings far exceeding their former beauty, which cost above Two thousand pounds, the act of a good man, as King James said, but the main Fabrick fit for the work of a King.

And therefore King Charles having a pious resolution to begin the repair of the whole Church & Steeple, made his humble Entry at the West end of the Church to the Body, Quire, & Chancel, where after a Sermon of Exhortation to that Christian Intention, he made his Pious Procession about the inside Circumvelation thereof, and viewing the Decays, gave up his Promise with his Devotions, speedily to settle the beginning of the work.

And this Year issued out his Commissions, under his Great Seal, to the Lord Major, Sir Robert Drevy, the Two Arch-Bishops, the Chancellour, Treasurer, Privy Council, and always the Bishop of London for the time being to be one, who was then William Laud, and the first Man, but not the chief promoter, being promoted and attempted by others before he was of note, yet indeed he became a diligent and powerful Actor therein, and the first Benefactor, who gave 2 hundred pounds *per annum*, whilst he should be Bishop of London; by whose pious endeavours and forward example, and sundry contributions of good and godly men, and by Commissions of protection for Breves and Collations in all Churches of England and Wales, there was gathered in time, the sum of Four score thousand pounds in all.

A large consideration was had, to begin with the Steeple and Body, and so to descend to the Isles, presuming that when the Steeple should be finished, the Contributions would necessarily invite the compleating of the whole, but it was otherwise resolved, and they began at the West end, and first the Out walls, which being cluttered with petty Tenements, even to the stopping of the Church-lights, that clouded the beauty of the first Foundation, these Houses by Lease or Rents were purchased and pulled down, and the little Church called Saint Gregories builded up at the West end, South of the Foundation, was willingly taken down to the ground, and a very necessary place ordered for the erection of another Church for that Parish.

And to this excellent good work the fore-remembered Sir Paul Pindar, besides his former expences, took upon him also at his own proper cost and charge (and did effect it before he died) to repair, or rather new build the great South Ile, far more beautiful than it had been at the first erection, which cost him above Seventeen thousand pounds.

The Contribution-mony was entrusted to the Chamber of London (then supposed the safest Chest) from thence to be issued out for materials and workmanship, the West end or entrance was finished more sumptuous and stately than at first, a graceful stately Porch was raised the whole breadth of the West end, upon Pillars of Stone of the Ionick work supporting the Roof, on the top whereof, in seemly distance was erected the Figures and excellent postures of King James, and King Charles, mounted on Pedestals, leaving room and space for other succeeding Sovereigns, then they had new cased the whole entire out-walls more nobly to the Roof, with large Figures of Pomegranates set upon Pedestals, at equal di-

stance to grace the room, which was overlaid with lead, the Windows with admirable painted Glass of Figures of the Fathers, Prophets, and Apostles, with several Historical pieces of Scripture, then they had Vaulted the Roofs with massive supporters of Timber, and Scaffolds raised for re-edifying and beautifying the Roof; Lastly, they had raised outward Scaffolding from the body of the Church, to the very top of the Steeple, and were going on with the Spire, and some monies in stock towards the finishing of all, which most Artisans supposed might be finished for Forty thousand pounds.

When on a suddain, William Laud late Archbishop of Canterbury was impeached by the late house of Commons in their Long Parliament, and our civil uncivil Dissentions seized the whole stock of money, and so the work ceased, the Church forthwith turned into a Prison or Goal of malignants, then into a Garrison of Foot-Souldiers, then into a Stable of unclean Beasts, and then to the sale of all materials; Stone, Lead, Glass, Iron, and last of all the very Scaffolding of Timber, which cost forty thousand pounds, sold for six thousand, and the money never paid, the end and ruine of that most glorious and Christian design.

After-ages may conceive this final and horrid ruine to be the effects of a cruel War, which devastates all, but at the beginning of this design of repair, it is most true [that many had on fancy thereto] the whole gang of Presbyterians utterly disliked of it, and when the Earl of Holland, Chancellor of the University of Cambridge, was commanded by the King to write his Letters to that University for Contributions of the Heads, Fellows and Students; a wonder it was what Plots and Devices of some (afterwards busie bodies in Parliament) for a time, obstructed those Letters, and other pious intentions of sundry Contributions, and were the only causers of that desolation, and earnestly urged the ruine of all Cathedrals, as it is well observed, that Doctor Bastwick (whom he examples for one, and a known Schismatick) grudging at the great expence in the repair, observes his base and irreverend expression, alluding to the Name Cathedral, that all that mighty mass of money must be spent in making a Seat for a Priests Arse to sit in; See Bastwick's second part of his Litany.

And now likewise a Commission was issued out for the accomplishment of the pious and good work, to the Arch-bishops of Canterbury and York, the Bishops of London and Winchester, to all the Lords of the Council, and all the prime Ministers of State, to the Lords Chief-Justices of the Courts at Westminster, and to the Lord Mayor, divers Aldermen, and the Chamberlain of the City of London, and to the Dean, and Residentiaries of that Cathedral.

His Majesty therein declaring; that he had taken into his serious and Princely consideration the great decays of that Building, the same being the goodliest Monument, and most eminent Church in all his Dominions, and a principal Ornament of the Royal City; that in respect of his Zeal to God's Glory, and for the Honour of his Government, he had an earnest desire and purpose to provide for the Repairing and Upholding of that magnificent Structure, and restoring the same to its antient Beauty and Glory, according to the pious intention of his Royal,

Anno 1631. Royal Father, who granted a Commission to begin and set forward that great and Honourable Work. And duly weighing, that as this chargeable Fabrick in the first founding thereof, could not but require many Years of time, and large supplies of publick Charity; So the substantial Repairing and Adorning thereof is not to be effected out of any Rents, or Revenues heretofore pretended to have been given to that use, but will require a Stock of money and materials to begin the Work, and a constant yearly supply to bring it to an end. Wherefore it was his Majesty's will and pleasure, that all monies to be raised or recovered for this Work, should be paid into the Chamber of London, as the fittest and safest Chest whereinto the same can be put, and the materials which already are or shall be brought in, shall be laid in Store-yards, Houses, and Places, by Officers appointed for that purpose. And the Bishop of London was authorized to keep a Register, wherein to take the several Subscriptions of the Nobility, Bishops, Judges, Serjeants and Counsellors at Law, Officers and others of Quality and Ability who shall willingly contribute. The Judges of the Prerogative Courts of both Provinces, and the Vicars General, and the Officials of the several Bishopricks of the Kingdom, were commanded to take special care, that out of such Monies as shall fall into their power upon the Deceases of Persons intestate, to be distributed for pious uses, some convenient proportion thereof be assigned to the supply of this Charge. And the Letters Patents, for the general Contribution of all Subjects in the Kingdom, were to be drawn in a more special manner, according to the extraordinary nature of this Case. Also the Commissioners had Authority for taking of an exact Survey of the particular decays of the Church, and calculating the Charge thereof, for the discovering of all such Legacies, Gifts, and Sums of Money as were given, or intended, for the Maintaining, Repairing, and Adorning thereof; and for Advising and Agreeing upon the Forms of Letters Patents for Publick Collections throughout England and Wales; and for the orderly bringing in of all such Monies as should be Collected, Raised, or Recovered for this publick Use, and of all Materials thereunto belonging, and for the well disposing thereof; and for making of meet Orders and Constitutions for the Preservation of that Cathedral, and suppressing and preventing all present and future Annoyances, Purprestures and Encroachments, which tend to the Damage and Disgrace thereof. And that the Proceedings herein may be firm and inviolable, and remain in perpetual memory, this Injunction was added, That a Certificate thereof be made into the Court of Chancery, there to remain on Record.

A Register appointed for the Subscription of Benefactors.

Briefs for Contribution issued forth for that effect.

According to the directions in this Commission, Briefs for Contributions were issued forth under the Great Seal, in different manners, according to the different condition of the places unto which they were directed. Resolutions were taken by the Lords Committees, that once a Year a Certificate be made of the Mony given, and of the Donors names; and that the Work should not begin till there were 10000 l. in Bank; and when the Scaffolds were up, and the Work begun, that two or three Chests should be set in the Church, in convenient places, for receiving the Benevolences of well disposed Persons.

And in regard persons in some Countries were backward in their Contributions thereto, they were invited thereto by Letters from the Council Board, and the Commissioners meeting ordered,

1. That once a Year Certificates be made of the Monies given, and the Donors Names.
2. That a Clerk of the Work be chosen, and a Pay-master, and a Purveyor.
3. The Work not to begin till there be Ten thousand pounds in Bank. That when the Scaffolds are up, and the Work begun, two or three chests be set within the Church, in such places as shall be thought fit, for receiving the Benevolences of well-disposed Persons to the said Work.

And the Council received information that the Church was abus'd, & made at it were an Exchange or place of meeting for persons to talk of their Worldly affairs; his Majesty published in Print the Order following,

The Council Board by special Direction and Commission from his Majesty, taking into consideration the ways and means for the Reparation of the Cathedral Church of Saint Paul's, were informed at sundry hands, of a long continued abuse of the place, which might give a great impediment to Mens liberal Offerings to so pious a Work, if care were not taken, as well for the Religious and decent use of the inside, as repairing of the outside. The offence that is taken as well by Foreigners, as those of our own Nation, is, that in time of Divine Service, while the upper part of the Church is used for Praying and Preaching, the nether part of the Church is used as an Exchange for Men to meet in, to walk, talk and discourse of all things; and the Church itself, though by situation it stands convenient for passage to and from all yarts of the City; yet by that liberty is so far profaned, as it is used like a Street for carriage through of all Burthens, Provisions and Necessaries Men have to use, or pass from place to place; whereat good Men are much scandalized. Their Lordships finding this to be so unfit (the Dedication of that place considered) besides the coldness it may make in Men, otherwise well affected to this Work, if the better part be not cared for, as well as the material Work provided for, have thought fit to declare themselves thus far, to the Dean and Chapter of that Church, that they thereupon may seriously enter into consideration how this abuse may be reformed, and propound to the Board a fit Expedient. Their Lordships for their parts offer this unto the said Dean and Chapter; That in time of Divine Service, Prayers, or Preaching none should be suffered to be walking or talking in the Church, or nether Isles thereof; And at no time to have any part of the said Church used as a thoroughfare or passage for Burthens, Provisions, or other common necessities to be carried through the Church, but for all those things to take the common way of the Streets. What more of other things the Dean and Chapter shall find fit to add, they are prayed and required to represent unto the Board with all conveniency, that such course may be therein taken as shall be fit, and this pious and worthy Work encouraged by all the means that may be.

And pursuant hereto other Orders came out, June 25.

I. That no man of what quality soever shall presume to walk in the Isles of the Quire, or in the Body or Isles of the Church, during the time of Divine Service, or the Celebration of the Blessed Sacrament, or Sermons, or any part of them, neither do any thing that may disturb the Service of the Church, or diminish the Honour due to so holy a place.

II. That no Man presume to profane the Church, by the carriage of Burthens or Baskets, or any Portage whatsoever.

III. That all Parents and Masters of Families do strictly forbid their Children and Servants to play at any time in the Church, or any way misbehave themselves in that place, in time of Divine Service, or otherwise: And if any Children or Servants shall be found so doing, besides the punishment of the Delinquents, their Parents and Masters shall be subject to such Censures and Punishments, as shall be thought fit to be inflicted.

These Orders by command of his Majesty are now published, to the intent that no Man may hereafter pretend ignorance for his excuse in any of them.

Also the Houses and Shops are ordered to be taken down about Pauls Church (*viz.* adjoining to it) and Commissioners appointed to buy the said Houses, out of the contributions advanced for that work, and in regard Saint Gregories Church also was deemed an impediment to this great work, the Parishioners thereof after some refusals on their part, were ordered by the Council to assemble and meet for Divine Worship in the West end of Christs Church London, and whereas those of Christs Church refused to admit them, but upon hard compositions, though that Christs Church was large enough for them both, it was made an Order of the Council, that notwithstanding the reluctancy of the Parishioners of Christs Church, they should and might freely meet there for the Service of God, &c.

In April began the Arraignment and Tryal of Mervin Lord Audley, Earl of Castlehaven; and accordingly the Lord Keeper summon'd the Judges for that purpose, the Three Indictments were found before them at Salisbury; the first whereof was for a Rape upon his own Wife, the other two were for the unnatural sin of Buggery, but before he came to Tryal the Judges were convened at Serjeants Inn in Fleetstreet, and the Kings Attorney Sir Robert Heath proposed the Question following to them,

1. Whether a Peer of the Realm may waive his Trial by Peers, and plead he will be Tried by God and the Country?

Answer. He may not. For his Trial by Peers is no Privilege, but the Law, declared by Magna Charta; and if he will not plead to Trial by his Peers, it is a standing Mute.

2. Whether a Peer may challenge his Peers, as in the Case of common Jurors?

Answer. He may not (which I think is so, said that Judge) because they go not on their Oath, but on their Honour, and a Challenge is tried, whether he stand indifferent as unsworn.

3. Whether a Peer may have Counsel any more than a common Person?

Answer. If Matter of Law appear, he may; not for Matter of Fact.

Certain Examinations being taken by the Lords without Oath; It was resolved,

These could not be used until they were repeated upon Oath, unless of the Party to be tried, *Car. 7.* which may be read without an Oath.

4. Whether the Wife in this Case may be a Witness against her Husband for the Rape?

Answer. She may, for she is the Party wrong'd; otherwise she may be abused. In like manner a Villain may be a Witness against his Lord in such Cases.

5. Whether the Witnesses are to be produced viva voce, if the Lord Steward require it, or the Prisoner?

Answer. If he stand Mute in the case of Rape or Buggery, he may have his Clergy in either.

6. Then if he may not be put to Trial on the other Indictment, may not he be for a later Buggery, and be denied his Clergy?

Answer. On that he may, by 18 Eliz. 1.

7. Whether in Case one standeth Mute, Evidence may be opened by command of the Court concerning the Fact, though the Delinquent be to be pressed to death for his Contempt? But it is a matter in the discretion of the Court.

8. Whether in Cases where Clergie is allowable, the party may pray it before he answer, and deny to answer, otherwise? for this is a Confession.

9. Whether in Rape there must be Penetration? The Answers was in the Affirmative.

10. He having made suit to be bailed, whether it might be granted?

Answer. Let the King, as King, advise of it. The Judges certified the Lord Keeper that he could not in justice require it; yet he might be bailed *ex gratia*, which was not fit in this odious Case.

And at another meeting of the Lord Judges, several matters were debated by them, and then concluded as,

A difference was made between a Buggery and a Rape, in point of having Clergy, if he stood Mute: for it was argued he might have his Clergy if he stood Mute in Rape, but not in Buggery, because by the Stat. 25. H. 8. Buggery is made Felony, which by the Common Law is not. And in the very creation of the Offence, Clergy is taken away; whereas Clergie did lie for a Rape, until it was taken away by a Statute.

It was concluded that the Lords might Eat and Drink before they were agreed, but they could not separate nor adjourn the giving up of their Verdict. This appeared out of the Report of the Lord Dacres of Gregstock's Case, who was tried for Treason, and acquitted by his Peers, 26 H. 8.

It was agreed by the Justices in that Case of the Lord Dacres, that a Verdict cannot be given by a lesser number of the Lords than Twelve; and if Twelve be for the King, and Thirteen for the Prisoner, the Prisoner shall be acquitted.

In an Appeal, if the Defendant be Mute, he shall be hanged, and it is an Attainder, it being not within the Statute of Westminster, cap. 12. *De paine fort & dure.* No more is Treason. vide *Stamf.*

It was agreed also, That a Lord of the Parliament is within the Statute Westminster. 1. in case of Felony, and shall be pressed to death.

It was agreed, If the Lord Audley should have his Clergy upon his being Mute, yet he might be tried upon the other Indictments of Rape and Buggery, and should not have his Clergy, by the Statute 18 Eliz. because the admitting him to his Clergy, would be a *Superfedeas* to all Indictments of

Questions
pro-
pounded
to the
Judges,
and an-
swered.

Anno 1631. of Offences within Clergy, not of those without by that Statute. For by the Common Law, he that is admitted to his Clergy, is discharged from answering any other Offence; for by indictment of that Law, he is taken from the Power of the Secular Judge, and put into the hands of the Ordinary, whose Prisoner he is all his life after.

It was resolved from the Lord Dacre's Case, That the Lord Steward, after Verdict given, might take time to advise upon it for any point in Law; and that his Office did continue unto him until his Judgment and Resolution, and it was but a Commission *hac vice* notwithstanding.

The Peers that assisted at the Trial, were as followeth.

1. Richard Lord Weston, Treasurer.
2. Henry Earl of Manchester, Privy Seal.
3. Thomas Earl of Arundel and Surrey, Marshal.
4. Philip Earl of Pembroke and Montgomery, Chamberlain to the King.
5. Henry Earl of Kent.
6. Edward Earl of Worcester.
7. Francis Earl of Bedford.
8. Robert Earl of Essex.
9. Edward Earl of Dorset.
10. William Earl of Salisbury.
11. Robert Earl of Leicester.
12. Robert Earl of Warwick.
13. James Earl of Carlisle.
14. Henry Earl of Holland.
15. Thomas Earl of Berkshire.
16. Henry Earl of Danby.
17. Edm. Vicount Wimbeldon.
18. Edward Vicount Conway.
19. Dudley Vicount Dorchester.
20. Thomas Vicount Wentworth.
21. Henry Lord Clifford.
22. Algernon Lord Piercy.
23. James Lord Strange.
24. Dudley Lord North.
25. William Lord Peter.
26. Edward Lord Howard.
27. George Lord Goring.

And for the manner of his Trial Mr. Rushworth gives us the ensuing Account.

There was prepared in Westminster-Hall a long Gallery, ascending with twelve Steps, beginning directly over against the Common-Pleas Bar; extending in length to the top of the King's-Bench-Stairs. At the higher end of the Gallery there was a long fair Table, with Benches on each side, for the Peers to sit on; and at the upper end thereof there was a Cloth of State for the Lord High Steward; also at the lower end another short Table, for the Lords and Judges to sit at. And there was also a place provided for the King's Learned Council, and Officers of the Court; and below that, the Bar for the Prisoner: Scaffolds being also erected on each side of the Hall, for People to stand and hear the Trial.

On the Day appointed the Peers came into the Hall, and took their places according to their Degrees; the Judges likewise came and took their place in order: After them the King's Learned Council, and the Officers of the Court.

Thomas Lord Coventry, Lord Keeper of the

Great Seal; being by Commission under the said Great Seal, Dated the 13th. of April 1631. constituted Lord High Steward for the time being, about Nine of the Clock in the Morning entred into the Hall uncovered, with seven Serjeants at Arms carrying seven Maces before him, and attended upon by Sir John Burroughs King at Arms, and Mr. James Maxwell Usher of the Black Rod.

The Lord Steward, after he had saluted the Lords the Peers, who re-saluted him, ascended the State; and being seated in the Chair, was presented with his Majesties Commission by Sir Robert Rich, one of the Masters of the Chancery, which was openly read by Sir Thomas Fanshaw, Clerk of the Crown. Then Mr. Maxwell kneeling down, presented his Lordship with a White Staff or Rod, which he gave to one of the Serjeants at Arms, who held up the same by the Chair of State, on the right hand thereof.

Then the Lord Steward gave leave to all the Peers, and to all the Lords, and Judges, and Privy-Councillors there present, to put on their Hats and be covered; and Command was given, that none under those Degrees should be covered upon pain of Imprisonment.

Then the Peers were severally called by their Names, and each of them answered particularly.

The Kings Council there present, were,

Sir Robert Heath, Attorney General.
Sir Richard Shelton, Solicitor General.
Sir John Finch, Queen's Attorney General.
Sir Thomas Crew, the King's Serjeant at Law.

The Officers of the Court, were,

Sir Thomas Fanshaw, Clerk of the Crown.
And Mr. Keeling, his Assistant.

Then the Lord Steward commanded the Indictments to be certified and brought in; This being done, the Lieutenant of the Tower was called by a Serjeant at Arms, and commanded to bring forth the Prisoner; who accordingly being brought to the Bar, attended by divers of the Guard, he made obeysance to the Lord Steward, and the Peers, by whom he was re-saluted.

The Lord Keeper Coventry then Commissioned High Steward for the Trial, spake to the Prisoner, as followeth.

My Lord Audley,

THE King hath understood, both by Report, and the Verdict of divers Gentlemen of Quality in your own Country, that you stand impeached of sundry Crimes of a most high and heinous Nature. And to try whether they be true or not, and that Justice may be done accordingly, His Majesty brings you this day to your Trial; doing herein, as the Mighty King of Kings, in the 18th. of Genesis, verse 20, 21. who went down to see whether their Sins were so grievous as the Cry of them; *Because the cry of Sodom and Gomorrah is great, and their sins grievous, I will go down, saith the Lord, and see whether they have done altogether according to the Cry of it.* And the Kings on Earth can have no better Pattern to follow than the King of Heaven: and therefore our Sovereign Lord the King

King, God's Vicegerent here on Earth, hath Commanded that you should be here tried this day; and to that end he hath caused these your Peers to be Assembled: And the Desire of his Majesty is, That your Trial should be as equal as Justice and Equity it self: And therefore these Noblemen, your Peers, whose hearts are as full of Integrity, Justice and Truth, as their Veins full of Noble Blood, are this day to try you; wherefore if you be innocent, speak boldly and confidently, and fear not to justify your self: And be assured, that those that accuse you, if you be free your self, shall not escape free: but if you be guilty of these Crimes, I advise you to give honour to God and the King, and confess your Faults; for it is not vain Confidence, nor Subtilty, nor standing out in denial, that hides the Truth; and all Shifts and Subtilties against it are but *Concilia adversus Dominum*.

Therefore if Truth touch you at the Heart, and your Conscience, which is your Witness, and God's Grace, which is greater than both; stand not against it.

The Lord Audley's Answer.

May it please your Grace,

I Have been a close Prisoner these six Months, without Council or Advice; I am ignorant of the Law, and but weak of Speech at the best; and therefore I desire to have the liberty to have Council to speak for me.

The Lord Steward replied; That his long Imprisonment was a special Favour; for that it gave him time to bethink himself, and more than ever any Man had, that had been committed for such Offences; and that he should demand nothing which the Law can allow, but it should be granted.

Then his Grace desired to be resolved of the Judges, whether the Prisoner's Demand to have Council to plead for him, might be granted or not? The Judges answered, That in Criminal Causes Council is not to be admitted in matter of Fact, but in matter of Law it may.

Then the three Indictments were read; whereof two were for Sodomy with his Footman, and the third for a Rape committed upon his own Wife. Unto all which the Earl answered, *Not Guilty*; and being asked, how he would be tried, he answered, *By God and his Peers*. Whereupon all the Peers put off their Hats, and the Issue thereof was joyned.

The Lord High Steward addressed his Speech to the Peers, and said, My Lords, the Prisoner stands indicted for a Rape by one Indictment, and for Sodomy by two, and he hath pleaded *Not Guilty* to them all.

It is my Duty to charge you with the Trial of it, and you are to judge of it. The Offences wherewith he standeth Charged are to be proved by Evidence. And because the Crimes that come this day before us, may in some breed Detestation, let your Reason sway your Judgments, and let that rule your Affections, and your Hearts and your Heads; for neither of those ought to

be put into the Ballance, if a Grain on either side may sway the Scale.

You are to give attentive Hearing, and then to weigh equally, that the Scale may lean the right way. The Judges will assist you in point of Law; which if you doubt of, you are to propound it to me, and I to them, and this your Lordships are to do without Corporal Oath; for the Law conceiveth you of such Integrity, that you will do that for Justice, which others do upon their Oaths, and therefore admit of no Challenge. And God direct you to do as you ought.

Sir Thomas Crew, the King's Learned Council, opened the Charge against the Earl, to this effect;

The person is Honourable, the Crimes Dishonourable, so foul as Poet never invented, nor Historiographer wrote of: the one is a Crime of such rarity (let it be spoken to the Honour of our Nation) that we seldom or never knew the like; and the other such, the like hath scarce been heard of.

But they are of such a Pestilential nature, that if they be not punished, they will draw vengeance from Heaven upon this Kingdom. His Majesty would have the Prisoner at the Bar heard with as much Favour, as Crimes of this nature will admit. And when he first heard thereof, he gave strict Command that the Truth should be searched out, that his Throne and People might be cleared from so heavy and heinous Sins. Thereupon the Prisoner was Indicted in his own Country according to the Law, and by Gentlemen of worth the Bill was found; and now he is personally brought to this Bar, to be tried by his Honourable Peers, of whose Wisdom and Sincerity there can be no question, but he shall have a just and honourable Hearing.

To begin with the Indictment of Rape, *Bracton* tells us of King *Athelstan's* Law before the Conquest; *If the party were of no chaste life, but a Whore, yet there may be a Ravishment: But it is a good Plea for a man to say she is his Concubine.*

In an Indictment of Rape, there is no time of Prosecution necessary: for *nullum tempus occurrat Regi*; but in case of an Appeal of Rape, if a Woman do not prosecute in convenient time, it will bar her. If a man take away a Maid by force, and Ravish her, and afterwards she give her consent to Marry him, yet it is a Rape.

For the Crime of Sodomy, Our Law had no knowledge of it, till the 15th. of Henry the 8th. by which Statute it was made Felony, and herein there is no more question but only this, whether it be *Crimen Sodomiticum sine penetratione*. And the Law 15. *Eliz.* sets it down in general; and where the Law doth not distinguish, neither must we.

Your Lordships will be curious how you give the least mitigation to so abominable a Sin, which brought such Plagues after it, as may be seen in the 19th. of Gen. 19th. of Judges, & the 1st. of the Romans.

It may seem strange how a Nobleman of his Birth and quality, should fall into such abominable Sins; but he had given himself over to Lust. And when men once habituate themselves unto Evil, no marvel if they fall into any Sin.

Anno 1631. 'Also he was constant in no Religion, but in the Morning would be a *Papist*, and go to Mass, and in the Afternoon a *Protestant*, and hear a Sermon. He believed not in God, he feared not God; he left God, and God left him to his own wicked way; and then what might not he run into?

'Things are found in him beyond imagination, his intentions were bent to have his own Wife naught; if she love him, she must love *A.* his Page; and he gives this Reason out of Scripture, *She was now made subject to him; and if she did evil at his Command, 'twas his fault, he must answer for it.*

'His irregular Bounty towards *S.* is very remarkable; him he loves and honours above all, not in any honest, but a dishonest love; he calls him his *Favorite*, and lets him spend several thousand pounds a year; and if his Wife or Daughter will have any thing, they must lie with *S.* and have it from him; saying, that he had rather have a Child by him than any other.

Witnesses produced. The Witnesses were produced, who testified upon Oath, that *A.* coming to his Bed-side, when he was in Bed with his Lady, the Earl told her, that her Body was now his, and if she loved him, she must love *A.* and if she lay with another man with his consent, it was not her fault, but his; and that if it were his will, she must obey and do it. And then he held both the hands of his Lady, and one of her legs, till his Servant did lie with her. Immediately thereupon, the Lady would have killed her self with a Knife, but was prevented. It was proved that he used the Body of one of his Men-servants as the Body of a Woman. Also there were proved against him, such other particulars as are not fit to be named, nor come to the knowledge of the World, nor to be heard among Christians.

The Kings Council concludes. Afterwards the Counsel for the King spake to the Lord High Steward and the Peers to this effect: 'That in so dark a business, a clearer proof could not be had. For let a man be never so wicked, or never so impudent, he will not call Witnesses to see his wickedness, yet even this point is fully proved. And citing *Levit. 18.* they shewed that by these Abominations the Land is defiled, and that God will visit the Land for this iniquity; and so concluded, That God may take away his Plagues, let this wicked Man be taken away from among us.

The Lord H. Steward. Then the Lord High Steward directed his Speech to the Earl, and told him he should be heard in his Defence, with as much patience as was admitted in his Charge, and advised him to speak pertinently.

The Prisoners objections. The Prisoner alledging that he was a weak man, of a bad Memory, and desired he might not be interrupted, began his Defence with Exceptions against his Wife, That she was by her own Testimony dishonest with *Broadway.* The Lord High Steward answered, That this made against him; he ought not to alledge that Fact as an Imputation to his Wife, which he forced by violence.

'Then he objected the Incompetency of the Witnesses, his Wife and his Servants, that were drawn by his Son's practice, who sought his Life; and he desired to know if there were not a Statute that expressed the incompetency of Witnesses.

The Judges Answer. The Judges resolved, That there was none touching Witnesses; but in Cases of High Treason

there was a Statute concerning Accusers. Then he demanded if his Wife was to be admitted a Witness against him? The Judges answered, That in Civil Cases the Wife may not, but in Criminal or Capital Cases of this nature, where the Wife is the party grieved, and on whom the Crime is committed, she is admitted against her Husband. It was further propounded, whether it being proved that the party Ravished was of evil Fame, or unchaste life, it will amount to a Rape? The Judges resolved it a Rape, though committed on a common Strumpet: for it is an enforcing of the Will that makes a Rape; and a common Whore may be Ravished against her Will, and it is Felony to do it.

'It was also propounded, whether it was to be judged a Rape, when the Woman complained not presently? and whether there be a necessity of accusation within a convenient time, or twenty four hours? The Judges resolved, that in as much as she was forced against her will, and then shewed her dislike, she was not limited to any time for her complaint; that in an Indictment there is no limitation of time, but in an Appeal there is.

'Lastly, It was propounded, Whether Men of no worth may be admitted as sufficient proof against a Baron? The Judges resolved, that any man is a sufficient Witness in case of Felony.

The Lord High Steward speaking to the Prisoner, said, My Lord, you have been graciously dealt with in this Proceeding; for it is not an usual favour in so capital and heinous Causes to bring the Parties and Witnesses face to face before Trial; but you have heard their Examinations long before, questioned and opposed them to their Faces, and are thereby better enabled to make your Defence. And his Majesty is still graciously pleased to continue his Goodness towards you, and hath commanded that you should be heard at full; If therefore you have any thing else to say for your self, speak it.

'Whereunto he answered, and first made a solemn Protestation of his Innocency: but nevertheless implored the Mercy of God and his Peers, and presented to their consideration three Woes.

'First, Wo to the Man whose Wife shall be a Witness against him.

'Secondly, Wo to the Man whose Son shall prosecute and conspire his Father's Death.

'Thirdly, Wo to the Man whose Servants shall be allowed to be Witnesses to take away his Life.

'And he willed the Lords to consider, that it might be their own Cases, or the Case of any Gentleman, or Man of worth, that kept a Footman, or whose Wife was weary of him, or whose Son being attained to Age, had a mind to draw his Servants into a Conspiracy.

'That his Son was now 21 years of Age, himself being old and decayed, that his Son would have his Lands, and his Wife a young Husband: And that by their Testimony, and the Testimony of his Servants added to theirs, they had conspired his Death.

After this, the Prisoner, being so required, withdrew himself from the Bar.

The Lord High Steward spake to the Peers, That they having heard the proofs, the Prisoner's Defence, the Doubts and Questions resolved

1631. solved, might withdraw, if they were satisfied.

The Peers withdrew, and after an hours Debate, with several Advices and Conferences with the Lord Chief Justice, whom they consulted four times; having also in that time sent the Earl of Warwick, and the Lord of Dorchester, together with the Lord Chief Justice, to consult with the Lord High Steward, they returned to their places.

Then the Lord Steward asked them one by one, beginning at the lowest, and so ascending, Whether the Lord Audley were guilty of the Rape whereof he stood indicted? and they all gave him in Guilty, the Lord North only excepted. Then, whether he were guilty of the Sodomy? and in this, Fifteen of the Lords Condemned him, and the other Eleven freed him.

The Verdict being thus given up, the Prisoner was brought to the Bar to hear his Sentence, and the Lord High Steward spoke;

'Forasmuch as thou Mervin Lord Audley hast been indicted for divers Felonies, by three several Indictments, one for a Rape, the other two for Sodomy, and hast pleaded Not Guilty to them all, and for thy Trial hast put thy self on God and thy Peers; which Trial thou hast had, and they have found thee guilty, What canst thou say for thy self why the Sentence of Death should not be pronounced against thee?

Whereunto the Prisoner made Answer, That he had no more to say, but referred himself to God's and the King's Mercy.

Then said the Lord Steward, 'My Heart grieveth for that which my Tongue must utter; but this is the only way to cut off Wickedness; hear therefore thy Sentence.

Thy Sentence is, That thou go from hence to the Prison from whence thou camest, and from thence to the Place of Execution, there to be hanged by the Neck until thou be dead; and the Lord have mercy on thy Soul.

And having thus pronounced the Sentence, he continued his Speech, and said, 'O! think upon your Offences, which are so heinous and horrible, that a Christian Man ought scarce to name them, and such as the depraved Nature of man, which of it self carries him to all sin, condemns as unnatural. You have offended, not only against Nature, but beyond the Rage of a Mans Jealousie; and though you do not suffer for abusing your own Daughter, and that having Honour and Fortune to leave behind you, you would have had the spurious Seed of a Varlet to inherit both, yet these are horrid Crimes. But, my Lord, it grieves me to see you stand out against the Truth so apparent. God might have taken you away when you were blinded in your sins, therefore I hope he hath reserved you as the Subject of his Mercy. He sends you to see this day of shame, that you might return unto him; and seeing he doth thus lovingly draw you to his Service, spend the remainder of your time in Tears and Repentance; and this day's work, I hope, will be the correction of many Crimes and Corruptions.

At last the Lord Audley descended to a low Petition to the Lords, and very humbly besought them to mediate to his Majesty, that he might not die, but be banished; at least, that his Ma-

esty would not suddenly cut him off, but give him time of Repentance.

Car. 7.

In Trinity-Term following Broadway and Fitz-Patrick received their Trial, and were found guilty on the 28th. of June; but had a Reprieve of a Weeks time to fit themselves for their Deaths; and on the 4th. of July they were executed accordingly.

In the Month of July the Marquess Hamilton embarks in Tarrmouth-Road, with the Army for the King of Swedens Assistance; in the latter end of that Month they arrived at Elsenore in the Sound, where the Marquess went on shore to pay his respects to his Majesty of Denmark, and embarks again; and on the 31th. of that Month arrived in the Mouth of the River Oder, his Men in very good health; they were set on shore near Wolgast, and there Quartered in the Villages; where they staying in expectation of the Swedes to join them, and bring them up to the main Army of that King, who could not spare his Men for that purpose, he engaged the Enemy before at Leip-sick; and here they contract a Camp distemper-ed, and the Marquess loseth one third part of his men in that Disease.

Presently after the Condemnation of the Earl of Castlehaven, as you have heard of before, there followed a Sin of some similitude with the former Crimes of that Earl; Sir Giles Allington's Incest with his Niece, which he had put to the question of Council, before he Married her, not without great suspicion of too much familiarity before; and had Advice of the Archbishop and other Divines, as to the Incestuous Nature of such copulations. She was Daughter to Mr. Dalton's Wife, Sister to Mr. Gibbes, and so his own Niece: His wicked Passion was supported by his great Estate, which under question of the High Commission, was his best Support; where his Purse buoy'd him up a long time.

The Levitical Law interdicts the Marriage of the Nephew with the Aunt, but not of the Uncle with the Niece, which seems to be the same in reason; No, saith Bellarmine; The first changeth the natural Subjection due from a Nephew to his Aunt, who must be under Covert by the Duty of a Wife; whereas, if a Niece marries her Uncle, the Natural Subjection is rather doubled, than destroyed; the Moral Law was writ by Moses in Stone, and Positive Laws besides were given to the Jews, both Ceremonial and Judicial; the latter ceased in Christ's Death, unless a Moral Equity were in them, that there is inter Ascendentes & Descendentes, a kind of Paternity and Filiation; therefore some thought Allington's Case was a Crime against the Moral Law; and if the Aunt had Match'd with the Nephew, he being by that Contract Husband to her, was superior to his Parent; and so an aggravation to the Offence; but Sir Giles flew from the Civil Courts to the Common Pleas, where he procured a Rule Requiring the High Commission, to shew cause why a Prohibition should not be granted, and until then, if they proceeded, Prohibition was granted; this, was judged too bold to so high a Court of Commission, the King interposed, and by the Lord Keeper blamed the Judges, who proceeded no further in fear of Doctor Lawd Bishop of London, who protested to Excommunicate the Judges in his Diocess, and to declare it at Pauls Cross-Pulpit, in case the Archbishop of Canterbury did not.

not do it in his Province, who did somewhat connive, as some stickt not to say.

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It was too hot for *Allington* to hold out there, which returned him back a submissive penitentiary to the incensed Commissioners, Eight Bishops, and Four Civilian Judges, who in full Court, with serious Ceremonies, sentenced him Twelve thousand pounds Fine to the King, and to stand penalty bound in 20000*l.* not to cohabit or be in private with her, to be imprisoned (or sufficient bail) till both of them had performed Penance at *Saint Pauls Cross London*, and great *Saint Maries* in *Cambridge* at a day assigned; they did so; but yet no penalty of the Purse, or shame of the sin could keep them long asunder; though the pragmatick Inquisitors, and other Officers narrowly watcht them, for of all sins (saith one) those of uncleanness want not their agitant Spirits from below, to cooperate with their wonderous subtil ways, to the working this kind of wickedness; and so did this Couple, with the aid of their Confidants, Pimps and Panders.

A Complaint being to his Majesty in Council, that the Lord Lieutenants of the several Counties were not overforward to cause payment to be made of the Muster Masters their Fees, there were Letters directed to them respectively to assesse their pay, and several persons in the County of *Bucks* and elsewhere, were sent for up to the Board, to answer the non-payment of them, but they submitting, they were presently dismissed.

And now we come to speak somewhat of the Marquess of *Hamilton's* Conspiracy [it was so called by the Lord *Rea*] who was accused of affecting Sovereignty in the Neighbour Kingdom of *Scotland*; this was told to *Rea* by *Ramsay* who was sent to the King of *Sweden* by the Marquess of *Hamilton*; but *Ramsay* denies the matter, and *Rea* as confidently asserts it for truth. Thus when Friends fall out, their faults are found out, as appears by the Quarrel between *Donnald*, Lord *Rea*, a *Scottish Highlander*, or rather more *Northward* of the *Isles Orkney*, and that *David Ramsay*, a true *Scottish Courtier*; concerning words and designs of Treason against the King of *England*, which as before *Ramsay* denied, they are admitted the Trial by Combat, the manner being as followeth.

The Day prefixt for Trial was the Twenty Eighth of *November*, 1631. before *Robert Earl of Lindsey*, Lord high Constable of *England*.

Tho. Earl of Arundel, Earl Marshal of *England*.

The Earl of *Pembroke*, Lord Chamberlain of the Kings Household.

The Earl of *Dorset* Chamberlain to the Queens Household.

The Earl of *Carlisle*.

Earl of *Mulgrave*.

Earl of *Morton*.

Viscount *Wimbleton*.

Viscount *Wentworth*.

Viscount *Falkland*.

Sir *Henry Vane*.

The place was the Painted Chamber at *Westminster*; at the upper end thereof a Bench was erected Four Foot high, for the Constable, and Marshal, and Lords Assistants, under them Seats about a square Table, filled with the Heralds of

Arms, and Serjeants at Arms, and other Officers of the Court; directly under the upper Bench fate the Register Doctor *Derbick*, and over against him Doctor *Duck* the Kings Advocate for the Marshals Court, behind him at the Bar were two Pews for the Appellant and Defendant.

At Eight a Clock comes the Earl Marshal (ushered in with Nine Heralds, and Three Serjeants at Arms) bearing his Marshal Truncheon of Gold, tipped with Black, and commanding Room, and giving Orders, retired into the upper House of Parliament, and then returned into the Court as to make way for the High Constable, who followed, and all took place in their degrees.

The Earl Marshal rises, makes obedience to the Constable, and passing forward meets Sir *William Leager* King of Heralds, and both of them present to the Constable his Commission, which he received with his Hat off, and delivered it to the Register to read, in effect,

That his Majesty being informed by *Donnald Lord Rea*, how *David Ramsay* Esquire had plotted, and was privy unto divers Treasons and Conspiracies against his Majesties Royal Person, Government and Kingdoms, in the search whereof the King had used all ways and means for the discovery of the truth, the one of them accusing, the other denying, and so no certain security to his own Person and his Subjects: therefore he doth Authorize the said *Robert Barne* Earl of *Lindsey* Lord High Constable, for to call unto him *Tho. Earl of Arundel*, Earl Marshal, and with him such other Peers, Sheriffs, and Officers as he thinks fit, to hold a Marshal's Court, for sifting the truth between the said parties, &c.

Then the King of Heralds deliver'd to the Constable, his Silver Verge or Staff, half a Yard in length, headed with a Crown of Gold, then the Earl Marshal delivered a Key to a Herald, to fetch in the Appellant, ushered in by the Herald and accompanied with his Sureties Sir *Pierce Crosby*, Sir *Walter Crosby*, Sir *William Forbes*, Sir *Robert Gordon*, and Sir *William Evers*, he was Apparelled in Black Velvet, trimmed with Silver Buttons, his Sword in a Silver Embroidered Belt in his Order of a *Scottish Baronet*, about his Neck, and so with reverence entred into the Pew, his Council Dr. *Reeves* standing by, his behaviour like himself, tall, swarthy, black, but comely, very port like, and of staid countenance.

The Defendant was alike ushered in by another Herald, his Sureties were the Lord *Roxborough*, and Lord *Abercorn*: and his deport like himself, stern and brave, a fair, ruddy, yellow headed bush of Hair, so large, and in those days unusual, that he was called *Ramsay red Head*, his Apparel Scarlet, over laced with Silver, the Ground hardly discerned, and lined with Sky-colour Plush, but unarmed, without a Sword; after his reverence to the Court, he faced the Appellant, who alike sterned a Countenance at him.

After Oyes, the Earl Marshal told them the effect of the Commission, and the power of his Court, which was not of any strange nature, but legal and justifiable as any other Trial in *Westminster-Hall*; and, that there had been no more nor other Trials of that kind of late, we were to attribute it to Gods goodness, the Justice of the King, and loyalty of the Subject with the Providence of State, and wished there might be no more in time to come, and that to expect any combate, this Court he hoped would prevent it, by the discovery of the light, and so *magna est veritas, & praevalabit*; he referred the further proceed-

ceedings unto Doctor Duck, the Kings Advocate, who spake thus in effect,

The Kings Majesty had committed the Trial of the business to your Grace my Lord High Constable, the Earl Marshal, and this Court, which course was warrantable by the Laws of other Nations, and also by our own, who have used the same manner of Trial.

That our Law admitted sundry proofs for Treason, which in other matters it did not; that all Subjects were bound to discover Treasons, and cited two ancient Civilians Hieronymus and Tiberius, who gave their reasons for this kind of Trial, and he mentioned several Records of our own Chronicles and Examples herein, as the Duke of Norfolk combating against the Duke of Hartford in Henry the Fourth his time. John Ely, and William Scroop against Bellamon at Burdeaux, the King being there, the Lord Morley impeached Mountague, Earl of Salisbury, and that Thomas of Walsingham, and Thomas of Woodstock in their learned Writings expressed sundry precedents for this manner of proceeding; wishing the Court in Gods Name to go on to a Trial, and the Appellant to give in his evidence.

Then the Appellant came up upon the Table, to whom the Earl Marshal delivered the Petition, which he had the day before exhibited to the King, and the Defendant being also called up, the Petition was read; which was in effect, that he having accused Ramsey of Treason, and also Meldram his Kinsman, and of confederacy against whom Captain Borthwick was Witness, therefore had desired that the Court should proceed against Meldram first.

But he was told by the Court, that their Cases differing, the Appellant was ordered to deliver in his charge against the Defendant; which he did, in writing, by Bill containing sundry particulars, viz.

That in May last in the Low Countries, Ramsey complained to him against the Court of England, that the matters of Church and State were so out of frame, as must tend to a change, if not desolation. That therefore he had abandoned the Kingdom, to live where now he was, and to expect a mutation forthwith, to which end he had brought present Monies to maintain him at Six pounds a Day for Three years, that Marquess Hamilton had a great Army promised to him, for pay whereof the King had given in hand Ten Thousand pounds, and all the Wine-Customs in Scotland for Six years, presently to be sold for the Armies subsistence, and that he staid but for Ammunition and Powder to come over, for which his Lordship was to mediate with his Majesty of Sweden and the States, and then link themselves together, whose mind Rea should know hereafter.

That their Friends in Scotland had gotten therefore Arms and Powder out of England, and that what he should procure in Holland, was to be brought over by the Marquess, and that all Scotland were sure to them except Three.

That France and Spain thirsted for England, but Hamilton would defeat them for himself, his only fear was of Denmark, where he meant to land, and either to take him off, or make a party.

That afterwards at Amsterdam, Ramsey with Alexander Hamilton solicited him the Lord Rea to be true to him, and to be of their Counsel, though as yet they durst not reveal too much of Hamilton's secrets, but if he repaired to England, he

would entrust him with Letters, and that his Brother-in-law Seaport knew all.

This being the effect of the charge, he added, That if Ramsey should deny it, he was a Villain and a Traitor, which he would make good, and therewith cast him his Glove.

Ramsey denied all, and said, Rea was a Liar, a barbarous Villain, and threw down his Glove, protesting, to gar him dye for it, if he had had him in place for that purpose.

Rea was temperate, without any passion, but smiling replied, Mr. Ramsey, we will not contend here, answer to my Bill.

Then Ramsey offered some reasons of the impossibility of the charge, the slender numbers of men from England, but Six thousand raw Soldiers, against three Kingdoms, whom the first Proclamation might dissipate, that the Marquess was neither so wicked, nor weak in Judgment, and if he should consent to surprise the King, what hope had he against his Children and Kindred, and therefore (saith he) my Lord Rea is a barbarous Villain, and a Liar, and he will gar him dye for it, or lose his dearest blood.

He was interrupted by the Earl Marshal, telling him; he must not stand upon conjectures; but answer the Bill of form according to Law, and was advised to take Counsel therein.

Then Ramsey in general acknowledged all the particular circumstances of time and place alledged by Rea, and the Discourse to that effect; but concluded, that no Treason was intended or uttered, and craved Counsel to answer, which was granted.

And so the Court Adjourned till the Fifth of December, but upon a fresh Arrest by the Earl Marshal, they were to put in Bail for appearance, which were the old security; and Ramsey ordered to answer upon Oath; at which day appearing, the same of the Cause brought thither such a crowd of People as was not imaginable, Rea entred as before in manner and habit: but Ramsey was now suited in Black Satten, and presented his Answer in writing, to this effect:

That having considered the time, place, and communication with the Lord Rea, beyond the Seas (as before urged) he confesses;

That Rea demanded of him, whether the Marquess Hamilton intended to come over and follow the Wars? he said yes, and told him of his Force, Six thousand men, and of the Ten thousand pounds in money, and Wine-Customs in Scotland, which he would sell to maintain the Army, and that he would come so provided with Ammunition, that being joyned with his Friends, he valued no Enemy; upon which Rea replied, that his own two Regiments should wait upon him: but the place of these Forces to meet, was at Sea, and there to receive directions from the King of Swedeland where to Rendezvous; upon which Rea said, that his Life and Fortunes should wait on the Marquess; who being told of his Friendship, wrote a Letter to Rea, which Ramsey delivered; in effect, that Rea should get some Ammunition from the King of Swedeland, which was wanting; and that, speaking in general, of Matters amiss in England, Rea answered, God amend all; to whom Ramsey replied, By God, Donnold, we must helphim to amend all: And to all the other matters and things he utterly denies, and craves revenge upon Rea's person by dint of Sword.

Then Dr. Eden, of Counsel for Ramsey, spake to the Court; That being assigned his Counsel, his

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1631. his Opinion was, that the Defendant might decline the Combat, and reply to the Appellant's Bill in brief, with these Reasons :

First, That by the Words in the Bill, no man can be charged a Traitor by one that is guilty in his own particular, and so is not tied to be Defendant, nor to answer such a Bill.

Secondly, The Incertainty and Doubtfulness of the Words in the Charge; so that till the Court doth censure them to be Treasonable, the Defendant is not tied to answer.

Thirdly, The Appellant refers the Combat till the last; if he cannot in the mean time prove the Charge by any other ways, then he offers to make it good by his Body: so then the Defendant may forbear his Answer, and decline the Combat.

And now, My Lords (said he) I humbly shall acquaint you with the Defendant's Answer to me in private; which was,

That though in Law he might, yet in Honour and Innocency he would not decline the Combat; but being by his own consent his Advocate, hath the less to say for him; and so time was given for *Rea's* Replication till Friday after.

Rea's Counsel moved, Whereas Dr. *Eden* had excepted at some Words in the Charge, he answered, That whoever was accused of Treason, was not to insist, how polluted the Answer was; but how to approve and clear himself: then to refer the Combat to the last, was well done; the *Ultimum Refugium*, to expose his Life, for God, the King, and his Countrey.

This Speech being somewhat peremptory, and directory to the Court, he was told,

That the Court needed not his Direction, as to the Trial of Combat; their Wisdoms would consider of that when it was time; and so the Court Adjourned; both parties being admitted to have common Lawyers, but to plead only by *Civilians*.

This Day came; *Rea* appears as before; but *Ramsay* in a new Suit of Ash-colour Cloth, opened with Scarlet-colour, the Cloak Scarlet Cloth, lined with Ash-coloured Velvet, and the whole Suit and Cloak overlaid with Silver and Sky-coloured Lace.

The former Proceedings were read by the Register, and thereupon the Appellant's Replication presented to the High Constable: in effect,

That *Ramsay* in his Answer, had cunningly slipt over a part of the Charge; which was, that the Lord *Rea* protested, he was not engaged in Wars, for want of subsistence, and therefore would not hazard in any Design, without sure knowledge; upon which words; depends much of the Matter, and Main of that part of the Bill, and so ripping up the several charges of the Bill, the Strength, Reasons, and likelihood, and the Defendant's Defects, in not clearing the chief Points, they went on with the Counsel, It was his part to inforce the charge against *Ramsay*, in this effect; he observed, that the first Day *Ramsay* denied all the Charge, while he stood upon private resolution; but afterwards his Counsel brought him to particulars, and taught him to answer superficially; first he knew nothing, and yet now so much.

No doubt there was some stranger Enterprize by the Marquess *Hamilton*, than to serve the King of Sweden, by *Ramsay's* professing that *Hamilton* was a Protestant, and bore Arms for Religion, not caring with whom to grapple; from hence observing, that they intended somewhat

to attempt of themselves; *Ramsay* styled the Marquess his Master in Discourse, and in many of his Letters produced much of his Discovery by *Rea*, was to fish out of *Ramsay* the Truth of his doubtful words; how unlikely it was that *Rea*, having two Regiments of old Souldiers, Captain of the King of Sweden's Dragoons, in good pay for all, should offer to serve *Hamilton*, who was to be Commanded by the King, and that *Ramsay* might decline the Combat, or forbear answering till the last, was a strange Opinion of Counsel, because Combat was to be reserved till all other means of Discovery failed; and therefore *Rea's* Reasons were supplemental proofs, and requiting *Meldram's* Testimony; but however he was now ready, if the Court think fit, to give the Combat presently.

And concluded with an Example in case of Murder; Two men fight in secret; the one is slain, the other flies; and though without any witness of the Fact, his seeking to escape condemns him guilty; so *Ramsay* having been accused of Treason above three Months by the Lord *Rea*, and both confined, *Ramsay* despairing of his Cause, seeks his flight from Justice, by sending to *Rea* a private Challenge, being a sufficient Conviction in Law; as appears by ancient Precedents in this Court, viz. *Kirtles* after an Appeal, sends a Challenge to *Scroop*, and was therefore adjudged Guilty.

Doctor *Duck* answered to all, That first it was Prudence for *Ramsay* to Answer in general Negatively, having been newly Landed from Sea; and might be excused till he had Time and Consideration, to refresh his Memory, being not upon Oath, and as yet, the Defendant need not answer perfectly, till further Time and Favour, to view the Exhibits in Court by Copies, which he desires.

And directly urged against the Lord *Rea's* Replication, not to be allowed, because, *Rea* referring himself now to proofs, might have saved the trouble of this Court of Honour and Chivalry, and hazard of their persons by combat, which intends the Trial without proofs, and that the Defendant having engaged his Sureties, but to this day, he humbly desires the Time and Place to be Ordered for the sudden Combat, according to the Law of Arms, and Customs of this Court; saying, that the Duel foreseen must ensue upon the Appeal and Denial, and therefore ought now to be granted.

Doctor *Reeves* moved for continuance of the Replication, and consented to the Combat; the Court admitted the Replication, and Ordered Time till Wednesday for exceptions thereto.

Doctor *Duck* offered some Reasons to satisfy *Rea*, and extreemly to censure *Ramsay*; where he was interrupted, and told by the Earl Marshal, that the Court will save him the Labour and Counsel, till the Rejoinders be put in, and then to be Ordered.

Doctor *Eden* shewed that the Copies of the Letters exhibited, were not given out; nor shall, sayes the Earl Marshal, till the Court have considered of the Contents; and so they were read.

The one was from *Ramsay* to *Rea*; certifying him of Passages in the Low-Countreys since their parting; to put the Marquess in mind of directing him how to dispose of the Ammunition and Arms in his custody: Subscribed,

Your Servant, R A M S E Y.
The

1631. The other from the Lord Marquess, to the Lord Rea, congratulating his Love and Affection; expressing a great desire to meet him in Germany, upon any terms he would propose; and that Ramsey the Bearer, was instructed for him to Treat with the King of Sweden; whom he desires to favour and assist; which will oblige him his Friend and Servant;

HAMILTON.

Dr. Duck opened the whole Matter, and each particular, insisting, that my Lord Rea's Evidence being for the King, and he a Person of Honour, and Peer of Scotland, his Testimony was sufficient: and moves, that Mr. Meldram might be admitted for Supply; for though they were not joyn-t-witnesses together of the words which made the Charge; yet forasmuch that they were spoken asunder, and agreeing together, made up a full proof; That no Testimony may be neglected in Matters of Treason; That if any part of the Charge was denied by the Defendant, and proved by the Appellant, it might convince him in a manner of the whole; and urged the offence of Ramsey's Challenging Rea. But more of that hereafter.

But Dr. Reeves prosecuted the Matter; for that Ramsey's Counsel endeavoured to prove that he might decline the Combat, or forbear answering, because of some Words which reflected upon my Lord Rea, as matter of Reproach, that Rea had uttered Words of Treason to catch Ramsey, and then to turn Informer; but (said he) no Office can be accounted base, when the King and Kingdoms Safety is concerned; citing a Story out of Livy, that the Romans, confederate with the Samnites, were to undergo a base Office that stood not with Honour, and resolved, so long as it was advantageous to the Roman State, it might with honour be undertaken.

Dr. Eden was earnest to excuse himself for putting in these Words against the Lord Rea, saying, that his Client enforced to have them inserted.

But being a Point of Honour, the Earl Marshal interposed, That true it was, the best man may not refuse the basest Office to preserve a King and Nation; but again, it was most unworthy the Degree of Honour, for any man to Angle and Entrap another, and then to present him to the King's Justice.

Then the Pleaders argued concerning Meldram's Testimony, That no Proof ought to be omitted for the King; but it was offered for Ramsey to joyn Issue upon that Point in Law; for the Bill was laid against him not in general, but particular, to Place, and Time, and Matter, viz. That in May last, in a Ship, and afterward at Amsterdam, then again at Delph, Ramsey should say such and such words; which if Meldram would justify, besides himself, they ought to be admitted, otherwise it was no good matter, but must refer to a new Bill.

That the Defendant had answered fully, for that the Lord Rea proffered his Service to the Marquess, without pressing to know any Design; that nothing in the Letters could convict Ramsey; that the Lord Rea standing upon his great Offices under the King of Sweden, and so that necessitated to serve the Marquess, he had not those places of Command then, but since; and that since his coming into England, he said that he would have served under the Marquess, and concluded, that Ramsey and the Marquess might use such words, and yet not intend Treason to his Majesty.

But having in this Trial medled so much with the Marquess, the Court was fain to enter an Order or Protestation, to clear the Marquess his Words or Actions from dishonour.

Then the Court proceeded to examine Witnesses *viva voce*.

Archibald Rankin was to prove the Challenge, as the Bringer; upon those Questions he confessed, that he was in Ramsey's Chamber at Richmond, the last of October.

That Ramsey did not employ him to carry any Challenge to the Lord Rea, but at that time Ramsey told him, that it was his grief to be restrained not to meet Rea, who was a Traiterous Villain, and wished to meet him in the open Fields at Barn-Elms, he would make him die for it, and tear his heart, with other such words of Reproach, and wished the Deponent to tell Rea so much; which he did; but it was three weeks after; and then, not until the Lord Rea told him, that Ramsey had sent him a Challenge; so that, said Ramsey, my Message was but a Relation, not a Challenge.

But Rankin was observed to falter from what he affirmed before Dr. Reeves and others, viz. to have carried the Challenge, and that Ramsey could not deny it; so that Rankin was threatened not to accuse Ramsey, Gilbert Seaton deposed, that Ramsey said, he had made it to come to Rea's Ears, to have ended this Business without troubling the King or Lords.

Then Dr. Duck summon'd up all the Proceedings, observing, that formerly, in the presence of the King, Ramsey had with deep Protestations and Oath, denied the Time, Place, and Matter, which he now confesseth; and though then not examined by Oath, yet in France and other Countreys, the very holding up of the hand is an Oath; and so Tertullian sayes of the Romans; and Ramsey confessing part, he might be guilty of the whole Charge.

Dr. Eden said, That Rea was not a competent Witness against Ramsey, though for the King; for he was *Particeps Criminis, Capitalis Inimicus*: for the first, his Bill made him so, for if Ramsey spake Treason, so did Rea. For the second, it appeared by Rea's violent prosecution; and if all failed, his Sword must make it good; and so the Defendant was not bound to Answer, nor to accept the Challenge unless he will, to which he is so willing.

But Dr. Duck said, these Reasons did not *Currere quatuor pedibus*; some of the Conspirators with Cataline, were Revealers of the Treason, and allowed as Witnesses.

Dr. Reeves concluded, That although some of the Lord Rea's Witnesses did not affirm what they might, it would encourage him to set a sharper Edge upon his Sword when he entred the Lists; and that the God of Right would so weaken the heart of Ramsey, that it should fail him when he took his Sword in hand.

The Holidays of Christmas drawing nigh, the Court Ordered, That either Party might repair to Sir Henry Martin, and possess him with further proofs out of these Witnesses already examined, but of no other; and so Adjourned the Court till Monday the Ninth of January; when after some small Debates, but no further Matter or Proofs, the Business was briefly determined, to be referred to the King's Pleasure.

Which came to this Account, That Hamilton's power with the King, got all Favour for Ramsey, and was well rewarded in due time; and

Rea

Anno 1631. *Rea* having done the Duty of a Loyal Subject, left the Court and Kingdom, and returned to his Command in Sweden: but this Story, though tedious, will enlighten us further to the Truths of the *Scotish* Affairs hereafter.

I have seen a Memorial of the Lord Chief Justice *Whitlock's*, concerning this Tryal.

Judges-
opinions
concern-
ing *Rea* &
Ramsay.

Presently after my Return from this Circuit, my self and the rest of the Judges of the *King's Bench*, were sent for by the Lord Keeper, to *London*, to advise with him about the Affairs of his Majesty. We came thither on Monday, Aug. 22. except the Chief Justice, who was sick. The Matter consulted of, was to give our Opinion concerning the conference had in Germany between certain *Scotish* Gentlemen, about the making the Marquess of *Hamilton* the Head of a Party against the King and his Kingdoms of *England* and *Scotland*.

The Lord *Rea*, a *Scotish* Baron, did Impeach *Ramsay* and *Meldrum* for moving him to this Conspiracy: They denied it punctually, and no Witness could be produced. *Ramsay*, a Soldier, offered to clear himself by Combat, that he was Innocent; and the Appellant accepted of his Offer. The King was desirous it should be put upon a Duel; and we were consulted with, First, What the Offence was? Secondly, Where the Trial might be?

We all with the Lord Keeper, were of the Opinion, First, That it was an high and horrible Treason, if that in the Examinations were found true. Secondly, That the Trial might be by an Appeal of Treason, upon which the Combat might be joyned: But the King must make a Constable, *durante beneplacito*; for the Marshal could not take the Appeal without him: That it must be after the manner of the Civil Law, and we were not to meddle in it. Likewise we were of Opinion that this Proceeding before the Constable and Marshal was, as it was before the Statute of 35. Hen. 8. cap. 2. and that Statute devised a way how to try these Foreign Treasons in *England*, but did not take away the other. We were also of Opinion that the Stat. of 1 Mar. 1. 10. did not take it away nor intend it: And that a Conviction in this Appeal was no corruption of Blood or Forfeiture at the Common Law, See *Doughties Case* in *Coke's Commentaries*, fol. 75. Sect. *Escuage*.

Sir *Henry Vane* was dispatched Ambassador about this time to the two Northern Crowns, and arrives at *Gluckstadt* on the *Elb*, and being on his Journey to the King of *Sweden's* Camp, his Majesty of *Great Britain* did sometime before receive an Account from the King of *Sweden* himself, of the great Overthrow he had given to *Tilly* at *Leipsick*; it was by Letter, as followeth:

The King
of *Sweden*
writes to
the K. of
Great Br.
of the Bat-
tel of *Lip-*
sick.

Gustavus Adolphus, &c. Since we are satisfied of the constant Propensity Your Serene Majesty hath for Us and the Publick Good, and that which happened to Us successfully, and for the Good of endangered Christianity, that Your Serene Majesty did also bear a part therein, We would not omit the certifying Your Majesty of the memorable Victory, which Divine Goodness afforded Us. After the Elector of *Saxony* had joyn'd his Forces with Ours, We marched against the Enemy with both Armies,

and the Enemies Army, under General *Tilly*, opposed us, Septemb. 7. having drawn out all his Forces a Mile from the Fortress at *Leipsick*. The Battel being begun, the business was briskly managed on both sides for the space of four hours and upward, till at last, by the singular Blessing of God, the Enemies Army, by the indefatigable Valour of our Men, was put to flight, and dissipated, we pursuing them to the very Walls of the City. The Enemy left us their Canon and Baggage. The General retired into the Bishoprick of *Halbestadt*, having received a Wound; they whom we pursued, being left to our Souldiery and Mercy. Many of the Enemy lay dead in the Field where the Battel was fought; and among them, the Serjeant Major General, and other Commanders in the Army. Among some thousands of Prisoners, the Duke of *Holstein* was one, and some others of the most eminent quality. The praise of which Successes is due to Almighty God, and ought deservedly to be attributed to his Goodness; and We hope, not only the so much desired wishes of so many thousand People of restoring Religion and Liberty, but also the facility of setting up the afflicted Cause of the King of *Bohemia*, shall now manifestly appear. We do not therefore distrust but that Your Serene Majesty will prosecute this Victory, not only with Joy and Affection, but also make use of so fair an opportunity, and that it will be Your Royal Care, to judge of all things henceforward to be conferr'd upon, and to consult of those things which relate to Christianity, and their Safety by Your Heroick Counsels. We will not any farther trouble You, but commend Your Serene Majesty to the Divine Protection, for the happy increase of all things.

Dated at *Hall* of the Saxons, the 15th. of September, 1631.

Your Serene Majesty's

Good Brother and Allie,

GUSTAVUS ADOLPHUS.

And for a Particular Account of that great and Signal Battel, take it from the Relation of the King of *Sweden's* Marshal, *Gustavus Horne*; which was as followeth:

AS soon as the King of *Sweden* had resolved to give assistance to the Duke of *Saxony*, whose Countrey the Enemy had already invaded, upon the Third of September, he passed his Army over the Bridge at *Wittenburgh*, and joyned himself with the Armies of the Dukes of *Saxony* and *Brandenburg*, at *Tuben*, the 5th. ditto, where first they deliberated and consulted in what manner they might best encounter the Enemy, and whether it were wisdom to bring it to a Battel presently, or by delay of time to break and weaken the Power of the Enemy. His Majesty was of opinion not to set all upon Fortune, much less to put their whole State in danger by the event of an uncertain Battel; yet for all that, the Duke of *Saxony* insisted still for a Battel, saying, That there was no other means to drive the Enemy out of his Country, much less was it possible that both those Armies could be furnished with all Necessaries, especially because the Enemy hath incorporated the best part of the Country. And therefore he thought fit to approach towards the Enemy at *Lipsick*,

Lipsick, and to encounter him with all their Might. Whereupon the King, with the said Duke, upon the 6th. of September, marched with their Armies within two Miles of *Lipsick*; which Town Count *Tilly* by Composition had taken in, as also the Castle, both which, by reason of bloody threatening, submitted themselves to *Tilly*: Whereupon we followed the 7th. *ditto*, and met the Enemy a Mile from *Lipsick*. Notwithstanding the Enemy had both the Wind and higher Ground of us for his advantage, yet for all that we skirmished very lustily with each other in good order, both with Ours, as also with the Saxon's Army. The King's Army upon the right hand, and the Saxon's Army employed upon the left hand. The King's Army was divided into the Avant-guard of the right Wing, which the King himself commanded; and there stood also the most and best Armed Horsemen, interlaced with certain Musketers, in the Reer-guard of the said Wing, Commanded by General *Bannier*. In the Vaunt-guard of the Battel stood four Squadrons of Pikes and Musketers, who were Commanded by these Chiefs, Monsieur *Duivell*, *Acke*, *Oxenstern*, *Erentruiter*, *Hardt* and *Winckle*. In the Reer-guard of these Battels, there stood three other Squadrons, the Count of *Thurn*, *Herbrun*, and *Virsdum*; and after these, two Regiments of Horse upon the left Wing, over whom his Majesty appointed *Gustavus Horn*. The rest of the Horse were divided into the right Wing, the Avaunt-guard and the Reer-guard mingled with Musketers. In this Order was the whole Army set, so that we got half-wind of the Enemy; yet they kept the Advantage still of the higher ground, where he had planted his Artillery. We marching thus in their sight, through a foul Passage; the Enemy did some harm with his great Peeeces on our Troops, chiefly among those that were with *Gustavus Horn* upon his left hand. And hereupon with his left Wing, (where the greatest strength of his Horse was) fell upon our left Wing. But whilst they were thus busied to gain Ground more and more of us, and to get the Wind, as they thought; the Horse and the Foot-Regiments of the Duke of *Holstein* retreated from the *Battalia*; and the right Wing perceiving that the Commanded Musketers of our right Wing were mingled among the Horse, and had hard Entertainment of the Enemy, they drew more to their left hand; and so the Enemy Charged more upon the Reserve of our right Wing, than upon the Vaunt-guard, which his Majesty caused very seasonably to be seconded with some Troops, in such manner, that the Enemies left Wing with little ado was broken and put to flight. The Enemies Battel, consisting of all his Foot, being divided into four great Spanish Battalions of sixteen Regiments, upon this marched from the Hill, together with their Horse. But in regard they were so annoyed with our Artillery which were placed upon our left Wing, they so turned their Order, that most of them fell upon the Duke of *Saxon's* Army, to their disadvantage; but all their Horse fell upon our left Wing, who were soon dispersed and put to flight. And contrarily the Foot-men of the Duke of *Saxony* almost fled the Field; yet whilst the Enemy pursued the Saxons, our left Wing Charged into their Flank, and upon the two Troops of Reserve; and in this posture we fought long and lost many of our Horse. Yet finally, after *Gustavus Horn* had soundly Charged the

mies Battel with that Regiment of *Gotland-Horse* which his Majesty sent him for an Assistance and Succour, together with the Commanded Musketers which had been placed in the left Wing by the King, so that they began to grow very thin, and were diminished; their Battel presently broke, and they were all put to flight, excepting four Regiments; who, by reason of the Smoak and Dust, were so shadowed from our sight, that they saved themselves.

After this Defeat, his Majesty Marched to *Hall*, and took in the Town and Castle; then marched forward, and took in *Pesewald* and *Querfurt*. The Duke of *Saxony* marched towards *Bohemia*. His Majesty took in *Erfurt*, *Gota*, *Hamelburg*, *Mulbosen*, and *Werburch*. The 20th. of October his Majesty came to *Franken*, took *Carelstadt*, with the Bishopricks of *Wittsburgh* and *Bamburgh*. The Landgrave of *Hessen* took *Fulda*, *Vach*, and *Fritzlaer*; he came into *Westphalia*, and took *Paterborn*, with some other Places; *Rostock* rendred upon Composition to the Duke of *Mecklenburgh*. The King's Forces took in *Dunckenspil*, *Nortlingen*, *Rotenburgh*. *Magdenburgh* was strongly besieged. His Majesty took in *Hanaw*, *Frankford* and *Hougt*. The Saxons took in *Glockow*, and defeated the Emperor's men by *Crosten*. The Count of *Thurn* took in *Prague*. The King's Men beat the Emperor's Men by *Warheim*; defeated also the Souldiers of the League by *Swynfurt*, and also by *Elleboghen*. His Majesty passed the River of *Rhine*, and took in *Mentz*, *Worms*, *Oppenheim*, and almost all the Towns of the *Lower Palatinate*.

Much about this time there happened some Differences in the University of *Oxon*, about the five controverted Points; and several Divines, viz. Mr. *Hodges*, Fellow of *Exeter* College, Mr. *Thorne*, Fellow of *Baliol* College, and Mr. *Ford* of *Magdalen-Hall*, having in their Sermons at *St. Maries*, Preached against the Remonstrant Opinions, terming them *Pelagians* and *Semi-Pelagians*, against the purport of His Majesties Declaration; whereby the entreating of those Points in Popular Sermons, were straitly inhibited; they were Convented before Dr. *Smith* Warden of *Wadham*, then Vice-Chancellor, for the Offences aforesaid; and they appealing from the Vice-Chancellor, to the Proctors, Mr. *Bruch* Fellow of *Brazen-Nose-College*, and Mr. *Doughty* Fellow of *Merton* College, they received their Appeals, as if their Crimes had not been *Perturbatio Pacis*; hereupon the Vice-Chancellor complains to His Majesty, then at *Woodstock*, where the whole Matter was heard before the King and Council, Aug. 23. 1631. And the three Preachers before-named were banished the University, and the Proctors were enjoyn'd for receiving their Appeals *contra formam Statuti*, to resign their Offices in the Convocation-House; and Dr. *Pruden* Rector of *Exeter* College, and Dr. *Wilkinson* Principal of *Magdalen-Hall*, were reprov'd for abetting the said Preachers: But Mr. *Hodges* afterwards publicly Recanted in *St. Maries*, and did acknowledge, That he fell upon the Delivery of those Points, which by His Majesty's Royal Injunction were forbidden him to meddle with at all; and particularly did acknowledge that he let fall some Passages, which might be taken to the disparagement of the Government of the Church, in making Erroneous and Heretical Opinions the way to Preferment; craving the Pardon

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But Mr. Ford utterly refused the Recantation enjoyned him; and afterwards being likely to be chosen Lecturer at *Plimouth*, a Letter was procured from His Majesty to stop his Preferment.

We left, as you may remember, the Marquess *Hamilton's* Army in their Quarters about *Frankfort* on the *Oder*; His Majesty of *Sweden* excusing himself, that he had not according to his Promise, sent him the Forces to make his way to him to *Lipsick*; for that he should weaken his Army by so doing. As things thus stood, he was Ordered with *Bannier* the *Swede*, to advance and besiege *Magdenburgh*, held then by Count *Mansfield* for the Emperor; which Place having been much straitned by their Siege, *Papenheim* haltes to the Relief of the Town (they being before in Parley) *Bannier*, contrary to the Opinion of Sir *Jacob Astley*, who thought they might very well have fought *Papenheim*, and made a safe Retreat, draws off the Army, whereby the Imperialists got into the Town, and removed Souldiers, Ammunition, Ordnance, and all; though afterwards for his want of Draught-Horses, all the Great Guns were not taken along with him; hereupon the Marquess again is Ordered into Quarters near *Halberstadt*.

Sir *Henry* being, as before we intimated, on his Journey to the King of *Sweden*, had received these Instructions from His Majesty of *Great Britain*:

1. By all means to beget and maintain a good Understanding betwixt the two Northern Crowns.
2. To procure all the *Protestant-Princes* and States to joyn with the *Swedes*.
3. To make a firm Peace twixt the *Swede* and the *Pole*. And, if need should, to enter into a more strict League with the *Swede*, if he should see occasion.

Our Ambassador was now at *Erford*; from whence he writes the Letter following to the Marquess of *Hamilton*.

My Lord,

The first of mine which this Bearer will give you, Lordship, will tell you the extreme regret I have had since my coming into these Parts, that I could not have the honour to hear from your Lordship; and, I fear, hear of you. I received your Lordship's of the 20th, delivered me this Evening by one I sent to *Lipsick*, my self being hindered from going that way, in regard the Enemy lay between *Brunswick* and *Lipsick*, so as I could not pass without danger, which causeth me to take the way of *Erford*. To morrow I set forward toward *Wirtzburg*, which his Majesty of *Sweden* hath assigned me for my Audience; which as soon as I have had, I shall dispatch an Express to your Lordship, and be glad to receive your Lordship's particular Commands, of which I shall be vigilant and careful, as if they concerned my self. I hope yet some one of your Lordship will overtake me before I shall see the King; for it will be Thursday before I shall arrive at this Court, and I presume it will be four or five days before he will give me Audience.

Erford, Oct. 27. 1631.

He afterward passing through *Franconia*, came to *Wirtzburg*, and afterwards to *Frankfort* on the *Main*; where on the 29th. of *January* he had Audience of the *Swede*; the Substance whereof followeth.

The Ambassador at his first Audience with the King of *Sweden*, on *January* the 29th. according to our Style, told the King, That he had come sooner, but that His Majesty's Command staid him at *Mentz*. The King bid the Ambassador welcom, and told him, He heard the King of *Bohemia* was upon his way to come up to him; and asked him, when he thought he should be here? To which the Ambassador answered, he thought to morrow. At which the King started, and said, it could not be: The Ambassador replied, he thought yes; for he had received such Advertisement from the States Agent at *Collen*; and said further, the King of *Bohemia* was come in conformity to his Majesty's desire unto him; and that he hoped his Majesty would take his Cause actually in hand, according to his publick Manifesto, whereby he would acquire to himself much Honour, because none was so much wronged and oppress'd as he. The King replied, he would first make an Alliance with the King of *Bohemia*, and would be also glad that the Alliance between himself and the King of *Great Britain* should proceed; and asked the Ambassador, whether he had plenary power? and whether the King of *Great Britain* would make the Confederation personal with him, or not? and whether he would be content to give Money and not Men? To the first he answered, he had plenary Power; and that for the Personal Confederation between the two Crowns, his Master was content to accept it; and for Money in lieu of sending Men, he thought an expedient might also be found for that, provided his Majesty would undertake the restitution of the King of *Bohemia* unto his Estates and Dignities, and not to lay down his Arms untill both were effected. All but this Condition he liked well; but to that he answered, he could not do that without having War with *France* and *Bavaria*; and that in the late Treaty between *France* and the *Catholic League* concerning the Neutrality, there was an Article; but as for that of *Bavaria*, it should be remitted to a future Treaty between the Kings of *Britain* and *France*; and for what he held of the *Spaniards*, he was willing to return. The Ambassador answered, That that Article, and all others in that Treaty, was as much to the prejudice of the King of *Bohemia* as could be, and consequently to his Master's Ends; and he wished in the end it might not prove disadvantageous to the prosperity of his Affairs, by being too long amused, which could not be but advantageous to his Enemies, and of dangerous consequence to himself and the Cause; that for his part he did not think it counselable for his Master to make an Alliance with his Majesty of *Sweden*, upon the hopes of a future and contingent Treaty between *Britain*, *France* and *Bavaria*; but if his Majesty would oblige himself to perform the Conditions he proposed, he the Ambassador was ready to begin the Treaty to morrow. And the King replied, that he could not stipulate to make War upon *Sweden* at this present, but it might be hereafter; and if the King of *Great Britain* would follow

1631. follow his Counsel, he thought it might either be done by War or Treaty, and said, if he had concluded before the arrival of the French, he could then have undertaken War upon Bavaria, but it was not for him to undertake against the House of Austria, France and the Leagues, if he could by means of the Neutrality lay France and the Catholick League by.

The Ambassador answered; 'For our coming too late, there was no fault to be justly imputed to us; for had his Majesty of Sweden demanded reasonable Conditions, the Alliance had been concluded; but Leagues, and Business of so great importance, could not but have slow motions; yet he besought his Majesty of Swedeland to give him leave to commemorate the Proceedings of his Master towards him since his Majesty's coming into Germany, viz. That he had permitted him to make as many Levies of his Subjects as he had desired; That he had since sent the Marquess of Hamilton to him with a Royal Assistance, and so opportunely, as it could not be denied but that the Marquess Landed his Army at a seasonable time, to the amusement of the Emperor, and the encouragement of the Confederate Protestant Princes, as appeared by the Effects that followed thereupon, by the speedy uniting of their Army under his Command. And that though his Swedish Majesty, next under God, was the only immediate Instrument to whom the Glory of this great Revolution was to be attributed; yet it could not be denied, but that the Subjects of Great Britain had done him great and remarkable Service, both in these and his former Wars, and that these were neither to be concealed nor forgotten, nor the real Assistance now sent unto him.

His Majesty of Sweden acknowledged, 'That the King of Great Britain had proceeded with him as a Friend; That he was a wise and virtuous Prince, and that none could wish more Prosperity to his Person and Affairs than he did, and that he would do his best to assist him in the Business of the Palatinate: but he would then have him follow his Advice; That he had too long depended upon the Spanish Treaty, which was a fault, and had prejudiced us much; That nothing was to be expected from them but Parols. The Ambassador replied, If that were a fault, it behoved him to be wary in his Negotiation, not to make an Alliance that might be disadvantageous to his Master, either in Honour or Judgment; That whatsoever should be the Event, he doubted not but that God would bless both his Counsels and his Actions. His Majesty of Sweden replied; 'That for the present he could not stipulate to make War with Bavaria, though he intended not to let him escape; for that it could not be but of great advantage, if he could secure the Catholicks; which he was in a fair way to effect: for according to his Articles delivered unto Charnassay, the Electors of Triers and Cologne had accepted of the Neutrality. The Ambassador asked, Whether his Majesty had received any Act of their own? He said, No, but the Marquess of Preissay had assured him thereof; that he had not yet heard of Bavaria, neither could he yet say any thing thereunto, until either Charnassay or Horn, whom he had sent into France, were returned.

His Majesty of Sweden then said, 'He would make him two Propositions; which were, He would either oblige himself to restore the King

of Bohemia what the Spaniard held, and Treat with France and Bavaria for the restitution of Car. 7. what he possesses; which, if he would not restore, He would then undertake a War with him, so the King would enter into an Alliance with him against the Spaniards, if he should attack him in any of his Dominions. He answered, That was a Point of so great weight, as he durst not take upon him to make any present Answer; but thought that his next from England would give some light.

The Result of all was, That upon the King of Bohemia's Arrival, it was resolved, That the Chancellor of the Swedes, and himself should enter into Treaty.

In this Audience he spake of 12000 Men to be allowed by the King of Great Britain, and 25000 l. a Month, which he demanded for the Maintenance of them; but he insisted not thereupon: and therefore he held not fit to mention it in this Discourse, but by way of Memorial.

He insisted also upon the establishing of the Lutheran Religion in the Palatinate, and the King of Bohemia's Countries.

The Ambassador transmitted to Mr. Secretary Cooke the Passages at this Audience at Frankfurt, to be imparted to his Master the King of Great Britain.

Papenheim, as before we intimated, having quitted Magdeburgh, the King of Sweden placeth a Garrison there, under the Lord Falkenberg Chamberlain of his Household, their Number 4000, to which 2000 more were added by the Citizens, who were Lutherans, of the Augustane Confession; It is an Arch-Bishoprick, now in the hands of Christian William, a Prince of the Electoral House of Brandenburg, who held it as Administrator. This Archbishop was Primate of Germany, and a Prince of great power before the Reformation. The present Prince not willing to part with the Church-Lands, was put in the Ban Imperial, and proscribed; the Town it self rather favoured their Administrator, than the Emperor; refusing to quarter any of his Souldiers in their City, they pretending the Liberty of a Hans-Town; and now they openly joyn with their Administrator, under the favourable Conjunction of the King of Sweden's Arms; the Prince of Saxon Lauenburgh joyning also in the Union. The Country of Magdeburgh it self is situated upon the West of Brandenburg, from which the River Elb parts it; upon the South it touches upon Saxony; upon the West joyning with Brunswick and Halberstadt; and upon the North of it, is the Elb again, with the two Dutchies of Lunenburgh and Lauenburgh; the Country hath the Name from the Chief City Magdeburgh, which is one of the ancient Hans-Towns of the Empire, and that honoured with an Archbishop's See, and be the Primate of all Germany, as before is said.

On the 12th, of April, Tilly appears before the City, draws up in Bataillia, making as if he had an intention to attack the Toll-House, a strong Fort on the Elb; but as yet attempts no more than to beat the Out-guards into the City. The 13th. he with Papenheim, Savelli, &c. begins the place, and having done so, plants twelve peeces of Canon against the Bridge over the Elb, making several hundreds of great Shot against it, designing to prevent any Communication between the Toll-House and the City; but he was prevented in this Attempt, for that the Governor planting his great Guns also upon the said Fort, dismounted Tilly's

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nance, and this not succeeding (as the *Dutch* Ordinary gives the Relation; and Mr. *Rushworth* from him) he falls pell-mell at once upon both these Places, giving eight several Assaults unto them; but the Lord *Faulkenbergh* with four whole Cannon double Charged with Stones, Old Iron, &c. about 12 a Clock at night made them to give over: some Prisoners, the next day, which were taken; confess there were 2000 Men that day slain of the Assailants. This *Toll-House* was a notable piece of Fortification, built on the other side the *Elb*. To this *Tilly* now turns all his Batter-ry; here falls he to Mining, and all to no purpose.

On the 15th. both by Land and Water he lays at it; but three hundred Musketers being by him sent in Boats, to assail it on the Water-side, were by those of the Fort driven ashore, and drowned, or slain by the Citizens; 200 also at the same time lost their Lives on the Land side.

Now was News brought into *Tilly's* Camp, of the King of *Sweden* being upon his March, for the relieving of the Besieged. A Council of War thereupon being called, some Troops are sent towards *Wittenberg*, and the *Dessanbridge*, there to stave off the King's Forces; the News of his coming again slackning, April 21. to work *Tilly* falls again; and giving on upon the *Toll-house*, that notable Piece is forsaken by the *Magdenburghers*, who, at their Retreat, offering to fire it, the Place was rescued by the *Imperialists*. Upon this were all the Forts on that side of the *Elb*, either taken, or given over; the Bridge also by *Tilly* burnt, and Approaches made unto the City, which was from thence immediately Battered. Now were the Besieged forced to burn their own New Town, where 2000 *Imperialists* immediately lodging themselves, fell to Mining, and shooting Granadoes into the City.

The 26th. by a Sally out upon these in the new Town, are about a hundred slain; the Mines do no hurt, until one *Farniback*, a notable Engineer, takes them in hand, who saps himself under the Town-Ditches to the very hard Walls, which he much shakes by springing the Mine: in reward of which Service and some others, the Emperor makes him a Colonel, granting him a Commission to raise two new Regiments.

May 2. the *Imperialists* in the New City, having suddenly in the Night-time cast up a Battery, shrewdly punish the Besieged.

May 7. General *Tilly* comes himself into the New-Town, together with *Papenheim*, then General of the Ordnance, and the Count of *Scomberg*, Serjeant Major General, and a great shew of Ladders is made, as if there were a purpose of a General *Scalado*. *Tilly's* hope was, that the Town would presently parly upon sight of these Preparations; but they taking the Alarm at it, instantly Man all their Bulwarks.

The Eighth day is spent in shooting at a certain high Tower, from which the Town-Cannon did much plague the Besiegers. This day *Tilly* sends a Trumpeter to Summon the Town; they send another to him, signifying their willingness to yield, might but their Administrator still enjoy his Bishoprick, and the Town their Privileges. This not consented unto.

The Ninth day, *Papenheim* attempting to scale the Walls, is by a Sally beaten off; in which some of the Enemies Mines being discovered, are by Counter-Mines in the Town defeated.

That day another Trumpeter is sent into the Town; towards Evening there was much bulling

observed, and Carriages to and again in the Enemies Leaguer: yea, they were perceived to rise with their whole Army (as the Town thought) and to March to *Ortersleben*, half a Mile from them. All that night was the Lord *Faulkenberg* upon the Walls; who, perceiving in the Morning no danger of Assault, calls the City together into the State-House, to give Answer to the Enemies Trumpet; yea, so secure they were, that the over-watch'd Souldiers are suffered to go from their Courts of Guard, to take some Sleep; and the Townsmen were gone to Church, to give God Thanks for their Deliverance from the Siege. Thus, the Walls being found empty, about seven on the *Tuesday* Morning, May the 10th. *Papenheim*, having given the Word *Jesu Maria* to his Souldiers, and a white String about their Arms, makes towards the *Heydecker-Port*; where having thrown Turfs and Faggots into the Ditch, to fill it up to the middle, the *Imperialists* run with Scaling-Ladders upon their backs, the Walls are in a trice mounted, the Town entred, and the Souldiers fall to killing. *Faulkenberg*, now flying in upon them, beats them back to the very Walls again; but a Port being by this time opened, and the Enemies Horse let in, the Valiant *Faulkenberg* is slain with a Shot, the Administrator hurt, both in the Thigh and Head, and so taken. Whilst all thus goes to wrack, a mighty Fire breaks out (how none knows) and it being a great windy day, all was on the sudden become one great Flame; the whole Town was within twelve hours space utterly turned to Ashes, excepting 139 Houses, six goodly Churches are burnt; the Cathedral, together with St. *Maries* Church and Cloister, were, by the Monks and Souldiers diligence, preserved. Twenty thousand People at least were here killed, burned and smothered; whereof 6000 were drowned in the *Elb*. *Tilly's* Walloons would give quarter to few; and the *Crabatts* never use to give or beg any.

May the 12th. came *Tilly* into the Town; and finding some Hundreds of Women and Children in the Church, he gives them their Lives, and some Bread to maintain them; next day he forbids pillaging.

Upon Sunday, May the 15th. he caused the Cathedral, stain'd with the Blood of the slain, to be new Consecrated, and cleansed from the Stench of the dead Bodies, and other Nastiness.

We before told you, That ancient Statute of making Knights, was now put in execution; at which, afterwards exceptions were taken; and in regard *James Maleverer* Esquire, of the County of *Tork*, and others in other Counties, were proceeded against upon the said Statute, the afore said Mr. *Maleverer* and others, became Petitioners afterwards in Parliament, for the recalling of that Statute; whereby Proceedings against Defaulters were taken off, and the Statute repealed; as afterwards it was.

About this time the King erected the New Corporation of *Sope-makers*, under the Great Seal of England: The persons first named were Sir *Henry Compton* Knight of the Bath, *Henry Gilford*, *Nicholas Fortescue*, *Basil Brook*, *Edw. Stradling*, *Richard Weston*, *William Ford*, Sir *James Banks*, Knight; *George Gage*, *Francis Townly*, *Beverly Bretton*, *Thomas Jones*, and *Thomas Russel*, Esquires, and their Successors; and to remain as a Society or Body Corporate, by

by the Name of the Governor, Assistants, and Society of *Sope-makers*, and that they shall have the same to them and their Successors.

1631. Giving them and their Successors power to erect and admit Persons into their Society, and to purchase Lands and Hereditaments to them and their Successors, in Fee and Perpetuity, for Life or years, and dispose of the same as they shall please.

And the King by the said Patent doth nominate and appoint Sir Richard Weston Knight, to be the first Governor of the said Society; and the said Sir Henry Compton, and others, to be the Assistants.

And for the Encouragement of the said Corporation, all *Sope-Boylers* are prohibited the making of *Sope*, who do not incorporate with the Corporation; a very considerable Revenue of 8*l.* per Tun, was ordered to be yearly paid into the Exchequer, and the Company paid by way of Advance 10000*l.*

1632. In this Year happened the great Fire on the North part of *London-Bridge*, part whereof was since repaired, and that very ornamentally, being a good Pattern for the Re-building of the Residue. And now His Majesty was visited with the *Small Pox*, which were at this time more than ordinary mortal; so that the Prayers of his good Subjects were every where offered up to the Divine Majesty for His Recovery; who in great Mercy to the Kingdom, restored Him to health again, without any Marks or Blemish of usual Spots to others in the like Distemper.

At this time was sent hither Ambassador from *Sigismund King of Poland and Swedeland*, *Ossolinski Count Palatine of Sendomiria*; of whose Negotiation and the Reasons of his Embassie, Mr. *Sanderson* gives us a very large and exact Account. 'How that the Affairs of *Europe* were now on all sides involved in the miserable effects of a cruel War; but more particularly in the Eastern parts thereof *Sigismund King of Poland* and *Swedeland*, the Bulwark of Christendom against the *Turks* Tyranny, had been hertofore enforced to sue for Succours of Neighbour-Princes by several Embassies; of King *James*, by *Ossolinski Count Palatine of Sendomiria*, who so well performed his Employment by his eloquent Orations and excellent Behaviour, that he procured from thence two thousand Men and Money, Voluntiers for the Guard of that King's person.

This Count was initiated a *Civilian*, bred up in Court to become Chancellor, and now a Commander in this War; certainly a man of singular Merit, and to boot, very handsom, and of most obliging Demeanor, which took with the King, and all our Court of high concernment, to chuse a person proper for this Errand.

And because the Quarrel came to mighty execution of both parties, I may not omit the occasion of much concerning those miserable Neighbour-Nations bordering the *Turks* Dominions, especially the *Pole*, who (it seemed) in those days deserved better of all Princes than to be worried out of his own Inheritance, by a Christian, now of late, 1655, more cruel now than the *Turk* was then; and so by this Entrance we shall bring the brief History to our time.

Mahomet, the Author of their *Alcoran*, enjoined the Race of *Otomans*, two special things to propagate the Empire, by some mighty At-

tempt of War; the other, to glorifie their Religion by some wondrous Action in Peace, or stupendous Structure of Amazement to the World.

For the first; Their Territories extend to the *Asian* and *African* Shores; from *Trebizond*, the bottom of the *Black Sea*, to *Argier*, neighbouring the Straights of *Gibraltar*, 6000 *English* Miles; besides the possession of *Greece* and her Islands, with this Intrusion into *Hungary*; and have Auxiliary Friendship of the Great *Tartar Chrim*: from whose Ancestors *Tamberlain* proceeded, who thought himself the *Turks* Scourge; yet of late the *Tartar* takes Affinity from the first *Scythian Ottoman*, and if the direct Line fail, he challengeth the proximity of Succession; for which purpose he keeps Correspondence with the *Grand Signior*, assisting him sometime with one hundred thousand *Tartars*; by whose, and his own Multitudes he hath prevailed against *Jews* and *Christians*, possessing *Jerusalem* in *Asia*, *Grand Cair* in *Africa*, and *Constantinople* in *Europe*.

And for the Second; Their admired Mosques (Churches) of Ostentation, Works of Charity, and observant Holiness (and Piousness) demonstrate not only their Opinion of a Deity, but their Obedience also to their *Mahumetan* Constitutions, employing their Time and Wealth to merit the more of the Joys of Paradise, as they augment their Piety upon Earth. So it seems by that wonderful History of *Solyman* the Magnificent, and the fair *Roxellana*, contriving her Manumission, and obtaining to be dismissed under a dissimulated Sanctity of erecting a Mosque in Honour of that Prophet. The Principal *Mufti* (Church-men) with the Doctors of their *Alcoran* have greater access to the Emperor than either the *Viziers* or the *Bashaws*, and they more awed by them, than by the Revolts and Mutinies of the Tumultuary *Janizaries*, by whom alone the *Atlas* of his Monarchy is maintained secure from any daring Attempts to disjoint that Frame.

But the Occasion of the *Polish War* was thus; Whilst Sir *Tho. Glover* was Ambassador at *Constantinople*, one *Jaspardo Gratiano*, a mean man, his *Drogoman* (or Interpreter) born in *Austria*, and the Emperor's Subject, and heretofore Servant to the Prince of *Moldavia*, dispossessed of his Inheritance by Contrivement, both of them became imprisoned in the Black Tower, for complaining against the *Vizier*, to take part with the Princes Competitor; but both of them escaped out of Prison, and became Suitors to most of the Christian Princes, and here in *England*; and had relief of Ten thousand Dollars, by Credit of our Merchants, and so made his great Virtue umbragious with the Malignity of Time, and covertly got from *Venice* to *Constantinople* again; renewing his Complaint by favour of *Glover*: yet the Issue was, an Edict of the *Grand Signior* to establish the Usurper in his Possession.

Some time after, *Gratiano* finding *Glover's* Fortunes (which he counted) to be obscured, he went another way to wind up the Pullies of his own Advancement, suddenly so auspicious, as to be sent with Letters to the Emperor, whether by betraying his Princes Secrets, or by his Brother, a Renegado *Chamse*, in some account with the *Vizier*, and his Sister a Pilgrim Prisoner, reserved for the *Turks* Use, or a *Bashaw's* Concubine, and returns of his Errand at the time that

Glover

Anno 1632. Glover was called home, and Sir Paul Pindar confirmed Ambassador there, who had been Consul at *Petrof* and *Aleppo*, and many years conversant in those parts; a person of so much Merit, that his worthy Memory may give grace to History, as we shall have occasion after to mention.

But *Gratiano* returns, and instantly is employed by the *Vizier* into *Moldavia*, a fresh Adversary to the unfortunate Prince his Master, who was there mischievously imprisoned amongst them. This Villain deals treacherously against the King of *Poland*, certifying underhand to the Grand Signior *Achmat*, that he supported the Pyrates of the *Black Sea*, and the intestine Broils of *Moldavia*, in favour of the late Prince and his Successors; which enraged *Achmat* into Threats, and with some IncurSIONS upon his Territories, but with no main Army as yet; but he engaged the *Mufti*, as his last Will, to mind his Son and Successor herein, who afterwards brought forth the Fruits of his Vengeance to act that part, which *Achmat's* short Life could not effect.

This *Achmat* came to his Empire at fifteen years of Age, and until thirty surfeited on Ease and variety of Luxury; in heat of which, he resolves to murder his Brother *Mustapha*, a Prince of wondrous hopes, as yet reserved by Supernatural Providence from the common Custom of being strangled; for the night before the period of his Destruction, a fearful Vision diverted his purpose; which wrought so powerfully upon him, that the very next day he sent for the *Mufti* and *Schander-Bashaw*, a person of high esteem and power in the Empire, and now delegated General against the *Polonians*; and with them was brought into his presence his Brother *Mustapha*, whom he discharged of his Mutes (the Officers of Death) allows him a Guard of *Capuchins*, and appoints him a *Caska*, or Banqueting-House.

Brother, said he, The Law of *Mahomet*, and Policy of this Government destined you a Sacrifice for security of Succession to our own Children, lest we should leave a hand uncut off, which might in time cast defiance in the face of an Emperor; but I am told in my Dreams, that there is no Religion in Bloody Revenge; therefore thou shalt live and Reign, when the Thread of my Life is spun; even now winding up on the Wheel of Destiny: Remember the Ottoman Glory; let it be thy Virtue to be thankful, and my Fortune to impart this Grace and Benefit to a worthy person; and instantly sends for the *Vizier* and *Bashaws*, adjuring them to the Ratification of this his Will and Pleasure, though he had Children; and so died a short time after. *Mustapha* is forthwith advanced to the Diadem; which he enjoyed a while undisturbed, until *Schander-Bashaw*, perceiving his own Power in some Diminution under this gallant Prince, plots his Designs to be *Vizier*, to Depose *Mustapha*, and to set up the Son of *Achmat*, especially the loving *Osman* of Nine years old, and asks him, if he be not the Eldest Son of his Father? disputes with the *Bashaws* their too hasty Enthroning of *Mustapha*, confers with the *Vizier* and principal *Mufti*, to depose the other, and set up *Osman*, giving a Largeſs to the *Janizaries*, sends for divers *Casawcks* and *Tymorits*; and all things prepared, brings forth *Osman*, and presents him to the People; with wonderful applause they invest

him in the Robes, and proclaim him Emperor, imprison *Mustapha* with a Guard of *Capuchins*, and instantly proposes the War against *Polonia*, and remembers them all of the Charge of *Achmat*, to revenge their Darings, to defend *Moldavia* and the House of *Austria*; for the Emperors of *Germany* banding against the Peace of *Europe*, would be an occasion to advance their Design, and so the War was determined, and *Osman* to go in person.

But first, let us Story out the State of *Poland*: About the Year 1609. one *Stephen*, living then with the *Vizier* at *Constantinople*, pretending Right to the Principality of *Moldavia*, and either by Favour, or Bribes (feldom asunder) had Assistance of Twenty thousand *Turks*; whereby he prevailed against the Sons of the late Prince of *Moldavia*, whom they barbarously murdered, and slew their Uncle *Simeon*; and because the Sons of *Jerſay* were reputed Bastards, the King of *Poland*, by Contract with the *Turks*, had the Naming of a Successor, and elected *Constantine*, the younger Son to the *Vayvod*; which so displeased *Mahomet Bashaw*, designed to rectifie their Disorders, that he slew *Constantine*, and set up another of his own Faction; which Indignity to the *Pole*, caused that King to assist the distressed People.

These Wars lasted till *Sigismund* King of *Sweden* was Elected King of *Poland*; a Warlike Prince against the *Muscovites*, and a continual Friend to the *Moldavians*; so that about the year 1618. the time of the Blazing Comet in the Heavens, *Osman* Mustered up a wondrous Army of *Tartars*, the natural Enemies of *Europe*; to them were united the Countries of *Dacia*, *Servia*, *Bulgaria*, *Illyria*, *Thracia*, *Epirus*, and the Tributary Provinces of Christians themselves, forced thereto in fear of more Slavery. They march to the Fields of *Dacia* and *Bulgaria*, where the *Polacks*, with some Assistance of the *Russ*, encounter them, and with the Fortune of Noble *Sigismund* and his excellent Son, in all their Battels to have the Victory.

And in 1620. they gave the *Tartars* and *Turks* an Overthrow, as they transported their Army over the River, that their Numerous Bodies stopped the very Stream, and Twenty thousand were slain in three Encounters; which so enraged *Osman*, that he resolves to go himself in person with an invincible Host. The first Year he was intercepted by Plague in his Army; the next year a terrible Earthquake at *Constantinople* shook the Ground, overturning Tops of Houses, and many Mosques, amazing the Multitude; with some other several Mischances to the Person of *Osman*, which retarded his Speed.

But resolved it was, with threatening Protestations, and Vows, and Invocation of *Mahomet*, first to send *Schander-Bashaw* his Fore-runner, with an Army of two hundred thousand into *Bogdania*.

Sigismund foresees this Storm in earnest, acquaints the Princes of *Europe*, by Embassies to the Emperor at *Vienna*, by way of Intercession of a Peace between him and *Bethlem-Gabor*; and to other Princes in great Discord with the Empire; and to other Ambassadors also, to other Nations, and *Ossolinski* into *England*.

But after that the right Noble *Sigismund*, in four several Encounters had bravely defeated Forty thousand Enemies, and sundry Triumphs had passed in Honour of his Glorious Victories, the

the *Polonians*, over-presumptuous in their last Battel of *Bogdonia*, disfranked themselves, over-secure, giving Occasion and Courage to the *Famizaries* and *Caphies* to rally the *Tartars* with fresh Numbers, that inforced the *Polonians* to give ground, and the Enemy Advantage of their Retreat, and totally to rout as far as *Poldavia*, with the fearful execution of Thirty thousand, besides Cruelty, Murders, Rapines, Barbarously inhumane.

And thus stood the State of *Poland* in the last time of King *James*; and now let us see their Proceedings at this time.

Uladislaus, the Fourth King of *Poland*, was, after the Death of his Brother *Sigismund*, by Consent of the States, preferr'd to the Throne, and a fair Occasion was offered to Signalize his Inauguration, and to be the Terror of his Enemy, the *Muscovite*; who having done much spoil in *Lithuania*, besieged the *Polish* Town of *Smolenko*; the War was high, and either Party endeavour their Succour; both of them in this Quarrel indifferent to *Great Britain's* Interest, unless the *Scots* will afford the *Pole* their favour, for countenancing their Pedling Trade of Land-Merchandizing from Fair to Fair. And indeed they have Reception there also for such of them as have been Souldiers of Fortune; but the *English* upon a double account have increased their Naval Trade to the *Muscovite*, and our Merchants thereby enriched into an incorporate Company, settled in the time of Queen *Elizabeth*: And so that Great Duke (or Emperor) solicits King *Charles* for Assistance in his intended War, and Siege of *Smolenko*; where, because the *English* and *Scots* both, had Entertainment on either side, they shall not want a Remembrance.

The King of *Sweden*, at his first Descending into *Germany*, fomented this Quarrel; willing he was to engage *Poland*, and all his Neighbour-Princes and States in any War, the better to prevent their Assistance to the Emperor, countenancing and encouraging divers of his own Officers, Strangers, to take pay on either side. The *Muscovite* sends abroad Ambassadors for Aid; with particular Letters to King *Charles*, for Men and Officers, who recommended Col. *Thomas Sanderfon*; which, for a compleat double Regiment of Two thousand *English*, by the North Cape, was the first that ever transported Military men to that Nation, by Sea, to the Town of *Arch-Angel*, the North-part and Port of *Muscovia*, and the Place where all Merchants, Strangers, keep their Staple; there they Land, Aug. 6. 1632. Commissioners are appointed to receive them, upon such Conditions, as never were more noble for Souldiers; the Colonel's own single Pay near 200 l. Sterling a Month, and being received and caressed at *Mosco*, the whole Army March to *Smolenko*, a strong Town in the Borders of *Poland*, formerly taken by *Sigismund*, from the *Muscovite*, with a two years Siege, like that of *Ostend* in *Flanders*, if we consider the length of the Siege, and the number of the slain, which amounted (as Authors reckon) to more than twenty thousand Men; and now as the *Muscovite* resolved to bid fair for the Game, with an Host of fifteen hundred thousand Souldiers; and being come, after some Skirmishes, the King of *Poland* in person draws down his whole Army to Besiege the Besiegers; intrenching himself, which was all he could do for the present, against such a powerful Army of 120

thousand; and so by degrees, he cuts off all Provisions; which put the *Musco-General* to quicken the Siege, and to make several Attempts upon the strong Town; and at last, having summoned his Council of War, and amongst them, of several Nations, Colonel *Sanderfon*, Colonel *Alexander Lesly* a *Scot*, differing in Opinions, fell to quarrel; which the General opposed, saying, *Those that will not fight the Enemy, let them keep their own Quarters*; but gave Command to countenance Col. *Sanderfon* with 3000 Foot, to fall upon the *Polish* Quarters, weakened by drawing off their choicest Horse and Foot to *Dorogabuse*, to prevent the *Muscovites* Provision of Relief; and the General privately took *Sanderfon* cross the River, to get a secret view, for the best advantage of the Design; when suddenly an Alarm came to the General, who commanded *Sanderfon* with speed to his Quarters; who passing by the Brow of an Hill, where *Lesly* drew out into Order; and seeing *Sanderfon* without any Guard, with a dozen of Horse, following him that took no heed of any Treason, but minding his Enemy before his Face, *Lesly* came close behind him, and with a Brace of Bullets shot him by the Nape of the Neck, into the Head, stark dead, the second day of *December*, 1633.

Upon which Murder, the *English* drew into a Body, with resolution of revenge upon *Lesly* and his *Scots*; but for the instant, were both Commanded into a Truce, with great Protestation, That the Murderer should be subject to severe Punishment; and so submitted him to a Guard; of which the Enemy having Notice, takes the Advantage, falls upon the *Muscovites*, and in this Disorder, put them to great Loss, and kill six thousand, enforcing them to a Parly; and to these base un-heard-of Conditions; That an Army of an hundred and twenty thousand should cast their Arms and Colours at the feet of this King; Monster of Victory! he pardons them all; the Strangers, near Fourteen thousand, are never to bear Arms against the King of *Poland*, and all Arms and Ammunition submitted to the Conqueror: And not long after, the General Peace was ratified between them; That the King of *Poland* should relinquish his Title and Pretensions upon the great Datchy of *Musco*, and the Great Duke his, upon *Smolenko*, and other such Places formerly depending on the *Muscovite*.

These Dishonourable Conditions fell heavy upon the General; who was, at his return home, soon beheaded, his Son, the Lieutenant General, whipt to death about the Streets, and his Family banished for ever into the Country of *Iberia*, there to catch Sables, for the Emperor's Profit; a customary Punishment of such as have Relation or Dependence upon Traytors.

Nay, the King of *Sweden* had called in the *Turk*, who to besiege *Poland*, was entred into the Countrey; but the King had timely enough gotten his Victory, to put Fire in the *Turks* Tails; beating them out again, and forcing them also to beg a Peace upon most Honourable Terms for the King; at that same time, when the third part of *Constantinople* was burnt to the Ground with incredible Loss, a Prodigy threatening the *Turk* with that Misfortune which afterwards befell him.

The Murderer *Lesly*, after some time of Imprisonment, with great Sums of money wrought his Release, and to be sent Prisoner to the

Anno 1632. the Justice of King Charles, whose Subject he was; here he was cast into Prison, and suffered under the Trial only of the High Court of Honour; where, being Arraigned, he produced the King's Pardon, who was pleased thus to excuse, and that truly, That being the Murder was committed in a foreign Nation, the Laws of England could not reach to punish with Death; which said, the King having passed a Formal Trial, may give Caution to his Subjects not to execute the like; the Pardon being only to shadow from publick Knowledge the Weakness of our Laws against such Foreign Offenders: But the Hand of Heaven persecuted this Murderer; for he wandring in Foreign Wars, came over hither again, with some Command in the Queens Forces; which She brought over from Holland, for assistance of the King in the late Civil War; where, upon his first Service, he was shot and maimed in his Murtherous Hand; then he returns into Muscovia, where, but for that Suspicion of Treachery, he was imprisoned in a Tower, and from the Top, was flung upon sharp Stakes, and lingred out a reasonable time of execution, e're he wretchedly died.

But let us return to our Country: and as to Church-Affairs, we find Four Promotions of Bishops to have been now made, viz. Dr. Walter Curle was removed from the See of Bath and Wells, to that of Winchester; Dr. Wright, from that of Bristol, to the See of Lichfield and Coventry; Dr. Augustine Lindsey was Consecrated Lord Bishop of Peterborough; and Dr. Pierce, formerly Vice-Chancellor of the University of Oxon, of Bath and Wells.

At this time, there wanted not those, who being of an unquiet Spirit, laboured what in them lay, to make the World believe, That the Doctrine of the Church of England began now to be mixed with Pelagian and Romish Errors: and I find the Author of the *Historical Collections*, in the Beginning of this Year, p. 140. very untruly and unhandsonly reflecting upon the Government of the Church; though in the Title-Page of his Book, he saith (but how truly, let himself and the Reader judge) these *Collections* are by him made without *Observation* and *Reflection*. His Words are these;

There were at this time some who were averse to the way of the Times, and did not forbear to speak against New Doctrines and Ceremonies; as appears by the following Proceedings in the High Commission.

Which Words, if they have any Sence in their Construction, it is this; **That it was now the way [or Use] of those times** to introduce **New Doctrines and Ceremonies**; and these were such: For Mr. Bernard, Lecturer of S. Sepulchres, London, was Censured (as he there saith) for Preaching against Pelagian Errors, and Romish Superstitions.

Now I would gladly know of Mr. Rushworth, what Pelagian Errors, and Romish Superstitions were introducing into the Church of England. If there were none such, this Reflection is not only false, but scandalous; and it will highly concern the Author of those *Collections* to do the Injur'd Church of England, the Church wherein he was made a Christian, Right, by publicly recanting what he hath so publicly aspersed her with; if he speaketh of those Mr. Bernard mentions; These were not to affirm,

That God worketh in the Conversion of a man by an Omnipotent and Irresistible Power; for which Recantation was enjoined him. 2. He said or seemed to imply, That Romish Doctrines, which were now introduced into the Worship of God, naming High Altars, Crucifixes, and Bowing to them, in plain English (saith he) *Worshipping them*; now whether any such, either Doctrines or Practices, as *Worshipping* either Altars or Crucifixes, were ever in those times introduced into the Church, the Collector, who is very industrious and particular in any thing that is aspersive of the Church, ought more expressly and particularly to have declared himself.

A period being put, as before is said, to the Combat betwixt Mackay and Ramsey, the King himself acquainted the Marquis Hamilton, by Letter, of his Opinion of the whole Matter, giving him Advice how to comport himself hereafter, as to Ramsey. The Letter followeth.

JAMES,

Since you went, I have not writtē to you of Mackay's Business, because I neither desire to prophesie, nor write half News; but now seeing (by the Grace of God) what shall be the end of it, I have thought fit to be the first Advertiser of it to you. I doubt not but you have heard, that (after long seeing of Proofs for clearing the Business as much as could be, and Formalities which could not be eschewed) the Combat was awarded; Day set, Weapons appointed: But having seen and considered of all that can be said on either Side, as likewise the Carriage of both the Men, upon mature deliberation, I have resolved not to suffer them to fight. Because, first, for Mackay, he hath failed so much in his Circumstantial Probations, especially concerning Muschamp, upon whom he built as a chief Witness; that no body now is any way satisfied with his Accusations. Then for David Ramsey, though We cannot condemn him for that which is not, yet he hath so much, and so often offended by his violent Tongue, That We can no ways think him innocent, though not, that way guilty whereof he is accused; wherefore I have commanded the Court shall be dismissed, and Combat discharged, with a Declaration to this purpose, That though upon want of good Proof, the Combat was necessarily awarded; yet upon the whole Matter, I am fully satisfied that there was no such Treason as Mackay had fancied. And for David Ramsey, though We must clear him of that Treason in particular, yet not so far in the general, but that he might give occasion enough by his Tongue of great Accusation, if it had been rightly placed, as by his foolish, presumptuous Carriage did appear.

This is the Substance of the whole Action, and so short, that it is rather a Direction how to believe others, than a Narrative it self; one of my chief ends being that you may so know David Ramsey, that you may not have to do with such a Pest as he is, suspecting he may seek to insinuate himself to you upon this Occasion: Wherefore I must desire you, as you love me, to have nothing to do with him.

To conclude now; I dare say that you shall have no Dishonour in this Business; and for my self, I am not ashamed that herein I have shewed my self to be,

Land. May 8.

Your Faithful Friend,

1632.

and Loving Cousin,

CHARLES R.

His Majesty put forth a Proclamation much about this time for the well making of *Sope*; to this effect:

His Majesty intending by all good means the Advancement of the Native and Useful Commodities of this Realm, and the prevention of divers Deceits commonly used in the making of *Sope*, with foreign and unsweet Materials; and of the excessive Rates in the Sale of ill *Sope*, at the pleasure of the *Sope*-Boylers, being no Body Politick, nor governed by any good Order: And resolving to make the Manufacture of *Sope* and Pot-Ashes a Work of his own People, did, by Letters Patents, Dated the 20th. of *January* last past, incorporate divers Persons, by the Names of *Governors, Assistants* and *Fellows* of the Society of *Sopers* within *Westminster* and *Middlesex*; and that it should be lawful for them and their Successors, to exercise the said Art and Mystery; and that they should chuse skilful Persons out of the said Society, to oversee all Works, Workmen, &c. using the said Art and Mystery, and to prevent Fraud and Deceit therein. And that none of the said *Sope* shall be put to Sale, before the Overseers have overseen the same, and have marked it for good; and to punish the *Gainsayers* and *Rebellers* of His Majesty's Proclamation.

And the *Governors, Assistants, and Fellows* of the said Society, did by Indenture, sealed with their Common Seal, made between his Majesty on the one part, and them of the other part, Covenant, to Erect and Maintain such Work-houses as might make 5000 Tun of good *Sope*, and a further proportion, if need should require.

And His Majesty, by his Letters Patents did Erect an Office for keeping of Paterns, and making the Essay of *Sope* to be made by the *Governors, Assistants, and Fellows* of the Society of *Sopers* of *Westminster*; and appointed F. C. to be the first Essay-Master, and to take an Oath for the true Execution of his Office.

His Majesty therefore did charge and command the said Society, That they use no other Oil in making of their *Sope*, but Olive-Oil, and Rape-Oil; by which means the *Sope* may be sweet, good and serviceable; and that none do put to Sale any *Sope*, Pot-Ashes, &c. before they be essayed, and tried, to be found good and serviceable, and so marked by the Deputies of the said Society.

And being informed that many of the Wealthier and abler sort of the Nobility and Gentry did usually resort to the Cities of *London* and *Westminster*, and parts adjoining, where they had no Employments, and were altogether useless to His Majesty; drawing their Moneys out of the Countries, and spending it in Excess of Apparel, &c. and Provisions; therein enriching Foreign Nations, to the impoverishment of their respective Countries, and ruining of their own Estates:

His Majesty, to prevent the like Resort for the future, touched with a deep sense of those Inconveniences, doth straightly Charge and Command, that before the end of Forty days, His Lords Spiritual and Temporal, Lieutenants, Deputy-Lieutenants of Counties, Justices of Peace, Baronets, Knights, Esquires, Gentlemen, and all Clerks having Benefices

with Cure, Prebendaries, or Dignities in Cathedral or Collegiat Churches, that have Mansion-Houses, and Places of Residence in other Parts; that they do resort to the several Counties where they usually resided, and there keep their Habitations and Hospitality, &c. except such as are of His Majesty's most Honourable Privy-Council, or bound to daily Attendance on the King, Queen, or their Children.

Further declaring, That it was his firm Resolution to withstand this great and growing Evil, by a constant severity towards the Offenders; and therefore gave this timely Warning, that none hereafter might presume to transgress.

And taking into His Royal Consideration the State of His Majesty's City of *London*, His Royal Chamber, and Seat Imperial, to prevent all Decay thereof, He issued out His Royal Proclamation against laying any new Foundations about the City of *London*, and Building thereupon.

Foreseeing that the Honour, Government, Health and Safety of the City, is of great consequence unto his Majesty and the whole Kingdom; and that his Royal Progenitors, in former Times, especially his Royal Father, of Blessed Memory, King *James*, and the most excellent Princess Queen *Elizabeth*, in their Times had carefully provided for the same, straightly prohibiting the Erecting of Houses and Buildings upon new Foundations, and the entertaining of Inmates in and about this City, which would multiply the Inhabitants to such an excessive Number, that they could neither be governed nor fed; and for putting these his Majesty's Commands in due execution, he did make, and several times renew Commissions, directed to the Lord Mayor of the said City, and divers other Persons of Honour and Worth, grounding the same upon the Rules of Law and Justice, as against publick and common Nuisances, as well as upon Reasons of State and Government, all tending to the publick Good of the People; but that taking not so full effect hitherto, as the King expected, his Majesty hath now again resolved to renew that his Commission to divers Honourable Persons, and others of Worth and Understanding, requiring them forthwith in their own Persons, as by other good ways and means, to enquire and find out the Offenders, and Offences against this his Majesties Declaration, and to make Certificate thereof to the Council-Board, or in the Court of Star-Chamber, to the end that such Proceedings may be had against them, as may stand with the King's Honour, and the Laws of the Land. See more of this at large in the Appendix, which contains also his Majesty's particular Rules for the putting this Commission in execution, which are very large.

About this time a horrid Murder was openly committed in the Streets of *London*, upon the Person of one *Lamb*, commonly called Dr. *Lamb*, a Person against whom, upon no Ground ever alledged, the Rabble had taken a Distaste; some called him a Conjuror; one whom the Duke of *Buckingham*, not long since assassinated (as you have heard) by *Felton*, made use of. The Tumult continued three hours, and the poor decrepit old man, of above 80 years of Age, was pursued from Street to Street, and

Anno 1632. not so much as an Officer of Justice once appearing in his Rescue: The man died hereof, and no Inquisition was taken thereupon, or any of the Malefactors enquired after, or punished; for which very gross Negligence (to say no worse) an Information was preferred against the Mayor and Citizens of London, in the King's Bench, by the Attorney General Noy; and there was a Fine of 1500 Marks put upon the City, for the Crime, by the Court. The Mayor and Citizens submitted to the Favour of the Court, and craved Pardon. The Fine was imposed by the Common, not Statute-Law.

The Information against the Mayor and Citizens for this so enormous a Crime, followeth.

That whereas they the Lord Mayor, &c. were Incorporated and made a Body Politick by that Name, &c. and the City of London was a Walled City; reciting the Statute of 2 Edw. 4. That the Mayor for the time, and all who have been Mayors, should be Justices of the Peace within the City; and that the Sheriffs are made among themselves, and Coroners appointed by themselves, and that by Law they ought to suppress Riots and unlawful Assemblies. Notwithstanding, in Jun. 4. Car. in the day-time, That one John Lamb, alias dict. Dr. Lamb, was slain in a Tumult, and none of the Offenders taken, nor any Person known or indicted for that Felony. And upon this Information, the Mayor and Commonalty appeared, and confessed the Offence, & posuerunt se in gratiam Curia, &c. For which they were amerced to 1500 Marks; for it was conceived to be an Offence at the Common Law, to suffer such a Crime to be committed in a Walled Town, tempore diurno, and none of the Offenders to be known or indicted; Vide 3 E. 3. Coron. 299. 22 E. 3. Cor. 238. 8 E. 2. Cor. 425. Stamf. fo. 33. Cok. l. 7. f. 7. 3 H. 7. 15. Dyer, 210. And Noy, Attorney General, shewed a Record, Mich. 18. E. 3. Rot. 132. an Indictment of a Town in Devonshire, for suffering an Assembly, as it were, to hold Allizes in Mockery of Justice. And 21 H. 6. a Presentment before Fortescue, against the Town of Norwich; That there was a great Riot in Norwich, and one Gladman took upon him to be King, and went with a Crown of Paper, in a Riotous manner, to the Priory of Norwich, &c. And although it appears not upon the Roll, Quid inde venit; yet per Rot. Patent. 27. H. 6. Memb. 13. Their Liberties, for that Cause, were seized, and re-granted, &c.

And now the Spirit of Reformation began to work, and put private persons upon Works of Reformation in Churches; more particularly, one Sherfield Esq; of Lincolnes-Inn, having by his own Authority, made a Reformation (well, no doubt, as he thought at least) he so pleaded the Matter at his Trial in the Star-Chamber) in the Church-Windows in a Church in New-Sarum; whereof He was Recorder; the Name of the Church was St. Edmonds. The Information was preferred against him, not only by the King's Attorney General, but by sundry other persons; setting out in brief, How that in Churches, and Chappels, and other Consecrated Places within this Realm of England, no private Person, being not otherwise enabled thereto,

should or ought to innovate, alter or displace any thing in the Fabrick or Ornament thereof, without special Licence from his Majesty, or the Bishops in their several Diocesses; much less deface or diminish any part thereof against their direction: but the Defendant, Sherfield, Recorder of New Sarum, and dwelling in the Parish of St. Edmonds, being evil affected to the Discipline of the Church of England, and encouraging such as oppose the Government thereof under the Reverend Bishops; and the other Defendants, being of the same Opinion and Practice, and of the same Parish, did by Combination, about January, Anno 1629, irreligiously conclude to deface and pull down a fair and costly Glass-Window in the Church aforesaid, containing the History of the Creation of the World; which had stood there for hundreds of Years, and was a great Ornament to the Church. And the Reverend Father in God, John Lord Bishop of Sarum, having heard the Report of this purpose, sent a Messenger to Mr. Sherfield and the other Confederates, to admonish them to forbear to put it in execution; and to that end he wrote a Letter to Sherfield, which came to his hand. Nevertheless Sherfield, with the Confederates, and other Riotous persons, did unlawfully, riotously, and prophanely break down that Glass-Window, in scorn of his Majesty's Government and Authority: And when that prophane Act was done, they wickedly boasted thereof, saying, He that had done it, would shortly take down all the rest. That by this evil Example, other Wicked and Schismatical Persons, ill-affected to the Established Government of the Church of England under his Majesty, are animated to use the like violent and outrageous Courses; and the passing by of such an Offence, committed by a Person of such Place and Quality in that City, and by a Combination of other Confederates, being also Persons of Note, would be of perilous example for the future, and of evil Consequence, &c.

To this Information Mr. Sherfield put in his Answer, May 20. following, to this effect:

That the Church of St. Edmonds in Salisbury, Mr. Sherfield's Defence about the Reign of King Henry the Third, was ordained to be a Collegiate Church, to consist of a Provost and thirteen Priests, who were to dwell in a College-House adjoining to the Church-yard, having a certain Revenue appointed to the Maintenance of the said Collegiate Church; which continued in Succession, and the Priests attended the Service, and celebrated Masses, and Divine Offices and Rites to the Parishioners of St. Edmond's Parish. This College and Collegiate-Church, with the Possessions and Revenue thereof, came, by Act of Parliament, into the Hands of King Henry the 8th. and remained in the Crown till the 7th. of King James. About which time, the King, by Letters Patents under the Great Seal, did grant that Church, by the Name of the Rectory of St. Edmonds, Appropriate, as parcel of the Possession of the late College of St. Edmonds, unto Anthony Gooch and William Lloyd, and their Heirs; who, within, or about the same Year, conveyed the Church unto John Bailly and his Heirs; who, together with John Buckingham, in the Year following, did convey it unto Bartholomew Tooke, one of the Defendants, and to his heirs, except the Church-Yard, Ditch, and Walks about

The Information in Star-chamber against Hen. Sherfield Esq; a Benchet of Lincolnes Inn.

about the same, and Trees growing thereupon :
 Anno 1632. Which excepted Premises, *Giles Tooker* Esq; and
Edward his Son, have ever since enjoyed under
Baily's Title. And that in the 13th. of King
James, the Defendant *Tooky* did agree for a com-
 petent Sum of Money, to instate and convey
 the Church, for the behoof of the Parishioners
 of *St. Edmonds*, for ever; and made them an
 Instrument of Conveyance, by virtue whereof,
 the Persons intrusted were seized of the Church,
 as of a *Lay-fee* upon Trust.

That the Church is a *Lay-fee*, and hath so
 continued ever since it fell to the Crown; and
 that from the same time it hath been legally ex-
 empted from the Jurisdiction of the Bishop of
 the Diocese; and the Defendants, with the rest
 of the Parishioners, had lawful Power, without
 special Licence from the Bishop, to take down
 the Glafs of the Window, and to make up the
 same with white Glafs.

That according to the Orders and Agreement
 of the Parishioners, made in the Vestry, the
 Steeple of the Church hath been taken down,
 and turn'd into a Tower; and also a part of the
 Wall hath been taken down, to set a Glafs-
 Window in the room; and the Glafs of other
 Windows hath been taken down to set up new.
 The Reading-place hath been removed from the
 Quire, into the Body of the Church, and the
 Pulpit from one place pull'd down, and a new
 one set up; which alterations were done from
 time to time, by the Parishioners Agreement and
 Order, without special Licence from the King,
 or his Royal Predecessors, or the Bishop of the
 Diocese; and that sundry of them were made in
 the time of the Bishop that now is.

That it was agreed, by an Assembly of the
 Parishioners in the Vestry, Jan. 16. 1629. That
 the Defendant might take down the Glafs men-
 tioned in the Information; and about the time
 therein mention'd, he took down some small
 Quarries of the Glafs, that the Glasier might
 know, that that was the Window to be made
 new, and not any other.

But the Window yet remaineth, with a few
 Holes therein; so that the described Story may
 be plainly discovered: That it was not fair, nor
 costly, but of very rude Work; That it was but
 of four Lights only, and not any of the fair
 Windows of the Church; That the Painting
 thereof, when it was made, did not cost above
 forty Shillings; and that he shall be ready to
 new-make it, according to the Order of the
 Vestry. He denieth all Confederacy with the
 other Defendants, and the riotous breaking of
 the Window; for that he took down a few small
 Quarries in a quiet and peaceable manner.

And whereas his Religion and Fidelity to Al-
 mighty God, and his Duty and Allegiance to
 his Sovereign Lord the King's Majesty, are
 brought in Question; he saith, *The true History of*
the Creation of the World was not contained in that
Window, but a false and impious Description of the
same; which he hop'd to make appear.

The Painter, to express God the Father, had
 painted the Forms and Pictures of divers little
 old Men seeming bare-footed, and cloathed in
 long blue Coats; and so setting forth every of
 the six Days Work of God in the Creation, he
 had distinctly placed one such Picture of an Old
 Man, made to represent the Creator of Heaven
 and Earth, in six several places; with the joyning
 near to them the Likeness of some Created
 Thing, to denote thereby what was made on

each of the six Days: And to shew the third
 Days Work, he had painted the Sun and the
 Moon, which were created the fourth Day, and
 had placed in the Hand of one of those Pictures,
 representing God the Father, the similitude of
 a Carpenter's Compass, as if he had been com-
 passing the Sun; to give the true proportion
 thereof. To express the fourth Days Work,
 he made the likeness of Fowls of the Air flying
 up from God their Maker; whereas God crea-
 ted them on the fifth Day. To express the fifth
 Days Work, he painted the similitude of a Na-
 ked Man lying on the Earth, as it were Asleep,
 and so much of the similitude of a Naked Woman,
 as from the Knees upward, seeming to grow out
 of the side of a Man, whereas God did create
 Man on the sixth day; neither did the Woman
 grow out of the Manside, but God took a Rib
 from the Man and made it a Woman. To re-
 present the Seventh days Story, he painted the
 Seventh Picture of a little Old Man, to resemble
 God in the Habit of the other six, but had form-
 ed it sitting, to represent God's Rest.

That this was an impious Falsification, and a
 most prophane Abuse of the History: And he
 holdeth it ungodly, and altogether unlawful to
 frame any Image or Similitude of God the Father,
 Creator of Heaven and Earth, and the first Per-
 son of the *Holy Trinity*; and that it is more un-
 godly and prophane to set up any such Image
 or Picture of God the Father in the Windows,
 Walls, or other Parts of any Church Dedicat-
 ed to the Service of Almighty God, which he
 hopeth he shall be able in most humble manner
 to make appear to the Court, by the Holy and
 Pure Word of God, let down to us in the Books of
 the Old and New Testament; by the Canons of
 sundry Ancient Councils of the Church of
 Christ; by the Decrees and Mandates of sundry
 of the Christian Emperors; by the Opinions
 and Writings of many of the Ancient Doctors
 and Fathers of the Church; by many Godly
 Writers of our Church, since the time of Re-
 formation of Religion within this Kingdom;
 sundry of whom did seal their Belief with
 their Blood; by the Works of sundry Godly
 Writers of our Church, yet living, whereof
 some are now Reverend Bishops; among whom
 the Defendant hath cause to relie, in a special
 manner, upon the Doctrine of his Learned *Dio-*
cesan, the now Lord Bishop of *Salisbury*, in his Ex-
 position on the Epistle to the *Colossians*, pag. 97,
 and 98. Also by the Royal Determination of
 King *James*, in his *Premonition* to all Mighty
 Monarchs, Kings, Princes, and Free-States of
 Christendom.

That the same his Belief, is according to
 the Doctrine of the Church of *England*, establish-
 ed by Act of *Parliament*, 13 *Elizabeth*, expres-
 sed in the Book of *Homilies*, set forth by Autho-
 rity; That the Pictures of God were Monuments of
 Superstition, and ought to have been destroyed, by the
 Statute made 3 and 4 *Edw. 6.* That Queen *Eliza-*
beth, An. 1. according to an Act of *Parliament*
 then made, for the suppressing of Superstition
 in all her Dominions, did publish her Injunctions,
 whereby all that had Cure of Souls, were com-
 manded to instruct their Parishioners to destroy
 all the Pictures and Monuments of Idolatry and
 Superstition; that no memory thereof might re-
 main in Walls, Glafs-Windows, or elsewhere.
 And that it was to be enquired of in the Visi-
 tations, Whether all Images, Pictures, Paint-
 ings, and all other Monuments of Idolatry

Anno 1632. were removed? And that the same Injunctions being grounded on the Statute 1 *Eliz.* are yet in force. Also that the same was lawful by the Canons of this Church, set forth 13 *Eliz.* and agreed upon by the Archbishop of *Canterbury*, and all the other Bishops of that Province.

And besides the Indignity and Contempt offered to Almighty God, by such unworthy Resemblances of his Majesty and Deity, in the fore-said Window, there was a Speech, That some ignorant Persons had committed Idolatry, by bowing before the same Resemblances of God.

Lastly, He denied that he was ill-affected to the Discipline of the Church of *England*, or had encouraged any, to his Knowledge, to oppose the Government thereof under the Reverend Bishops; or that the Bishop of *Sarum* did send any Messenger, or write any Letter to him, to admonish him to forbear to put the Agreement of the Vestry in execution; or that any such Messenger, or Letter came to him; or that his Lordship, though he had frequent Conference with him, used any Speech touching his pleasure to have that Window stand as it was; or not to be taken down.

The Cause coming to a Hearing, he received his Sentence, much to the Regret of that party of men; and he was condemned in 1000 *l.* Fine by some of the Lords Commissioners of that Court; and by others, who were the Majority; in 500 *l.* And further the Court Ordered,

That Mr. Sherfield should be fined 500 *l.* and be removed from the Recordership of that City; make a publick Acknowledgment of his fault, and be bound to his good Behaviour.

The Decree is self take as followeth.

My Attorney
Regis v.
Sherfield,
Armig.

Defacing
a Church-
Window,
by colour
of a Ve-
stry-Or-
der.

THE Defendant being troubled in Conscience, and grieved (as he said) with the sight of the Pictures which were in a Glass-Window in the Church of *St. Edmonds* in *New Sarum*, one of the said Pictures, to his Understanding, being made to represent *God the Father*, did procure an Order to be made by the Vestry, (whereof himself was a Member,) That that Window should be taken down, so as the Defendant did at his own Charge Glaze it again with White Glass. And by colour of this Order, the Defendant, without acquainting the Bishop or his Chancellor therewith, got himself into the Church, made the Doors fast to him, and then with his Staff brake divers Holes in the said painted Window, wherein was described the Creation of the World; and for this Offence committed with neglect of Episcopal Authority, from whom the Vestry derives their Authority, and by colour of an Order of the Vestry, who have no power to alter or reform any of the Ornaments of the Church, the Defendant was committed to the Fleet, Fined 500 *l.* and Ordered to repair to the L. Bishop of his Diocese, and there make an Acknowledgment of his Offence and Contempt, before such Persons as the Bishop would call unto him.

At the pronouncing of Sentence upon Mr. *Sherfield*, the Bishop of *London* spake somewhat, not any ways to justify the Painter of that Glass-Window; but to acquaint the Court what

might give him occasion for that his Error; How that God in Holy Scriptures is sometimes termed the *Ancient of Days*; but he would not in the least justify either his Ignorance or Mistake [speaking of the Workman] but said, Mr. *Sherfield's* fault, in being a private person, and taking upon him an Employment of Reformation, without any Authority, in such an open and insulting manner as he did, was much greater than that of the Painter.

A Commission was in this Year issued forth under the Great Seal of *England*, having thereto annexed several Instructions; it was for erecting the Council in the North; and directed to *Thomas* Lord Viscount *Wentworth*, &c. enabled the said Lord President *Wentworth*, &c. to hear and determine all Offences, Suits and Controversies, Causes, Things and Matters whatever therein contained, under certain Precincts in the North, therein particularly mentioned; and in regard these Instructions were the Matter of, and Article against that Noble Earl of *Strafford* at his Trial afterwards, we shall briefly give an Account of those Instructions which were the Main of their pretended Grievances. These were,

1. That the said President, and other the Commissioners therein appointed, shall hear and determine, according to the course of Proceedings in the *Star-Chamber*, divers Offences, Deceits and Falsities, whether the same be provided for by Act of Parliament, or not; so that the Fines imposed be not less than by Act or Acts of Parliament are appointed.

The said President, and others, as aforesaid, therein appointed, have Power to Examine, Hear, and Determine, according to the course of Proceedings in the Court of *Chancery*, all manner of Complaints for any Matter within the said Precincts; as well concerning Lands, Tenements, and Hereditaments, either Free-hold, Customary, or Coppy-hold, as Leases and other things therein mentioned; and to stay Proceedings in the Courts of Common-Law by Injunction, or otherwise, by all ways and means, as is used in the Courts of *Chancery*.

And that no Prohibition be granted at all, but in Cases where the President and Council shall exceed the Limits of the said Instructions: And that if any Writ of *Habeas Corpus* by any Court at *Westminster* be granted, the Party be not discharged till the Party perform the Decree and Order of the said Council.

Hereupon several Witnesses were produced at that Trial, to prove the Matter of Fact. One whereof Deposed, That his Father was Arrested in *London*, by a Serjeant at Arms in *Novemb.* 1632. and was kept several Weeks; and conceiving it to be out of the Instructions, did appeal to the Council-Table; That the Earl of *Strafford* being present, fell on his Knees, and besought the King, That if his Instructions might not be so good, as to bring in a Delinquent that had affronted the Court, if by stepping over the Water, he should go beyond the Precinct of it, he might leave that Service, and lay his Bones in his own Cottage.

Another person at that time attested the Imprisonment of a person for taking forth a Prohibition to stop the Proceedings in that Court: He Deposed, That Notice being given, That a Prohibition was procured by *Vaux*, and an Affidavit made that the same was served; a Warrant was

was directed to the *Pursuivant*, to arrest the Party that procured it; who, being arrested and rescued, another Warrant was directed for the bringing of the Rescuers from London, and they were accordingly brought to York, and there imprisoned; and an Information was exhibited against them by Sir George Ratcliff, His Majesties Attorney at York. This matter of Prohibition was referred to Mr. Justice Hutton and Sir Robert Heath, by the consent of the Parties that were in Suit at York: but the Lord President being acquainted with it, the Reference went not on that Term, but staid till the President's pleasure was known. The said Witness Deposeth, That the Lord President should further say, That whosoever brought a Prohibition there, he would lay him by the heels. And that as touching the Reference, his Lordship said, It was a Cause that concerned the Jurisdiction of the Court of York, and no private man shall end it; he would try the Jurisdiction, and would go to London, and acquaint the Judges with it, and if they remanded the Cause back again, well; if not, he would appeal to the King in it. That the Lord President and Judges had several Meetings, but could not agree. And the Judges speaking some things concerning the Prohibition granted to Vaux; the Lord President replied, he should not be in England, but he would have his Body; or Words to that purpose. Then a Councillor at Law was produced, who testified that Judge Hutton acquainted him, That the Lord President was angry with him for granting Prohibitions; which the Judge spake with a great deal of passion, to see things carried in that manner; and did further testify, That understanding the Lord President was angry with him, the Deponent for moving for Prohibitions; he went to wait upon his Lordship; who said unto him, I have nothing to say to you, you are one that oppose me; but for the present I have eased you of the Office of Justice of the Peace; so you need not trouble yourself with that.

That afterwards his Lordship met the Deponent in London, who said unto him, I command you not to depart the Town; and applying himself afterwards to his Lordship to know his pleasure, and withal making great Friends, all that he could understand by others was, That he was one that did oppose his Lordship; and the Witness did conceive that the Fault that he had committed, was, for not paying the *Knight-hood-money* in York-shire, or for moving for Prohibitions, which latter did oppose the Authority and Power of the Court of York. And that after Twelve or Fourteen days stay in Town, by Mediation of a Friend, he got leave to go into the Countrey, and then he paid the *Knight-hood-money*. And that after this, the Deponent durst not adventure to move for a Prohibition, nor any that had to do with him in those parts, durst retain him till of very late; for he knew very well the price of my Lord of Strafford's Displeasure: And he further Deposed, that he was sent for by a *Pursuivant* to attend his Lordship at York, who told him, there was an Accusation against him, but they that laid it were not come to Town; and therefore he must attend, and that they were his Betters. That after eight days Custody in the *Pursuivant's* hands, he was brought to the Council-Table, and his Lordship sitting at the upper end, commanded him to kneel as a Delinquent; and in his kneeling, his Lordship was offended, in that he staid no longer in that

posture; and then he understood the Matter to be for speaking some Words at the Sessions in Car. 8. Defence of his Client, about the Travelling of an Indictment; the Question being, *Whether a bare Indictment were Evidence to the Petty Jury?* He, the Deponent said, it was no Evidence, and he desired to appeal to the Judges. Whereupon, his Lordship was pleased to say, That he would teach him to know, there were other men for him to appeal unto, (*viz.*) the President and the Council. Whereupon he was put out, and Directions sent, That he must find Sureties, and make publick Submission at the Sessions for saying these words; which he did accordingly. And all this he conceived originally grew, for that he did oppose the Jurisdiction of the Court of York, and not for any the Causes pretended.

To which the Lord-Deputy answered:

First, That the Instructions granted 21 March 8 Car. were not procured by him.

Secondly. The Commission and Instructions to the President and Council of York, are of course renewed upon the Death of any of the Council of the Fee in Ordinary. And Sir Arthur Ingram going out, and Sir John Melton succeeding, those Instructions were thereupon renewed. And as to the execution of the said Commission, from the Date thereof to this Hour, the Defendant did never one Act, or staid one minute as President of the Council of York. The Commission was granted 21 Mar. 8. Car. and he went towards Ireland in July following, and therefore was not concerned therein more than any other person.

At the first Institution of that Court, it had both a *Star-Chamber* and *Chancery-Power*, as will appear by all the Instructions before that time; and if there be one Errour in a Judge giving a Sentence, otherwise than a Man of better Understanding conceives reason for, there is no cause it should be heightened to a *Treason*, to take from him his Life and Honour, and all he hath, meere-ly because he was not so wise a Man as he might have been, nor so understanding as another. If this be pressed in Judges, he thinks few Judges would serve; and for his part, he confesseth, he had rather go to his Cottage, than be upon these terms. The Sentence against Sir Conyers Darcy was just, and he complained not of it; and for the Sentence against Sir John Bouchier, the Defendant was not at all acquainted with it, being then in Ireland. But these two Matters are not insisted upon; yet it may be from hence observed with what uncertainty men may speak, who do inform in such Cases. As to the first Witness, testifying his Father's Commitment at London, and Appeal to the Council, he saith, That was not in his Charge; and as to the Prohibition granted in the Case of Vaux against Musgrave, he says, that also was out of his Charge, and he cannot say any thing to it but by way of Divination; and therefore he conceives that it cannot be able to convince any man of *High Treason*, hardly of a *Trespass*; and why the enlarging of a Jurisdiction should be heightened to a *Treason*, he doth appeal to their Lordships Nobleness, Justice, and Honour, to consider; for he thinks none are in that place of Judicature, but they will desire to enlarge their Jurisdiction as far as in reason and Justice they may; and it is a chaste Ambition, if rightly placed, to have as much power as may be, that there may be power to do

do the more good in the place where a Man serves.

Anno
1632.

As to the Witness, who said, He the Deponent commanded his stay in London, he hath nothing to say to him of exception, but that he speaks to nothing in the Charge; the Defendant being charged with the execution of the Commission, 8 and 13 Car. and what the Deponent speaks of, is precedent in time; besides his Deposition is by Hear-say from Mr. Justice Hutton.

Then he produced a Witness, who proved that he began his Journey into Ireland the Eighth of July, 1633. and another Witness, That since the Date of the New Commission, he never sat as President of the North in any Cause whatsoever; and that he was in Ireland when the Commission 13 Car. was renewed.

And so he concluded his Defence, saying, That he was charged only with procuring and executing that Commission; both which he denies; and so hoped their Lordships would easily see through the weakness of this Article.

And as to what the Committee replied, That he procured the Commission, and desired the said Power from the King, He said, That the said Court had both a *Star-Chamber* and a *Chancery-Power* long before his time; and that if he had desired from the King any enlargement of their Power in any Matter else, he hoped it would not amount to *Treason*; whereof he was impeached.

'Tis a great Truth, this Court was complained against Anno 1640, and was taken away by Authority of Parliament; and amongst other Persons Mr. *Hide*, afterwards Earl of *Clarendon*, and Lord Chancellor of *England*, spake against the said Court, as followeth:

My Lords,

I Am commanded by the Knights, Citizens, and Burgesses of the *House of Commons*, to present to your Lordships a great crying Grievance; which, though it be complained of in the present Pressures but by the Northern parts, yet by the Logick and Consequence of it, it is the Grievance of the whole Kingdom. The Court of the President & Counc. of the North, or as it is more usually called, the Court of *York*, which by the Spirit and Ambition of the Ministers, trusted there, or by the natural Inclination of Courts to enlarge their own Power and Jurisdiction, hath so prodigiously broken down the Banks of the first Channel in which it ran, as hath almost overwhelmed the Countrey, under the Sea of Arbitrary Power, and involved the People in a Labyrinth of Distemper, Oppression and Poverty.

To remember your Lordships of the Foundation of this Court, and of the Progress and Growth of it, will not be unacceptable to your Lordships.

Your Lordships well know, That upon the suppression of all Religious Houses to such a value, in the 27th. Year of *Hen. 8.* from that time to the 30th. Year of that King's Reign, many (not fewer than six Insurrections and Rebellions were made in the Northern Parts, under pretence of that Quarrel, most of them under the command of some eminent Person of that Countrey; the which being quieted before the end of the Thirtieth Year, that Great King well knowing his own Mind, and what he meant to do with the great Houses of Religion;

in the Year following, for prevention of any Inconvenience that might ensue to him upon such Distemper, in the 31th. Year of his Reign, granted a Commission to the Bishop of *Landaff*, the first President, and others, for the quiet Government of the County of *York*, *Northumberland*, *Cumberland* and *Westmorland*, the Bishoprick of *Durham*, the County of the Cities of *York*, *Kingston upon Hull*, and *Newcastle upon Tyne*. But, my Lords, this Commission was no other than a Commission of Oyer and Terminer, only it had a Clause at the End of it for the hearing of all Causes Real and Personal. *Quando ambae partes, vel altera pars, gravata paupertate fuerit, Quod ita in quomodo jus sumi secundum Legem Regni nostri aliter persequi non possit.* Which Clause, how illegal soever (for that it is illegal and void in Law, little doubt can be made) yet whether they exercised that part of the Commission at all, or so sparingly exercised it, that poor People found ease and benefit by it, I know not; for at that time I find no complaint against that Court. And in the (1st Year of King *James*, a Commission was granted to the Lord *Sheffield*, which varied not from the former, only it had reference to Instructions which should be sent, but we find none sent. In June, in the seventh Year of the Reign of King *James*, a new Commission was granted to the said Lord *Sheffield*, very differing from all that went before; it being left out, That they should enquire, *Per Sacramentum bonorum & legalium hominum*; and to hear and determine, *secundum Leges Angliae*, relation being had only to the Instructions, which were the first Instructions which we can find were sent thither.

I shall not trouble your Lordships with these, or any other Instructions, but descend to the present Instructions and Commissions under which that part of the Kingdom groans and languisheth, since the Lord *Strafford* came to that Government, which was in Decemb. 4 Car. And since the Commission hath been three several times renewed, in the 5th Year in March; in the 8th. in November; in the 13th. Year of his Majesties Reign. Into that Commission of the 8th. and 13th, a new Clause was inserted for the granting, sequestering, and establishing Possessions, according to Instructions crowded in a Mass of new, exorbitant and intolerable Power.

Though our Complaint be against the Commission it self, and against the whole Body of those Instructions, I shall not trouble your Lordships with the 9th. Instruction, though it be but short; which introduceth that *Miseram Servitutem, ubi Jus est vagum & incognitum*, by requiring an Obedience to such Ordinances and Determinations, as be, or shall be made by the Council-Table, or High-Commission Court. A Grievance, my Lords, howsoever, *Consuetudo & peccatum claritas nobilitaverit hanc culpam*, of so pressing a Nature, that your Lordships Noble Justice will provide a Remedy for it, with no less care, than you would rescue the Life and Blood of the Common-wealth.

Read the 19, 22, 23, 24, 29, and 30th, I will not trouble your Lordships with reading more; there being among them in the whole fifty eight Instructions, scarce one that is not against or besides the Law.

Whether his Majesty may Cautenize out a part of his Kingdom to be tried by Commission, though

though according to the Rules of Law, since the whole Kingdom is under the Laws and Government of the Courts established at Westminster; and by this reason the several parts of the Kingdom may be deprived of that Privilege, will not be now the Question.

His Majesty cannot by commission erect a new Court of Chancery, or a Proceeding according to the Rules of the Star-Chamber, as is most clear to all who have read *Magna Charta*; which allowed no Proceedings, *Nisi per Legale Judicium Parium & per Legem Terra*; for our Court of Chancery here, by long usage and prescription, is grown to be, as it were, *Lex Terra*. But, my Lords, the 30th. Instruction goes further, and erects such an Empire, such a Dominion, as shall be liable to no Controul.

The Courts of Westminster, my Lords, have Superintendencies over all Inferior Courts, to regulate their Jurisdictions, if they exceed their Limits, as to hold Plea of greater value, or the like.

In the exercise of Jurisdiction, the Judges are sworn to grant and send Prohibitions: But to stop the granting of these Prohibitions, or to neglect them when they are granted, is the greatest and boldest scorn of the Law, and the Law-makers, that can be imagined.

And whosoever gave Directions for these stout Instructions, might have remembered, that no longer since than Michaelmas, in the seventh year of *Eliz. Rot. 31.* an Attachment was granted against the Archbishop of York, then President of that Council, for forbidding the Gaoler of York to deliver up one Lambert his Prisoner, who was sent for by a *Habeas Corpus* from the Kings-Bench.

And can such a Court as this, my Lords, deserve to live? What a compendious Abridgment hath York gotten of all the Courts in Westminster-Hall? Whatsoever falls within the Cognizance or Jurisdiction of either Courts here, is compleatly determinable within that one Court at York, besides the Power it hath with the Ecclesiastical and High-Commission-Courts.

What have the good Northern People done, that they only must be disfranchised of all their Privileges by *Magna Charta*, and the *Petition of Right*? For to what purpose serve these Statutes, if they may be Fined and Imprisoned without Law, according to the Discretion of the Commissioners? What have they done, that they (that they alone) of all the People of this Happy Island must be disinherited of their Birth-right, of their Inheritance? For Prohibitions, Writs of *Habeas Corpus*, Writs of Error, are the Birth-right, the Inheritance of the Subjects.

Your Lordships remember the Directions I mention; that by *Magna Charta* all Proceedings shall be *per legale Judicium Parium, & per Legem Terra*.

Now these Jurisdictions tell you, you shall proceed according to your Discretion, *secundum sanas Discretionem*, that is, you shall do what you please; only that we may not suspect this Discretion will be gentler and kinder to us than the Law; special provision is made in the Instructions, That no Fine, no Punishment, shall be less than by the Law is appointed; by no means, but as much greater as your Discretion shall think fit. And indeed in this Improvement, we find Arbitrary Courts are very

pregnant; if the Law require my good Behaviour, this Discretion makes me a close Prisoner; if the Law sets me upon the Pillory, this Discretion appoints me to leave my Ears there. To proceed according to Discretion, is to proceed according to Law, which is *Summa Discretio*; but not according to their private Conceit or Affection: For *Talis Discretio* (saith the Law) *Discretionem confundit*: And such a Confusion hath this Discretion in these Instructions produced, as if Discretion were only to act with Rage and Fury. No Inconvenience, no Mischief, no Disgrace, that the Malice, or Insolence, or Curiosity of these Commissioners had a mind to bring upon that People; but through the Latitude and Power of this Discretion, the poor People hath felt; this Discretion hath been the Quicksand which hath swallowed up their Property, their Liberty. I beseech your Lordships rescue them from this Discretion.

Truly, my Lords, these vexed worn-People of the North, are not Suitors to your Lordships to regulate this Court, or to reform the Judges of it, but for extirpating these Judges, and the utter abolishing this Court: They are of *Cato's* Mind, who would not submit to *Caesar* for his Life; saying, He would not be beholden to a Tyrant for Injustice; for it was Injustice in him to take upon him to save a Mans Life, over whom he had no power.

And thus did that great Orator declare against that Court; which afterwards was dissolved by Act of Parliament; without Imputation of Treason to the Noble Earl of Strafford, had he procured the said Commission, or acted therein.

The Proceedings of the Swede in Germany, made him proud, and to betray his own Intentions, That they were not for the restoring of the Germans Liberty; for that his Majesty of Great Britain's Ambassador could obtain, notwithstanding all the Succours under the Marquis of Hamilton, &c. sent him such as these:

1. That the Palsgrave should hold his Countrey as a Donative of the King of Sweden.
2. That he should make no Martial Levies without the Swedes Consent.
3. That during this War, he should furnish the Swedes with so many thousand Men upon his own Pay.
4. That two of his chiefest Towns should stand Cautionaries for the performing of Conventions.
5. That he should make no League nor Article with any other Prince without the Swedes Consent.

Our Ambassador was much concerned to hear his Majesty of Sweden offer such hard and unexpected Conditions; and said;

That he hoped the great Success which that King had in Germany, and lately at the Battel at Leip-sick, did not heighten him in making these Demands, so as to forget the Grounds of his Declaration, to restore the Liberty of Germany, or to forget his Master the King of Great Britain, or the Palsgrave, for whose sake those Forces were raised, which the King had sent to his Assistance, being six thousand Men, under the Conduct of the Marquis of Hamilton, and the great Charge the King his Master was at in Raising, Arming, Transporting, and Maintaining of those Men, without any Con-
ditions

ditions of Retribution from that King, and wherein
Anno his Master had expended above an hundred thousand
 1632. Pounds.

The Swede returns no other Answer than high Words; and did, in plain, but unseemly Terms, say, That he had transgressed his Commission; and that he did look upon him as a Friend to the House of *Austria*, and not to act the part of a good Subject to his Master in this Affair: However afterwards His Majesty was more particularly informed of the State of all these Matters from the Ambassador's own Hand.

That the King of *Swedeland* was not so prompt in breaking off the Treaty, and offering me his Recreditive, as he is slow in performing the same, and giving Answer to my Memorial. I have often pressed my Departure, but am still held up with Good Words and Excuses; and find he is not willing I should yet go from his Camp, in that he conceives it may be prejudicial to his Affairs, having often prayed me to stay. I have solicited for a Pass for my Secretary to go for *England*, which he promised me at first; but delayeth it from day to day, and so hath kept him up there Ten Days. By what I hear, it should seem he hath been too rash in breaking off the Treaty, and would fain set it on foot again; for afar off (not directly) so much hath been intimated unto me; and some of this King's Ministers have been speaking of New Articles they would treat upon; but I not hearkning thereunto, hear no more of it; being resolved whatsoever future Overture shall be made unto me, not to entertain any, but civilly to excuse the same, until I receive his Majesties Pleasure unto this Dispatch; and I do intend to transport my self from this King's Camp towards *Strasburgh* as soon as I can possibly disengage my self from him, and there to make my Residence, judging it to be the fittest place; for the Armies cannot long stay in these parts; and I know not where they can live, but in the Land of *Wirtenburgh* and *Alsace*, all other Countries being already spoiled, so as I shall be near this King, if there should be any occasion for my return towards him if recalled. I am upon the *Rhine*, and may return either through *France* or the *Low Countries*, as his Majesty shall direct.

Both Armies being fast in their Works, without attempting any thing one upon the other, but in little Skirmishes, sometimes upon the Forragers, sometimes upon the Out-guards. But in the end he Ordered Col. *Dubartle* to go and Petard the Town of *Friedstade*; where there was a Garrison, and burn the same, it being a Magazine of Corn for the Enemy, and the Post between *Regensbergh* and their Camp. At Break of Day, being arrived, he put two Petards to the Ports; but they failing, he put Ladders to the Walls, scaled them, and so entred the Town. He found few Souldiers there; those that were, were in their Beds; so as finding no resistance, he set fire on the Town in seven or eight several places, burnt their Magazines, wherein were great Quantities of Corn and Meal, and so retired.

The same Morning, being the 30th. instant, this King had Advertisement that certain Troops were Marched out of the Enemies Camp; he apprehending their intent was to cut off *Dubartle's* Retreat, Marches with a Party of 300 Musketers, and 4000 Horse, to se-

cure the same; upon the way he understood that Serjeant Major General *Sparre* was near thereabouts with thirteen Companies of *Crosses*, and 500 Foot; the King thereupon advances with some Troops; *Sparre* retires with the Infantry and some Troops of his Horse, and under Favour thereof gives a Brave Salvo with his Musketers upon four Troops of Horse led on by Col. *Srife*, and upon the King's Foot, where was killed on the King's side Col. *Rife*, who Commanded the Foot, a Gentleman of the King's Chamber, one of his Pages, and divers of his Musketers. On the Enemies side, it is esteemed that there were two hundred left dead upon the place, and as many taken Prisoners; among which, there was Serjeant Major General *Sparre*, Lieut. Col. *Gorden*, and Capt. *Lesly* Scotch-men, two Lieutenants, and one Ensign, all which were that night brought to the King's Camp, with one Cornet and two Colonels. The king hath of late proposed to the Deputies of *Francford*, this Town of *Nerenbergh*, *Ulme*, *Strasburg*, to which he would also have joyned the Countrey of *Wirtenburg*, to take into consideration the present State of the War, that amongst themselves they would think of raising Contributions, the ways and means how to pay his Armies, which he hath declared unto them (considering the present strength of the Enemy) must not be less than three Armies, each one consisting of 27000 Foot, and 4000 Horse, How welcom this Proposition is to them, your Honour may well judge; for the Deputy of *Strasburg*, excusing that Town, in regard of the *Neutrality* with other Princes, and Situation, which should they not keep, their Countrey would be burnt and spoiled. This King replied publicly in the Face of the whole Court, That they had proceeded so coldly in the Cause of their Religion and Liberty, that they deserved not only their Countrey, but their Town to be burnt and spoiled.

This King expects within a few days an Ambassador from the *French* King; it is thought it is upon the old ground of *Neutrality* for *Bavaria*, and the Catholick League; but my Opinion is, *Bavaria* will not upon any Terms fall off from his new Alliances with the House of *Austria*, though I understand that he is tampering and treating underhand with the *Evangelicks*, giving them assurance of his Affection towards them, and his Resolution to stand for the preservation of the Liberty of *Germany*, which is the only Reason that induceth me to apprehend that this Embassie from *France*, may be to draw the *Evangelicks* and that Duke to a better understanding, and upon the old ground of removing the Empire from the House of *Austria*; which, if it be, your Honour may be assured the *Swedes* have their parts therein also.

The Elector of *Saxe* hath sent, or permitted four Regiments of Horse and Foot, to join themselves to the Army of *William* Duke of *Saxe-Wismar*; they are joyned to him, and are at *Sweinsfurt*. The Chancellor with his Army at *Wurtzberg*, and the Landgrave of *Hesse* joyned to him. This King presses me much to stay with him until his Armies be joyned; which I cannot well refuse, though I desire much to be gone from hence; for Men die fast both in the Town and Camp: I cannot tell what to make of the Business between this King and the Elector of *Saxe*; for notwithstanding he is Marched into *Silesia*, as the Letters from *Lipsick*

Car. 1.
Anno
1632.
sick say this day, and the last Troops are joyn-
ed, &c. This King told *Sparre* upon the ta-
king of him Prisoner, that he had been much em-
ployed between *Fridland* and *Sax*; that he knew
that which imported him both in his Honour and
Safety; that if he would not discover unto him
truly all things, he would Pistol him upon the
Place. Unto which, he made him this Answer,
That he would discover as much as he could do
with his Honour.

The Third Instant, *Camerarius* brought me
the Recreditive from this King, the which I
have herewith sent your Honour. It is not abso-
lutely in the manner he told me it would be, when
he brought me this King's Verbal Resolutions
concerning the Treaty, in Answer to my last
Memorial. It is usual with this King to repent
himself when the blow is given; for he hath
often told me, since the Occasion at *Munchen*,
speaking with regret of that Proceeding, That
he would give all he had to be Master of his
Passions; but that when he begins to be moved,
he hath something rises in his Brain, that makes
him forget what he saith or doth; and this he
finds in himself, and the Inconveniencies that
grow thereof, as soon as he is posed again; but
yet he cannot get it Mastered, though he hath
often designed the same; and therefore he hopes
God and all the World will forgive him.

Camerarius told me farther in this King's
Name, That he desired me to reside with him;
for that if any Overture of Peace should be set
on foot between him and his Enemies, he had
rather employ his Majesty's Ambassador than
any, and me in particular. This King hath that
imperfection, that for the present end he can
put himself into any shape. This Proposition
I knew not well how to refuse, since his Recre-
ditive is not absolute, but mixt; and that I
know not upon what terms stands his Majesty's
other Treaties of Restitution, my self judging
it necessary for his Majesty's Service, to keep
this King in Appetite, and not to be loose of
of him, until I receive Answer by this Bearer
to this Dispatch: and therefore I accepted
thereof with all Civility and Respect, ha-
ving regard to your Honours Orders, which
I received by the Dispatch which Sir *Jacob Ash-
ley* brought; though I am still of Opinion,
That this King intends not Peace, but in case
of necessity; but that he seeing that the resi-
ding of his Majesty's Ambassador by him in this
Conjuncture, is a Countenancing of his Affairs;
so his going from him, consequently will be a
discountenancing of them; and that this King
will never part with what he holds in the *Pa-
latinate*, though it may be counsellable, if a gene-
ral Treaty should ensue, to keep fair with him,
that he do no hurt; and so from them that
have had their hands in oppressing of that un-
fortunate Prince, to endeavour a Restitution,
whilst there is any hope from him or his.

There was two Days since taken Prisoner one
Capt. *Leslie*, who serves the Emperor in *Frid-
land's* Army; he tells me, That *Saxe* is fallen
off from the Agreement made between him and
Fridland; that there hath been sent by *Fridland*
divers Regiments out of his Army to joyn with
Don Baltazar, who commands the Army in *Bohe-
mia*, with order to fall into the Hereditary Coun-
tries of the Elector of *Saxe*: He saith boasting-
ly, That *Fridland* and *Bavaria's* Armies lying
about us here, are 80000 Men; that they ex-
pect out of *Bohemia*, *Austria*, and the other He-

reditary Countries of the Emperor thirty thou-
sand more that are now levying; but withal *Car. 8.*
privately confesseth, That in their Army there
is great want of Bread, and that if a Blow
should be given to the Imperialists, this King
having possessed himself of the Rivers and
Passes, *Vienna* will run a hazard; for that they
have upon this occasion of *Fridland's* Expedi-
tion, put up their late Effort; so as it is proba-
ble, whosoever God will give the Mastery un-
to in this present Occasion (if it comes to
Blows) will have the Affairs of *Germany* in his
power; and should this King prevail, it will
cause great Revolutions, which before this
Bearer can return unto me, apparently may be
more clearly seen into.

Since *Lesly* was with me, one brought me a
Letter written by the Elector of *Saxe*, to the
Marquess of *Cullinback*, wherein he adviseth
him to a Peace; for that the Empire cannot
long suffer War without total Subversion: So
as of that Duke's Proceeding, I know not what
to judge: This *Cullinback* is of the House of
Brandenburgh, and at present with this King.
I have long since written for Blanks, to which
you have hitherto made no Answer; I con-
ceive them to be of use, especially if the Af-
fairs tend to Accommodation. *Fridland* spoke
with much affection of his Majesty, and cast
out Words as if he would be a Friend (if he
were fought unto, in the restitution of the *Pa-
latinate*) as Affairs may be. His Majesty may
have cause to make use of him. I purpose to
see him; if the Blanks I have so long since
written for, were by me, I could the better
introduce my self by one of them. The Jea-
lousies remain still between *Fridland* and *Ba-
varia*; and if the French shall again engage
themselves with that Duke of *Fridland*, it may
be of Use.

Norremburgh, Aug. 19.

1632,

Your Honours, &c.

His Majesty of *England* being tired out with
the Delays of the *Swede*, perceiving him not to
Answer his Promises as to the *Palatinate*, advi-
seth the Marquess of *Hamilton* to take fair leave
of the *Swede*, and return home: The Letter
followeth.

The Kings Letter to Marquis Hamilton to come for Engl.

JAMES,

I Have received three Letters from you by James
Lesley, about the 25th. of July, all which I
assure you, have given me very good satisfaction,
as well for your right understanding of Affairs in
general, as to give me a Light how to direct you
in particular; which at this time is the only Subject
of mine. One of two you must chuse, either to stay,
or come away: For the first, it were very honourable
to do (in the times of Action) if you had an Employ-
ment; but neither having, or likely to have any here-
after, it were Dulness, not Patience, to stay any
longer; yet it is fit to come off handsomly, nei-
ther shewing Impatience nor Discontentment (if
it may be) although I think you have Cause
for both: therefore I have commanded *Henry Vane*
H h h

to propose a new Employment for you; which though I think it will not take effect, yet it will shew there is no way unsought for to find you out an Employment with the King of Sweden; it is, that you may be sent into the Palatinate, to assist the French with so many Men as my Contribution will maintain; which if it may be done, they promise me to put the Lower Palatinate in my hands. This, though I do not hold as Gospel, yet if this Design might be put in practice, it might certainly prove useful to my Affairs: This being denied (as I think it will) you have no more to do, but to seek a fair Excuse to come hence, which will be the best in my Opinion, upon the Conclusion of the Treaty between Sweden and Me: Or if any Impediments arise, that you might be sent to clear it with Me.

So that upon the whole Matter, my Judgment is, That if you cannot serve me in the Palatinate (as I have already said) the best way is, That you take the first Civil Excuse to come home to

Oatlands, Aug. 1.
1632.

Your Loving Cousin,
and Faithful Friend,

CHARLES R.

POSTSCRIPT.

David Ramsey will (as I imagine) meet with you before you come hither, which if he do, I hope you will remember what I have said concerning him already.

Here followeth a more full Account of the Posture of Affairs betwixt England and the King of Sweden, written by the Ambassador Sir Henry Vane, by his Secretary Curtius, by the way of Hamburg.

Norrenburgh, August 24.

THE 12th. of this present, I dispatched my Secretary Curtius unto your Honour (Mr. Secretary Cook) by the way of Hamburg, the only Pass was then open; God grant he arrive safe; for two days after his Departure, the Imperialists invested the same; He brings you the knowledge of the Affairs, and particularly how this King hath broken the Treaty. The 18th. of this present, the King's Forces, under the Command of the Dukes of Saxe, Wimar, his Chancellor Baneire, and all his other Generals, joined themselves to the King, a Dutch Mile and a half from this Town, the Imperialists not so much as making an Offer to hinder the same.

Those Armies make in all 13000 Foot, and 8000 Horse; this Day they advanced within a Dutch Mile and less of this Town, and are encamped between it and Furth, where I saw them in Battel; to the Eye they seem to be good Men: This King speaks, that to Morrow he will encamp near them, approach the Imperialists Camp, and Cannonade them out of their Trenches; but that is sooner said than done, and will be difficult to effect, though something will be done within these few days, the issue whereof I purpose to attend; and yet I am of Opinion, that neither Party will come to a Formal Battel, but in case of a Remarkable Advantage.

The King of Bohemia, notwithstanding the breaking off the Treaty, seems to me to have

more hope than ever, and to believe, that the King of Sweden will restore him his Country, (I much fear his Majesty may be mistaken) unless it be in such a manner, that it may not be peradventure worthy of his acceptation; but he believing the same, I conceive it not to be my part to undeceive him; and upon this occasion, I shall propose unto your Honour, what way in my Opinion will be best for his Majesty to take in the Negtiation of the Palatine's Interest, making Judgment of the Affairs as now they are; for his Majesty to continue an Ambassador longer here, I assure my self his Majesty will not think fit. To desert him or his Affairs absolutely, I know his Majesty will never do it: Necessary and requisite it is to have an Agent resident with this King, to have an Eye upon the Affairs, and leave the King of Bohemia to treat for himself, since he hath so confident a Faith, that by him he shall have his Countries restored; for he hath told Marquess Hamilton and my self, within these few days, That he doubts not but to keep his Winter-Quarters in Heydelburgh. And in this way his Majesty may contribute to him of his Bounty towards such an Accord (if he shall approve thereof).

His Majesty of Great Britain's Letter to the King of Sweden about the Recalling of His Ambassador.

CHARLES, &c. To the most Serene and Puissant Prince, Our Brother, Cousin, and most Dear Friend, Gustavus Adolphus, &c. Health and Prosperous Success.

MOST Serene Prince, Brother, Cousin, and most dear Kinsman; We have very satisfactorily understood by our Letters, that you embrace our Friendship with singular fervency; and We also in like manner have not only, with the most imaginable Candor and Constancy made use of, but earnestly catch at all opportunities; not solely for the promoting of the Common Cause, but principally to maintain and adorn your Dignity and Welfare by all possible means: Nor do We question but that your Serenity is sufficiently convinced of this Matter, and that not so much by the frequency of our Letters, as by the good Offices which we have decreed, rather to accumulate upon, than repeat. Yet this upon your Account is not to be passed over in silence, That we have sent, as it were, out of our Bosom, the Marquess of Hamilton, our intimate Kinsman, a famous Pledge of our Love, with an entire Regiment, at our own Charges, to the remote Parts of Germany, that he might devote himself to your Service; by the Report of which Supplies, not only your Enemies, who are variously distracted one among another, but the Princes also of your Associates, and Burgers, or Freemen, are kept and confirm'd in their Fidelity.

At length this last Embassy of Ratifying a League with you, which is thus ordered; that first of all, We should Act and Convene about an Auxiliary League for the recovery of our Brother's Paternal Inheritance, and afterward, if need requires, of a Social One for the common Good and Safety; and this Method is most expressly prescribed in our Letters of Credence and Instructions to

to Our Ambassador Henry Vane Knight, one of Our Privy-Counsellors, and Chief Officer in Our Court, which he hath faithfully observed; nor did that Form which he received from Us, signifie any more, than that he should more fully explain this Our Opinion, That what seemed convenient in your Judgment, might be at last communicated, without expence of Time; Wherein your Serenity, as well as all good Men, have had sufficient Experience beyond all Controversie: That we never made any Alteration, either as to the Nature of the League, nor concerning the Power of Our Ambassador; nor ever revoked any thing about which he once Convened; nor that We ever proceeded at any time dubiously or scrupulously, but ever constantly maintained and fulfilled those things which became a most Just Prince, most studious of your Welfare, a great Lover of our Brother, and finally the most Religious Asserter of the Publick Good. But because it does not seem convenient in your Opinion to observe the way We have laid down, We leave it to your Prudence, and so at this present Recalling Our Ambassador to other Offices, We wish you Health, and pray for your Felicity.

Your Serenities Good Brother
and Cousin,

CHARLES R.

His Majesties Ambassador hereupon acquaints the King of Sweden herewith; as also the King of Bohemia, in the Letters following.

SIR,

The King having thought fit to call me home, and withal Commanded me to convey this Letter to your Majesty, which is in Answer to that you were pleased to write by my Secretary Curtius, It is not without a most sensible Regret, that I am necessitated by express Order to undertake my Voyage forthwith, and hereby, be deprived of the opportunity to kiss your Majesties Hands again, and deliver you the said Letter in person; your Majesty shall receive it, if you please, from the hands of the said Curtius; who, being appointed by the King my Master, to reside near your Majesty, to manage his Affairs; beseech your Majesty to believe, that though the Commands of my King force me far from your Person, yet I shall ever be ready in the Design I have, to render you my most humble Service, upon all Occasions, and to preserve the Quality of,

Strasburg Oct. 31. 1632. Your Majesties most humble and most obedient

Servant,

H. VANE.

Sir Henry Vane's Letter to the King of Bohemia.

SIR,

By the Return of my Secretary Curtius, I have received Order from the King to return to him with all diligence, and for the present to leave Germany. If this Revocation obstruct my continuance in your Majesty's Service in these parts; yet I am confident I shall still be Master of greater Opportunities to employ myself at Court; where probably I may be more capable of promoting your Majesty's desires, than I have been hitherto; being near a Master who has a greater desire than ever, not to abandon his former Resolutions to your advantage. Your Majesty

may give an infallible conjecture thereof; that notwithstanding my being called home, he hath thought good to establish my said Secretary, for the continuation of his Affairs with the King of Sweden; and to the end that your Majesty might have a more ample Information, I have ordered him to go directly to Mentz, to give you an account of the Transactions, that have passed here in England, and to present my most humble excuse to you, that upon my positive directions which oblige me with all diligence to accelerate my return, I have dispensed with the going so far out of my way, resolving to take a shorter Cut through France, and to sail to England from Calais. In the interim, if your Majesty imagine, that it may conduce to your service, to lay any Commands upon me before I arrive in England, I have sent with the said Curtius a Courier, who will overtake me in the way, and will bring me your Majesties absolute Resolutions. I do daily resolve with all the power I have to put them in execution, it being my design of persisting in the real resolution, of remaining, Sir,

Strasburg, Oct.
31. 1632.

Your Majesty's most humble and most obedient
Servant,

H. VANE.

And with Monsieur Curtius, his Secretary, he left the Instructions following; how he might comport himself afterwards in his Negotiation with the King of Sweden.

1. The King of Sweden being now, by the event of War, in the Elector of Saxs Countries, or thereabouts, you are from hence to go to Mentz (it not being out of your way to the said King) there to attend his Majesty of Bohemia, and to give him all assurance of his Majesties Love and Affection towards him and his; howsoever the Treaty so long agitated betwixt the two Kings, hath been thought fit by the King of Sweden to be deferred till a more convenient time.

2. If you shall find that the King of Bohemia shall further press you upon Particulars concerning the Treaty, you are to let him know, That the Colonels Pebely and Kelbey, having been deputed from his Majesty to my Lord Ambassador, the day before his coming from Noremberg, to confer with his Lordship upon that King's Affairs, in which Conference, it was thought fit and necessary by them, that a Motion should be made by his Lordship to the King of Great Britain, not to begin any further Treaty with the King of Sweden, or permit him to make any more Levies in his Dominions, until he should first consent and restore to him what he had possessed of his in the Palatinate. His Lordship, after some Conference with the said Deputies upon that Affair, agreed to that Motion, so he might be assured before his Departure, that it was their Master's pleasure to send unto his Resident in England to second the same. Hereupon, the said Deputies returned accordingly, and declared unto his Lordship, that as soon as his Majesty should arrive at Frankfort, he would dispatch an Express into England with Orders to Sir Francis Nethersole, to move it also; you are to signifie unto that King, that upon your Departure from thence, the said Express was not yet arrived.

3. And because new Overtures of Treaty are made unto that King, by the King of Sweden's Ministers, you are to enquire particularly what those

those are, and how they are entertained by his Majesty.

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4. You are likewise to inform your self how far the French King hath an eye upon the Proceedings of the King of Sweden with the Town of *Straßburg*, what they do now in the *Palatinate*, and what the French may contribute thereunto; and in particular concerning *Frankendal* what designs or aims either of the said Princes have upon that Town, and whether the Spaniards might not be induced to consign the same into his Majesty of Great Britain's or the King of Bohemia's hand.

5. Lastly, That you use all possible industry to discover those who for the time past have endeavoured, or for the future shall endeavour, either by Letters or otherwise to do ill Offices, or work misunderstandings between the two Kings of Great Britain and Sweden, with whom it is most necessary for the good of the Publick, there should be a strict and perfect Intelligence.

Notwithstanding all which, his Majesty the King of Bohemia had great Hopes of the Swedes good Intentions towards him, as appears by his Letter to the English Ambassador.

The King of Bohemia his Letter to the Ambassador.

I Received your Letter after I had passed the River Lech. I do not question but you have already understood the Passages here, that Tilly and Altrin have been wounded; the Duke of Bavaria has abandoned Newburgh, and retired to Ingoldstadt. I will now give you an Account of the Surrender of Aufpurg; the Garrison Marched out of the Place this Afternoon, being 3500 strong, and the King's Forces are entred; himself has taken a Survey of the Town without the Walls, and to morrow will make his Entrance. So all things succeed according to desire. I am very glad of the hopes you give me that I shall be so happy as to see you. I presume the season will keep you here at Frankfurt a long time. For my own part I have no cause to complain; for the King is still of a very good humour, and continues the testimony of his great Affection for me and my Concerns. I do not press him to any thing as yet, I hope all will go well; I shall not swell this Letter to any greater Bulk, but only to assure you that I shall ever remain

From Lec-Hausen
near Aufpurg

Your most Affectionate Friend,

FREDERIC.

The Marquess of Hamilton's Army (as before we told you) was much weakned by Sickness, &c. and the King of Sweden had now real need of them; wherefore he sends Duke William of Saxon-Weymar with Orders that they should March to the King's Relief before Nurembergh; they were re-inforced by some Additions from the Green and Blew Regiments; the former whereof was Commanded by Col. Ros, and the latter by Col. Warder; and to them were joyned a Regiment of Horse, and four Foot-Companies, who all afterwards Marched to the Field at Lutzen; where

they were present, and bore their part at that so Famous and Fatal a Battel; but in regard there were some very Notable Rencontres at which these were present, we shall briefly relate them: The First was, The taking of the Castle of *Crutzenack*, which was performed by the English and Scotch; at which, both the Kings of Sweden and Bohemia were present: the former gave particular Directions for the Attack; it was Garrison'd by Spaniards, who made a very good Resistance; but the English and Scotch having sprung a Mine, and given the Assaults thereon, they carried the Place, not without the loss of many good Souldiers, and obliged the Spanish Governor and Garrison to beg for their Lives; which they frankly gave them, and Leave to depart with their Arms under a Swedish Convoy: Hereat was present William Lord Craven, who extremely Signalized himself in this Attack.

There had been some Overtures for a Truce proposed by the French Ambassador, betwixt the Swede and Bavarian; which being concluded, and in the mean time Count Tilly beating up the Quarters of Gustavus Horne at Bamberg in Franconia, and a Rupture ensuing, hereupon the King of Sweden enters Bavaria, and meeting with difficulties in his passing the Danube, but more especially the River Leche; which yet he conquered, and passed his Army in despite of Tilly, who lay intrenched in certain Woods on the other side; on whose Army he incessantly played with 120 Canon, and did considerable Execution on them; but more especially Tilly was wounded in the Knee by a Canon-Bullet, and General Altringer was wounded in the Head; the former was carried to Ingoldstadt, and there died, to the great regret of the Spaniard and Bavarian; he was only unfortunate in the Battel of Leipsick, and had some stain on his Reputation for Cruelty in the Action at Magdenburgh, before spoken of; one of the greatest Captains certainly he was of that Age, much beloved of his Souldiers; to whom for a Legacy, at his Death, he bequeathed 60000 Rixdollers. The King thus having passed the Rivers, he destroyes all in Bavaria before him, 80 great Towns and Castles; only the Capital City Ingoldstadt remaining; which he going to view, riding upon a Gray Horse, in a more than ordinary Equipage, he narrowly escaped the Blow of a Canon-Bullet levelled at him; it light on his Horses Crupper, and covered the King with Blood and Dust; which Accident put his Army into some Disorder; but then perceiving the King safe, they turned their sorrow into joy; but besuoght his Majesty that henceforward he would be more careful of his Life, upon whose so many depended; To which, the King makes Answer; That the Bullet that saluted him so near that day, did put him in mind that he was Mortal, and subject to the same Accident as the meanest of his Souldiers, and so that general Law, which no Crowns, Victories, nor Armies can avoid. That it remained only for him to resign himself to God's Providence, and that his Comrades who had their Arms in hand with him, should firmly believe, that the Justice of the Cause, for which they exposed themselves to the hazard of Arms, had other Dependency than His Life only. That the German Liberty would not want Maimainers, nor these Persons here Success, as long as they kept themselves in God's Way.

The Death of Tilly struck the Emperor and Empire to the very heart; and what to do for another

another General, he well knew not, all *Bohemia* was
 near in the possession of the Duke of *Saxony*, and
 the *Landsgrave* of *Hesse* had declared for the
 1632. *Swede*; so that both the *Austrian* and *Bavarian*
 were almost at the last Cast. In this great ex-
 tremity his Imperial Majesty, after much con-
 sulting, was resolved once more, if he could or
 might prevail with him, to make use of *Walle-*
stein, who had before, by the Advice of the *Di-*
et at *Ratisbone*, been laid aside with some disgust;
 which the old General well remembring, promi-
 seth to raise an Army of 30000 Men in four
 Months time; during which time, he would be
 absolute; but having employed under him his
 Confederates and Relations, as his great Offi-
 cers, the *Austrian* and *Bavarian* doubt whether
 it might prove for the Good of the Empire, if
 any other General than himself, or other Offi-
 cers than his should be employed: for the pre-
 sent they were resolved to dissemble with the
 Dissembler *Wallestein*, and made him General up-
 on his own Terms; who immediately Marcheth
 into *Bohemia*, and attacketh *Prague*, defended
 by the *Saxon* with 7000; he was several times
 repulsed; but drawing on the Foot by his Horse,
 he by force enters the lesser City; which imme-
 diately caused a Surrender of the other: the
 Souldiers only Marching out with their Swords;
 their Colours are sent by him to *Vienna*, and he
 in requital, is made by the Emperor Duke of
Glogau in *Silesia*. This Success solicits him to
 joyn with the *Bavarian*, and so by united Forces,
 to find out the *Swede*, who lay encamped at *No-*
rembergh, these putting themselves betwixt the
 King's Camp and *Franconia*, had deprived him
 both of his Forces and Victuals; he intrencheth
 himself for the present, and his Forces at last
 uniting, he draweth out his Army of 26000
 Men effective, and presents the Battel to *Walle-*
stein, who contains himself within his Retrench-
 ments; so that the *Swede* to force him, thunders
 with his Cannon into his Leaguer, and is re-
 sulted accordingly from *Wallestein*; who at last
 finding the Inconvenience of Lying within the
 reach of the *Swedes* Artillery, removes himself
 into the Forest of *Altembergh*; where, upon the
 Ground of an old Fortrefs, he strongly retrench-
 eth himself, believing (as he had reason) the
Swede would not endeavour to dislodge him
 thence, especially having secured all the Passes
 by Barricadoes of Trees cut down, and the As-
 cent of the Hill, which the *Swede* in his Attack
 was to ascend, was very steep, bushie and crag-
 gie; notwithstanding all which Disadvantages,
 the King of *Sweden* resolved to set upon him in
 his Camp (for that he believed he would not
 fight on equal Terms, but endeavoured only the
 protracting of the War, and that now he found
 his Army in good heart and strength) on these
 Motives, against the Dissuasions of both the
Swedish and *Scotch* Officers, the King of *Bohemia*,
 and the Marquess of *Hamilton* being then in his
 Leaguer, and Eye-witnesses of this great Action.
 The King of *Sweden* leads on the Van of the left
 Wing; *Saxon Weymar* had the Honour of the
 Battel, and Duke *Bernard* and the *Landsgrave*
 of *Hessen* had the Rear. Much time was spent in
 the Attacks made upon the Old Castle, and ma-
 ny Brave Commanders on both sides there lost
 their Lives: The King leads on his Men up to
 the Enemies Batteries; *Wallestein* makes a brave
 Resistance, having all the Advantages of the high-
 er Ground, as well as his Retrenchments and
 Batteries, as before we intimated. The Fight

was maintained till Darkness parted the Armies,
 and it was performed on both sides with incredi-
 ble Valour and Obstinacy; and all the *Imperialists*
 that day gained, was, that he kept his Ground,
 though he well saw what an Adversary he had to
 deal with. The King was said to have repented
 himself of this Action, which was begun against
 the Advice of the most and most knowing of his
 General Officers; therefore for the future he
 was resolved to put *Wallestein* to it in another
 way; and therefore to draw him out of his Fast-
 nels and Retrenchments, to fight on equal terms
 in the fair Field, having secured *Norembergh*,
 (where he had left *Kniphausen*, a good Command-
 er) he resolves again to enter *Bavaria*, and to
 ravage the Estates of the Catholick League: there;
 which he prudently thought would cer-
 tainly dislodge *Wallestein*; and it hapned accord-
 ingly.

On Thursday the first of November, he arrives
 at *Naumbergh*, whilst *Wallestein* Marcheth to
Lutzen, the Fatal place of the great Battel we
 now come to give you an Account of; which we
 will do from a *Spanish* Relater, as follow-
 eth.

The Battel of Lutzen, 1632 when the King of Sweden was slain, with Circumstan- ces preceding the same.

THE King being arrived at *Naumburg*, upon
 Thursday, November the first (old Style)
 took Order to have his Army lodged in the
 Field, Town and Suburbs. The same Day the
 King went out upon a Party, for discovering of
 the Enemy. After him, that Afternoon, went
 these three Gentlemen of the *English* Nation,
 Lieutenant Colonel *Francis Terret*, or *Terwhit*,
 Serjeant-Major *John Pawlet*, and Captain *Ed-*
ward Fielding; These three going alone by them-
 selves, to a forsaken Village, where there were
 two ways through it (the King having gone the
 left hand way, and they now taking the Right)
 fell into an Ambush of the *Crabats*: The first
 and the last named of these three, were taken
 Prisoners by two Rit-masters of the *Crabats*:
 One of them, named *Pornick*, a *Greek* Cap-
 tain. These two Gentlemen, being carried Pri-
 soners into the *Imperial* Leaguer, were on the
 day of the Battel kept Prisoners in the Rear of
 the Enemies Army, and after the Battel haled
 into *Prague* among the fleeing *Imperialists*. They
 were the first Night carried into *Weissenfels*,
 where *Wallestein* then lay in the Castle of it. He
 sent the Count of *Pappenheim* to them the same E-
 vening; to enquire of the King of *Sweden*'s
 Strength, Lodging, and Intentions. The most of
 the *Imperial* Foot lay now in, and near about this
Weissenfels: Seven or eight hundred of them keep-
 ing Guard upon the Market-place, The *Imperi-*
alists then gave out themselves to be 50000. but it
 appeared to be spoken by a figure, and to terrifie
 the King; For that they were not any thing near
 that number.

To return to the King; His Majesty the next
 day (being Friday) in Person visited all the Ave-
 nues and Passes about the Town, and went out a-
 gain with great Parties of Horse, to take some Pri-

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Prisoners, by whom to learn something of the Enemies. Finding that the *Imperialists* lay still; and that the *Passes*, by which he should have gotten to them, were both dangerous and difficult; He returned at night again, and gave Order to Entrench the Army before *Naumburg* towards *Weissenfels*. Till the Trenches could be made, the Army lay in the Field: After which, the Foot were encamped in the Town and Suburbs, and the Horse in the next Villages: Some two or three thousand being only left abroad all night to watch the Trenches.

Upon Sunday, November 4. came there a Saxon Boor to *Naumburg* unto the King, with a Letter in his hand, to shew. The Letter was written by the Count *Colorado*, Sergeant Major-General of the *Imperial Army*, unto an Officer of his, that lay with his Regiment at *Quersfurt*, on the Western side of the River *Sala*, right against *Hall*, and ten English Miles from it. *Colorado* had enforced this Boor to carry this Letter; And the Contents of it were to this purpose: That the *Generalissimo* had sent the Count of *Pappenheim* to take the *Hall-Castle*: That his Men of *Quersfurt* should march up to joyn with *Pappenheim*: And that the next Morning the *Imperial Army* was to part from *Weissenfels*. This Letter seems to have been written upon the Saturday night: According to which date, it agrees rightly with *Wallensteins* discamping from about *Weissenfels*, which was indeed done upon the Sunday: after that *Pappenheim* was dispatched towards *Hall-Castle*.

Upon this Intelligence, His Majesty the same day, Duke *Bernard*, and Sergeant-Major *Kniphausen*, being at a Council of War, the King propounded the great question unto them two; Whether that in *Pappenheims* absence, (he being gone to take in *Hall-Castle*) the Duke of *Friedland* alone were to be set upon? Duke *Bernard* was for the valiant Affirmative, That the advantage was good; and that seeing they knew not how long they should enjoy the opportunity of this division; *Wallenstein* was presently to be attacked. But Major *Kniphausen* was for the sober Negative; and that the Enemy was not to be fought withal: His reasons were two:

First, No man is to fight, but when he is apparently stronger than his Enemy, which the King at this time was not.

Secondly, No man is to attack a stronger Enemy, unless compelled by a pressing and unavoidable necessity: That is, either to force his passage when he is hemmed in; or when hunger and want of Victuals constrain him to it; Neither of which being the Kings case, there was no reason for present fighting.

These Reasons so far prevailed with the King, that giving over all thoughts of present fighting, he was resolved to have left a Garrison in *Naumburg*, and to have marched with his whole Army to conjoyn with the Dukes of *Saxony* and of *Lunenburgh*, who designed to joyn their Forces to the Kings Army, being Eight thousand Horse and Foot.

The King being thus resolved, sends Post unto the Elector of *Saxony*, to inform him of his purposes, and to lay the Plot for their uniting. The King desired him to come to *Eilenburgh*, upon the West of the River *Mulda*, 14 Miles West of *Torgau*, where the Duke then lay with an Army of 4000 Foot, and as many Horse: whereof 2000 Foot and 1500 Horse were the Duke of *Lunenburghs*.

Wallenstein the same Sunday, drew out from

Weissenfels, leaving a Captain onely with his hundred Men, for the keeping of the Castle. Thence marched *Wallenstein* unto *Lutzen*, two Dutch Leagues to the East of it: where, and in the Dorps round about it, his whole Army encamped.

The next day being Monday, November 5. the King, according to his former Resolution, parted out of *Naumburg*, to go towards the Duke of *Saxony*, leaving the Town and Garrison under the Command of the Saxon Colonel *Vitzdum*. For the more lightness and expedition in his March, he commanded his Baggage to stay with the Garrison still in *Naumburg*, for a day or two; being he thought but onely to have gone and joined with the Elector of *Saxony*, and then to have returned again to *Naumburg*. He supposing withal, that *Pappenheim* being now absent, and *Wallensteins* men not together, that he should not be disturbed in his March. About 4. before day-light (the Drums having beaten ever since One of the Clock) on the Monday Morning he advances towards *Pagan*. The King having notice of *Wallensteins* forsaking *Weissenfels*, sends by the way, to take in that Castle. The Hundred Men that *Wallenstein* had left in it, did *Colorado* come so timely to fetch off, that he had done it a very little before the Swedes coming.

In the middle of his March, about ten of the Clock the same Forenoon, came there some Gentlemen riding, and some Boors running to the King, with advice that the *Imperialists* were lying still in several Dorps and Villages hard by, about *Lutzen*, without any intelligence at all of the Kings being in motion. This the King being informed of, calls presently his High Officers to a Council of War, to advise what were best to be determined. His Majesty even then, (and then first) put on the Resolution for Fighting; openly speaking it out, That he now verily supposed that God had given his Enemies into his hand. Ho! Brave Occasion, says the Duke of *Saxony*—*Lauenburgh*: Now God bless us (say divers Great Officers) it is a happy opportunity. And truly so it was; for divers Prisoners (even then brought in by the Kings Parties, and by Boors) being by the King examined whether they had any Alarm in their Quarters of his Marching; freely confessed that they had none, and so much was evident enough, for that they were now surprized in their Quarters. Thus thought all the Officers: all being resolved to fall on presently; and indeed there was great reason for it: for could the Kings Army have fallen in amongst those Villages, he had given a Camisado to several of their Quarters at once, and cut off all singly; for that they could never have come together, to unite their Forces, or have succoured one another. This was evident.

The Gentry and Boors that brought him the intelligence, told him *Lutzen* was but hard by; which the King was in good hope of; for that he was even then in sight of it. The Army advanced stoutly, and doubled their March upon it: but their Legs found it a longer way than their Eyes; it being a sad Campaign, full eight English Miles of Ground to *Lutzen*. Besides all this, there was a filthy Pass in the way, at a Bridge over a River (where but one or two men could go over abreast) which hindred the Army full two hours going. By this hindrance, was it even night before the Army could get within two English Miles of *Lutzen*.

This

Anno 1632. This ill-favoured Pass was within two English Miles of *Lutzen*, and in the Village that belonged to it, were there two Imperial Regiments of Horse (one of them *Crabats*) enquartered. These having a little notice of the Kings Coming, had gotten up their Horses, and taken up a high Hill on the other side of the Pass next to *Lutzen*; they made as though they would have disturbed the King's Passage; but they did not: the King's Foot Marching fairly over, with some Horse amongst them, Some of the King's Foot were still Marching over till it was dark night, or within it. Those that got over first, entertained a slight Skirmish with the Imperial Horsemen, without any loss to the King, killing some 50 or 100 of them, and taking one *Crabats* Ensign.

And now the King taking another Hill (right against that which the Imperialists possessed) he from thence let fly some pieces of Ordnance amongst them, which caused them to take the benefit of the Night, with some Confusion to March off in.

And here, the King being surprized with the Darknes, was forced to sit down in the open Fields with his Army, himself lying in his Coach, as other Officers did that had them. Here lay he all night in *Battalia*, every Regiment lying down in the same Order that they had Marched, with their Arms by them. The Pike-men they stuck up their Pikes an end by them; and every Rott (that is, every six) of Musketers bringing their Muskets to their Rott-master, he set them right up with their Mouths upwards, and bound them together with a piece of Match, where they stood ready at hand for all occasions.

The Imperial Army was in a terrible Hubbub at the King's coming over the Pass; for now was the Alarm sent in hot to all the several Dorps and Quarters, even from *Lutzen* unto *Hall* and *Leipsich*. Order upon pain of Death was given, for every man of the Imperial Army, with all speed possible, to repair towards *Lutzen*, to their *Generalissimo*.

Presently upon this, began all the Regiments to draw together, some of which were all night upon their Marches, and some Horse that Quartered very far off, being not able to reach up till 10 of the Clock the next Morning. And thus (even then) did the Mist so long keep off the King next Morning, till his Enemies could be made strong enough for him.

As every Regiment came in, so were they put into Order, which continued all night long, as the two English Gentlemen (then Prisoners there) observed. About Ten at Night did *Wallenstein* begin to think of the places most advantageous for the Planting of his Ordnance: some of which having mounted upon the Wind-Mill-Hills, he then began to cast up a Trench of Earth about them. All Night, and next Morning his Dragoons and Pioneers wrought with their Spades about the High-way, and to make the Ditches or Drain by it serve them for a Brest-work to lodge their Musketers in. And this was their Work too, all the next Misty Morning; which Fatal Weather gave them also the more respite to recover their Fears and Weariness, and to fortify themselves against their unconquered Enemy. And thus was the Night (the last night to some thousands) over-passed.

The King now over the Pass, had put himself into a necessity of Fighting; and being thus engaged, the sooner he fought, the better; for that his Enemy should be the less provided for him.

Tuesday (that fatal sixth of November) at last began to draw near, and alas it came all too early. A gentle Mist, as if fore-dooming how black a Day it would be, did his good will to have kept it Night still; and the Sun, as if his great Eye had beforehand over-read the Fatality of the following Day, seemed very loth to have begun it. But the Martial King, even forcing himself to awaken Time, and hasten on Mortality, would needs make these Clocks and Larums of the Wars, his fatal Drums, to beat two hours before Day-light. Arm, Arm, Repair to your Colours, keep your Order, stand to your Arms; These were the Morning Summons to awaken the hearty Souldiers from a cold, a hard, and earthly Lodging. The Army was easie to be put in Order, for that the most part of it had lain and slept in *Battalia*. One while was the King purposed to have advanced and fallen on presently; but the War being God's Cause, he would, like *David*, and himself, first ask Council of the God of Battels, and at least recommend his own Cause unto him. The Drums having beaten the first March, he caused Prayers to be read to himself, by his own Chaplain D. *Fabritius*; and when there were Ministers at hand, the same was done through every Regiment of the Army.

The Morning proved so misty, that it was not possible to see which way to March, nor where to find an Enemy to strike at. And this (unluckily) staid the Kings thoughts from advancing presently. This was a Fogg of advantage to *Wallenstein*, who, purposing but to stand his Ground, (which by working all night about the Ditch and High-way, his Pioneers had made more troublesome to be assaulted) was now resolved, that if he must fight, he would there abide the first shock, and no way to seek the Battel, or to move towards his Adversary.

About Eight of the Clock the Mist brake up, and but for one Mischance in it, promised as fair a Day as ever was sixth of November. As it began to clear, the King took occasion to encourage up his Souldiers; and going to his own Subjects first, he to this purpose bespake them:

My dear Brethren, carry your selves bravely this day; fight valiantly, in God's Name, for your Religion, and for your King. This, if ye do, God's Blessing, and the Peoples Praises, shall be your Guerdon; and you for ever shall even be laden with an honourable and glorious Memorial: nor will I forget to reward you nobly. If you play the Pultrons, I here call God to witnes, that not a Bone of you shall ever return again to Sweden.

The King's Oration to the Swedes.

To the German Troops this was the Oration; To the O you my Brethren, Officers, and Fellow-Souldiers of Germans: the German Nation, I here most earnestly entreat and beseech you, to make full Trial of your Valour this one day against your Enemies; fight manfully against them this day, both with me, and for me. Be not faint-hearted in the Battel, nor for any thing discouraged. Set me before your eyes, and let me be your great Example.

These Orations of the King, being from both Nations, with a horrid clashing of their Armour, and with chearful Vows and Acclamations, answered; the King as chearfully then replied; And now, my Hearts, let us on bravely against our Enemies; and God prosper our Endeavours: Sprightly withal, casting his Eyes towards Heaven, he with a loud Voice sent up this forcible Ejaculation, *Jesu, Jesu, Jesu, Vouchsafe thou this day to be my strong helper; and give me Courage this day to fight for thy Glory, and the Honour of thy great Names sake.*

The King's Prayer.

His Royal Person was that day waited upon by
Anno Duke Francis Charles of Saxon Lawenburgh, and
 1632. by some of his Majesties own nearest Servants.
 His Ar- The Lord Crailsham also, Great Master or Mar-
 tendance. shal of his Majesties Household, had the leading of
 a Body of Reformadoes, which were especially
 commanded to wait upon the Kings own person.
 And amongst these, were our English and Scottish
 Gentry and Officers, whom the King had at
Schlesing heretofore reformed. Of this Body
 (which consisted of several Nations, were there
 still 7 or eight to be close about the King, ready to
 be sent with Orders up and down the Army, who
 were still supplied by Crailsham. The King was
 that day attired, as usually he was accustomed, in
 a plain Buff-Coat, and unarmed. Some report,
 that a Tenderneſs in his Shoulder, where a Mus-
 ket Bullet had a long time stuck, would not suf-
 fer him to endure Armour. And therefore, when
 he was this Morning desired to put on his Corſlet,
 he said, *The Lord was his Armour*; and refused it.

His watch The King's Watch-word was the same which
 word. had been of so good an Omen before at *Leipsich*,
Gott mit uns, God with us. The General *Walen-*
stein's being now the same which *Tillie's* then was,
Jesus Maria. This was the King's Order of em-
 battailing his whole Army, which now (after he
 had left some at *Naumburg* and at *Weisenfels*, was
 between 17 and 18000 Men) he divided into two
 Fronts; and each of these into the Wings and
 Battel, with their Reserves. Each of the Wings
 His Order was composed of six several Regiments or Squa-
 drons of Horse, lined with five several Bodies of
 Commanded Musketers; every one of which
 Bodies had two small Drakes or Field-Pieces,
 which advanced playing still before them. The
 Battel in each Front, consisted of four Brigades
 of Foot, a Reserve of Front, and a Reserve of
 Horse hindmost of all, betwixt the two middle
 Brigades of the Reer, or second Front. Before
 each Brigade Marched six Pieces of greater Ord-
 nance. And this was the first Sight of the Figure.

The Right Wing was led by the King him-
 self; the first Brigade Bodies of Commanded
 Musketers, were Commanded by the Count of
Eberstein. The Horse-Squadrons of the Left
 Wing were committed unto the Glory of the
 Day, Duke Bernard of Saxon-Weymar. The
 five Bodies of Foot in the Left Wing, were the
 Charge of the Colonel *Gersdorff*. The Battel
 made up of the four Brigades of Foot, was com-
 manded to the Swedish Count of *Neeles*, Colonel
 of the King's Life-Guards. The four Foot-
 Brigades of the second Front, or Reer, were
 Commanded by *Dodo Kniphausen*, Serjeant Ma-
 jor General of the whole Army, to whose fair
 Conduct the Victory is also much beholden. The
 Horse of the Right Wing were entrusted to Co-
 lonel *Claus Conrad Zorn* of *Bulach*, by which
 Name of *Bulach* he is commonly known. The
 Horse of the Left Wing were committed to
 Prince *Erueſt* of *Anhalt*. The Reserve of Foot
 was Commanded by Col. *John Henderson*, a Scot-
 tish Gentleman; and the Reserve of Horse by
 Col. *Oeme* of the *Palatinate*.

Walen- The Imperial Army had his Excellency the Ge-
 Rein's or- neralissimo thus ordered; He first drew it all up
 into one mighty Front; which he then divided into
 three Bodies. His Right Wing of Horse (whose
 End was near the Town of *Lutzen*) was com-
 mitted to the Count *Ridolfo Colorado*, that day
 Serjeant Major General of the Army. This Wing
 had also its Commanded Musketers, besides some

others that were lodged in the Gardens by the
 Town aforesaid. This Wing having also the
 advantage of the Wind-mills, and their Hills,
 by the Town-side, made use of those Natural
 Batteries for the Planting of Nine Pieces of
 Ordnance; the Mills and Miller's House serving
 them also for a good shelter. The Battel or
 middle Ward was Commanded by the Duke of
Fridland himself, whose place was said to be in
 the Head of that great Regiment of *Piccolominies*
 Horse, which was in the very middle of the Foot
 Regiments. The Left Wing opposite to the
 right Wing, was led by Colonel *Hendrick Holck*,
 newly made Lieutenant-Felt-Marſhal unto *Pap-*
penheim, who but Commanded until Felt-Marſhal
Pappenheim should be come into the Field.

All this Imperial Order of Embattailing, is
 presented in one mighty Front; so namely, as it
 appeared to the King's People, and to him that
 took the Figure of it: since (very largely) Cut
 and Imprinted in Copper, by *John Jacob Gabler*
 of *Leipsich*; who also, by the King's own Dire-
 ctions after the Battel at *Leipsich*, made a De-
 scription last year, and set forth the Figures of
 the Battle of *Leipsich*. And the manner of the
 same Figures of the Battel of *Leipsich*, we have
 in this also followed. We know that betwixt
 every Brigade of Foot, there should be so much
 room left, as that another Brigade might advance
 up in the Distance between them, being the
 breadth of one of them.

Having thus described the Order, the Field of
 the Battel would next be considered of, The
 King had a North-Easterly March of it, from
Naumburg towards *Lutzen*; so that the Rising
 of the Sun was something within a while favou-
 rable. The Wind also (that little that was)
 blew fairly for him; so that the King very joy-
 fully spake it, *I thank God I have both Wind and*
Sun to favour me.

The Country was a goodly vast Level and
 Campaign as Corn-Lands could be, even as far
 almost as the Eye could rove over. And yet
 was the place of Battel subject to as many Acci-
 dents (and *Walenstein* was master of them all)
 as a plain Country almost could be. The King
 right in his way of advancing, had a wet Ditch
 (made by hand) called the *Flossgraben*, cut tra-
 verse to him, so that he was fain to edge about
 to the Right with his whole Army, to pass by it;
 and then to edge as much to the Left again,
 to put himself right before the Enemy. The Im-
 perial Army was embattelled all along beyond a
 broad High-way, which led from *Lutzen* to *Leip-*
sich. On this side of this, there was a kind of a
 broad Drain or Ditch, which served for bound-
 ing and saving the Plow'd Lands, and to keep
 withal the High-way the drier. This had *Walen-*
stein's Pioniers bestowed some Cost upon; so that
 putting some Commanded Musketers down into
 it, it served them as well as a Trench or Brest-
 work. This was so troublesome for the King's
 Horsemen, that many of them were overturned,
 and left behind, in the getting over to Charge
Walenstein; for indeed there were divers Gaps
 through it, which the Horse justling for, over-
 turned one another. The Ground also behind the
 Ditch, had two little Risings, and those did
Walenstein make choice of, for the Planting of
 some Pieces. That part of the High-way also to-
 wards *Lutzen*, had an old Trench or dry Ditch
 drawn to it, which, being nothing of it self,
 but a Boundary for Lands; that also did *Walen-*
stein put Musketers into, which served them like
 the

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the High-way Ditch, for a Parapet or Breast-work. A pretty distance beyond the High-way, near unto the Town of *Lutzen*, were three or four Windmills; amongst which another Party stood. Behind these had *Walenstein* lodged some Musquetiers, and the Mill-hills served as natural Batteries for him to plant nine Pieces of Ordnance upon. Between the Mills and the Town, were there divers Gardens with Mud-walls round about them; and in these also (in one of them three hundred being after found dead) had he caused Musquetiers to be placed. *Leipsich* Highway, as it went sloping along, so had he caused his men to bend and hang towards it.

And now to the Action. The Sun having by nine of the Clock clearly dispelled the Fog, it proved as promising a morning as ever was sixth of *November*. And now the King shot his loosing or Warning-piece; and so advanced.

The King advances. Being passed the *Floss-graben*, he left also the Dorp of *Chursitz* behind him; betwixt which and his Army, he left his Coach and his Ammunition Wagons, of which there were not above 100 at most, the King having left the rest at *Naumburgh*, with no purpose of fighting. The King advanced, till he came with the end of his right Wing within Musquet-shot of a little Wood: having all the way a full view of the Imperial Army.

That *Walenstein* much over-powred the King in number, may appear by the mighty long Front that he put out, near two English miles from one Wings end to the other. This is also to be considered, that *Walensteins* Discipline is to march ten deep in a File; whereas the King was no more but six deep of Foot, (I mean) and of the Horse but three or four deep, according as the Brigades were either stronger or weaker. Besides this, that *Walensteins* Files were all the way almost as deep again; his Ranks also were in Front so much longer, that the King was fain to send for *Bulach*, and all the Squadrons of Horse, from the right Wing of the Reer, or second Front, to imp out his Feathers at the end of the right Wing, for fear that *Walenstein* should surround him. These Squadrons, when General Major *Kniphausen* found out of their places, he sent a Gentleman to his Majesty, to know whether he had otherwise employed them. The King was at the same time likewise sending the Duke of *Saxon-Lawenburg* unto *Kniphausen*, to tell him that he would but use them in that first Charge, and then return them back again to their Order. The Duke meeting with the Gentleman, and telling him thus much, both then returned to their places.

The King wondred not a little at it, when he saw how fair a Clew *Walenstein* spread; affirming to those about him, that if he had any Seconds behind his first Front, he could not judge him to be less than 30000.

True it is indeed, that *Walenstein* had given out Proviant Commissions for 40000. and sometimes for 50000 Men, but yet had he not so many fighting Men, for that there were at least 10000 Women, Servants, and Children, and such Hang-byes belonging to the Army, which are to be discounted. Besides this, it is to be considered, that *Walenstein* had but one Front, and the King two: So that we may well allow *Walenstein* to be 20000 in the first Front, at the very first ordering of the Battle. After which, accounting those that were still coming in, even till ten a Clock, and *Papenheims* Horse and Dra-

goons, which came in about One or Two of the Clock; and his Foot, (who, as was thought, *Car 8.* made the second fierce Charge towards night,) and then (doubtless) these could not be fewer than 10 or 12000, which made up in all 30000 fighting men.

The Armies being come within Cannon-shot, the great Ordnance began to play one upon another terribly. The Air roar'd, and the Earth trembled, and those manly hearts that feared not dying, were yet very loth to have no more play for their lives, than to be beaten to pieces with the Bullet of a Cannon. And here had *Walenstein*, surely, a great advantage over the Kings Army: for his Ordnance being all ready planted upon stiddy and fixt Batteries, the Cannoneers traversed their Pieces, and delivered their Bullets with more aim than the Kings men could possibly, who gave fire in motion still, and advancing. His Majesties Cannon, ever as a Piece was discharged, was there left to be brought after; the Army still advancing, and marching away from it. The King liked not this shot, for that the Imperial Cannon did his men far more spoil and execution, than he possibly could again return them. Seeing therefore no good to be done this way, he causes his Army to advance upon the very mouth of the Cannon, and to charge towards the High-way, and to beat out those Musqueteers that were lodged in it.

The Imperial Army stood their ground all this time, expecting that the fierceness of their Enemies Charge, would indifferently well be abated by that time they had beaten out those Musqueteers, and had put themselves out of Order and Breath, with scrambling over the Ditches. And indeed the place being almost mans height, many of the Kings Horsemen were there left tumbling up and down; but of the rest that got over, this was the order of their Charge: The Commanded Musqueteers, and the Foot of the *Swedes* Brigade having cleared the High-way, the whole Front advanced to charge together.

This whilst they were doing, the little Drakes or Field-pieces (two of which marched before every Body of Musqueteers that lined the Horse of the Wings) were first fired, and the Musqueteers at the same time giving their first Salve, the Horse then charged home upon the Imperial Horse, by the Drakes and Musqueteers; something before disordered. This Order was held in the first Charge by the whole Front of the Army.

But I must now leave the Battle and left Wing engaged, to speak of the right Wing: First, where the King in person commanded.

The King at his first advancing, having observed whereabouts in the Imperial left Wing (now opposite to him) the Crabats were marshelled; and where the Curiafiers, who were compleatly armed in black Harness Cap-a-Pee, he calls the Finnish Colonel *Stolhaushe* to him, (as 'tis likely he did other Colonels, as he rode along) and pointing to the Enemy, As for those Fellows, (meaning the Crabats) I care not for them, says *The King*, but Charge me those black Fellows soundly, for they are the men that will undo us. Thus much did *Stolhaushe* himself oftentimes (and at Table) relate unto divers Gentlemen of the English and Scottish Nation; some of which tell the Kings words from *Stolhaushes* mouth this way; Charge me those black Fellows soundly, for 'tis prophesied they shall be the ruine of me. But this word Prophecie, others confess that they heard not.

Anno 1632. The King was designed to fight at the Head of the *Smolanders* Squadron, himself was still the foremost, with his Pistol in one hand, and his Sword in the other. The *Ostro-Goths*, or the *Uplanders* did now advance and charge the Enemy. Perchance these three now got the start, and were something more forward than the three Squadrons of the *Ingermanlanders*; the *West-Goths*, and the *Finlanders*, towards the end of the Wing.

The Courageous-ness of the King.

The Crabats wheeling about upon the Kings Wagons.

Are beaten off by Bulach.

These three Squadrons, indeed, fell not on at the same place with the King, but advanced directly upon the Faces of those three Imperial Regiments of Curiafiers. Nor were they blamed after the Battel for any slackness, or not charging: For that the King (as we told you) had ordered *Stolhaufse* to charge these Curiafiers soundly. And as for *Bulach*, and those Squadrons of his, now placed to the right hand of *Stolhaufse* and his *Fins*, they were in the very beginning of the Encounter so diverted, that they could not charge right forward, as the King expected. And for that, this is the true reason; That Regiment of Crabats in the very end of the Imperial left Wing, did in the very beginning of the Charge, wheel about betwixt the Wood and the end of the Kings right Wing, and there endeavour to fall upon the Swedish Ammunition-Wagons in the Reer of the Army. These Crabats would have made a foul pudder among the Ammunition, and have blown up most of the Powder doubtless, had not *Bulach* had an eye of them. He giving a home Charge upon them, beat them off from the Wagons for the present; but the Swedish Colonel facing about, to return to his own place again, was by the Crabats charged upon the Croops, and put to some disorder. And this Disarray is easie enough to be believed, for that the manner of the Crabats fighting, being but for a spurt, and in no good order: whosoever will answer their Charge, must necessarily do it in disorder too, or else they cannot follow the Crabats, to do any good upon them. And just now fell the Mist again, which did this good in that part of the Battel, that this disorder among the Swedish Horse was not discerned, and so no advantage taken of it.

In this interim, yea, at this instant, it is said the King was slain, it being 11 of the Clock when the Mist fell again.

All this while are the Imperialists Masters of the Kings Body, and of the Ground they had beaten the *Swedes* from. They had the King in their possession, and there they stript him, every man being greedy to get some part of his Spoils, that they might hereafter glory to have taken it from the King of *Sweden*.

Several Reports there went abroad the Army, of the Circumstances of his manner of dying, some relating it one way, and some another; but all with sorrow agree he was slain.

The Noise of the Kings death was presently dispersed abroad; but yet belief was not fully given to it, for that some Prisoners affirmed he was but hurt, and carried in a close Coach, following his white Ensign. The Swedish Prisoners that reported him to be but wounded, were those that were taken so soon as ever he offered to retreat. But that they said he was carried off in his Coach, &c. was their judgment; that being wounded, it was likely he would go off in his Coach, which at first stood behind the White Regiment, but was gone out of the Field when the Crabats fell upon the Kings Wagons.

His death was not certainly known, but to some few of the Great Ones, (no not to those of his own Wing) for 24 hours after: all believing what was, either by Art or Errour, given out, how that he was but carried off wounded.

Car 8. The Kings death concealed from his own Army.

Return we now into the Battel, and to the right Wing again. The Mist that we before told you of, was not (by their own side) judged to be any way prejudicial, but advantageous rather unto the Swedish; seeing that the Imperialists, who had now the better of it, were by the falling of this Mist so arrested, as that they pursued not the Retreat which they had put the Swedish unto. The Rumour likewise of the Kings death, made them so to clutter about the Body, that also staid them.

All this while were the four Foot Brigades of the Swedish Battel, pell-mell at it: And they (even by my *Spaniards* confession) got ground apace of those Imperialists whom they had attacked. And now also did *Stolhaufse* (who certainly had an *Item* given him of the Kings death, or great danger) charge so fiercely towards that very place, that he beat off the Imperialists, and recovered the Body; which he brought off naked, after it had been a full quarter of an hour in the Enemies possession. And now was *Piccolominies* Regiment soundly peppered: The Swedish, both Foot and Horse, after an hours fight, beating all the Imperialists along before them, till they had driven them to the very Gallows behind them. And now did the Swedish get possession of those seven Pieces of Ordnance of *Piccolominies*. These Ordnance were the easier to be taken, for that they plaid not; *Walensteins* Powder-Wagons were by mischance blown up, so that his Cannon were scarce heard of all the day after.

And thus ended the second Charge: For by this time was the Mist become so extraordinary, and by the smoak so thickened, as the *Swedes* could not see how to pursue their advantage; and here was the Mist become as beneficial to the Imperialists, as it had been favourable before unto the Swedish. In this time fell there so terrible an affrightment in the Imperial Army, that 1000 or 1500 Dutch Horse ran all away together. One of them was by a Gentleman of our Nation (then Prisoner in their Rear) over-heard to say: *Oh I know the King of Sweden well enough, I have served him; he is best at the latter end of the day.* But the chief fright was among the Ladies, the Captains Wives, and other Women, then behind the Army. Many Gentlewomen got out of their Coaches, cut asunder the Harnes, and mounted straddlings upon the bare Horse-backs, and away they spurred among the Souldiers. Now went the Waggon-horses and the Ordnance-horses to it, all were ridden away with, divers Women and Children were there troden to death: Nor would the Horsemen turn head, notwithstanding they heard the Charge presently again renewed, and those about the Mills all this time at it, till they were gotten over a Pass, four or five English Miles from the place of Battel. The fright so pursued them, though no body else did, that coming to this Pass, the Officers drew out their Swords, and flast and beat off the Souldiers to give them way to get over. There were at least four or five thousand people of them, and they quartered themselves confusedly up and down in the Villages which the Boors had forsaken: Nor durst they ever return into the Battel. Amongst these was my Author, carried away; from whom I learned it.

After

After a little pause, the Count of *Pappenheim* with his Horse and Dragoons arrived, whom some will needs have to have been in Person at the beginning of the Battel: By his coming was the Charge thereabouts renewed. He put himself into the Imperial left Wing, (which was most distressed, and which had been reserved for him:) to be opposite to the Swedish right Wing, where he supposed the King in Person had commanded. Just as he was ordering his Horse, he was struck with a Bullet of a Falconet, or small Sling-piece, about the shoulder, of which he died presently; even so soon as he was taken down from his Horse, to have been carried into *Leipsich*. This was a brave fighting Gentleman, whose Body was by *Walenstein* carried into *Prague*; where it was to be seen publicly. The Emperour (as a little *French Relation* affirmeth) had newly sent the Collar of the *Golden Fleece* unto him and *Walenstein*: Which honour before ever he received, he was, in the place where he should have worn his Order, thus dubbed with a Sling-piece. He had made his Will a little before, had Shriven himself, and Communicated at a dry Mass; and made this short Testament upon it; His Soul he commended to God, his Body (if he were slain) to the Emperour, and his Wife and Children unto *Walenstein*.

He being shot, his Officers flocking about him, were heard to cry, *Oh! our General is slain*: Immediately whereupon his Horse turned head, and ran out of the Battel without stroke striking, back again towards the *Weser*, and the Lower *Saxony*.

But the *Walensteiners*, whom *Pappenheim's* coming had set on, fell to it closely: *Piccolomini* advanced, and *Terfisa* with their Cavalry; and the Foot-Regiments seconded them with extremity of resolution. And now began the sorest, the longest, and the obstinatest Conflict, that had been since the King was killed. The Charge was sustained by the Swedish with much Gallantry, and never was Battel better fought: Nor seldom have Battalions ever stood, amongst whom so much spoil hath been committed. Full two hours were they in hot Battel. On the Imperial side was *Piccolomini* twice or thrice shot, Sergeant Major *Brunner* slain, and so was a young Count of *Walenstein*. The Abbot *Fulda* was at this Charge also slain. And think then how many Officers and Common Souldiers was it likely that these Great Commanders did take along to wait upon them to the next World.

On the *Swedes* side, the chief of the spoil light upon the two middlemost Brigades of Foot belonging unto *Grave Neels*, and Colonel *Winckles*. The Imperialists charged with so much fury, and with Battalions of two or three thousand in a Regiment, that they by force drove the Swedish to the Retreat in the plain Field, and (as the most say) even then recovered their seven Pieces of Ordnance. *Grave Neels*, Colonel of the Life-guards (which is the Yellow Regiment) was there shot a little above the knee, of which, being carried off spoiled, he after died. Out of this Brigade did the Imperialists carry away seven Colours; and to tell the truth, the Kings own Company, which served here among the Guards, lost their own Ensign or Standard-Royal too. He that had carried the Colours, was after seen with his Sword in his hand, but his Clout was missing.

Colonel *Winckles* Blew Regiment likewise found as hard treatment. Himself (brave man)

was shot in the Arm a little above the Elbow, and in the hand, and carried out of the Battel. His Lieutenant, *Caspar Wolff*, was slain upon the place, and most of his Colours taken. These two Brigades were of the Flower of the Army; old Souldiers of seven or eight years service, (the most of them) and whom the King had there placed, for that he most relied on them. These old Blades stood to their Arms stoutly; and the adverse Writers confess, that their dead bodies now recovered the same ground, which living they had defended. These were old beaten Souldiers indeed, but it was so long since they had been last beaten, that they had by this time forgotten to run away. This is the reason they were so shattered; that when, towards night, they were to have fallen on again, both these Brigades put together, could not make one Squadron strong, which is but the third part of one of them.

The *Swedes* Brigade fared something better, because near unto the Horse: And yet there came not above four hundred off, alive or unwounded. Duke *Bernard's* Brigade was something more out of Gun-shot, for that they were next the Horse of the left Wing. Yet here was Colonel *Wildesten* shot in the Breast, of which he after died: Duke *Bernard*, Lieutenant Col. *Winkler* being slain upon the place. In this sore bickering, the spoil, on the Imperial side, fell mostly upon old *Bruners* and young *Walensteins* Regiments, both which were here killed, with full half, if not two thirds of the Souldiers. These Regiments performed their duties so valiantly, and *Walenstein* himself took such special notice of them, that he a long time after (if not still) maintained them in his own house at *Prague* for it. *Henderson's* Reserve of Foot in the mean time had also their share in the knocking: One of the Offices and Uses of the Reserve, being still to supply and second where most need is, with fresh men to dearn up the holes, and stop up the gaps of the slaughtered. And whereas those four Brigades of the Van had so terribly been shattered, General-Major *Kniphausen* had out of his care sent up these two Brigades of the Count of *Thurn*, and the Colonel *Mitzlaff* to relieve them. After a while, he sent them up those four Squadrons of Horse, who so well (altogether) restored the Encounter, that the Imperialists began to give ground; which the *Swedes* so far pursued, till they had recovered the seven Pieces again, and four others at the left hand of them.

Look we now aside, to see what was done in the Reer, and left Wing, by *Kniphausen* and Duke *Bernard*. General Major *Kniphausen* having sent two Brigades of his four, and four Squadrons of Horse to the relief of the Vantguard, sent also his other two Horse-Squadrons, commanded by the Prince of *Anhalt*, and the Lieutenant of Baron *Hoffkirch*, unto Duke *Bernard*. As for the other two Brigades of Foot, (his own and *Bosens*) together with *Oems* his Reserve of Horse, these did *Kniphausen* still keep by him in the Reer of the Battel.

Duke *Bernard* had as hard a Chapter of it, as any man against the Imperialists right Wing, at the Wind-Mills, and (surely) had the most Renowned *Don Quixot* been there, there had been exercise enough for his Valour at these Wind-Mills. Soberly, this was the hardest Post for advantage of situation, all the Field over: And Count *Colorado* as well maintained it against him. Never man did more gallantly behave himself (as is avoucht) for at first and last, in this and other

Anno 1632. places, he charged several times, one after another. And *Coloredo* gave Duke *Bernard* leave to charge all: He had so good an advantage of the two Ditches and the Wind-Mills, that he would not scarce offer upon Duke *Bernard*.

The brave young Duke, pressing on in the beginning of the fight, had set the Town of *Lutzen* on fire: His Reason being, that seeing if he would get the Wind-Mills, he must with the end of his Wing even touch (as it were) the very Walls of the Town. Should *Coloredo* then have first filled those Walls with Musquetiers, they must needs have so sorely galled his Horsemen, that there had been no coming near, nor could Horse and Pistols have done any service against Walls and Musquetiers. In one of these Charges, did *Coloredo* so Thunder upon Duke *Bernard*, that the valiant Prince thought it not unsouldier-like-done to shelter himself behind the Millers House.

At this time (as we told you) did Major *Kniphausen* keep his two Brigades, and *Oems* his Reserve together uningaged; doing no more with them, than fair and softly advance them towards the Enemy; at such a time as he saw the Brigades of the Van to get any ground of them. The distance of his Reer from Front was about six hundred paces; and that scantling he still kept himself behind the other. This was no small occasion of the winning of the Battel; seeing that so often as any of the Van were disordered, and put to the Retreat; they with him, still find a whole great Body together, unbroken, by the sight of which they resumed new courage, and were set in order again.

And very glad was Duke *Bernard*, when in the next breaking up of the Mist, he came and found *Kniphausen* in so good order; whom (as he openly professed) he feared to have found all to pieces. For now, betwixt three and four of the Clock (which was not long before Sun-set) did the Mist break up; and there was a fair half hour after it. At which time Duke *Bernard* going abroad, to over-view the posture and countenance of the Army: (which since his hearing of the Kings Death, the Mist and Smoak had not suffered him to discover any thing of) he came now along by the Battel unto the right Wing, speaking to the Officers and Souldiers, and encouraging them to a New On-set: plainly he found the whole Army (except *Kniphausens* part) in no very good order; which he and *Kniphausen* (who took much good pains likewise about it) did their best to reduce them to. When the word was given for a new Charge, *Alas Comrade*, (said the poor Souldiers one to another) *must we fall on again? Come* says the other, (embracing him) *Courage; if we must, let us do it bravely, and make a day on't*. As Duke *Bernard* was leading on, The Imperial Generalissimo sent his two Colonels, *Perfeca* and *Piccolomini*, to discover in that clear weather what the *Swedes* were a doing: who brought his Excellency word again, that they were rallied about the Wood, and in very good order advancing towards him.

This (no doubt) made the Imperialist's Heart quake to think upon the Terroure of a fourth Charge. And now could the *Swedes* discover the Imperial Horse retreating in indifferent good order towards the Wind-Mills: whereupon they bringing forwards Ten Pieces of Canon, and turning those likewise upon them which were before taken; they gave the Imperial Horse such a Rousing *Salve* of Great Ordnance, and charged

so upon it, that they put them into disorder. And here (as my *Spanish* Relator says) did the Generalissimo light upon a slight fillip by a favourable Musquet-Bullet, which made no wound, but left a Blew Remembrance only upon him.

And now were the Imperialists beaten round about, even to the very Wind-Mills; The *Swedes* being Masters of the ground that they shouldered the others out of. But just now, a little before Sun-set, fell the fatal Mist again; which so hastened on the Night, that the *Swedes* could not well see which way to pursue their Enemies. Duke *Bernard* in his coming back, was thus heard to say, *Merciful God! but for this Mist, we had even now gotten the victory*. Hence went he back over all the Battalions to his own Post again, to which he now perceived the Imperialists to be making.

And now by Sun-setting was all the Field clear of the Imperialists, excepting only about the Wind-Mills: and there plainly were both *Coloredoes* and Duke *Bernard's* Men slain off one from another, like two Duellers leaning on their Swords to break Breath again. Certainly they had so banged one another, that neither of both were in order; but either Party shot at adventure right forward, and let the Bullet find his own way, as it could, through that Night of Smoak and Mistiness. Those Musquetiers which (we told you) were lodged in the Mud-walled Gardens, were seen to give fire continually, but no men to be discerned. And the *Swedes* at adventure shot at them again; and as at Night they got ground, they stormed into the Gardens, as if they had been so many Castles. Here the next day many were found dead, 300 in one of them.

And just in the Edge of the Evening, when the *Swedish* well hoped all had been finished; had Duke *Bernard* fresh word brought him, that *Pappenheim's* Foot were even now arrived from *Hall*, and were beginning a Fresh Charge about the Wind-Mills. Thus ran the word over the Army, *Pappenheim's* Foot are come, *Pappenheim's* Foot are come. This the *Swedish* believed.

Now was all the Service (after half an hours silence on both sides) turned into the Wind-Mills. The Imperialists Courage, like the Throws of a dying Body, struggled hard at the last cast, for Life; and made for the first time as fierce a Charge of it, as any had the day before passed. To withstand this now, does *Kniphausen* bring his second fresh Brigades; with whom are the other two of *Thurns* and *Mitzlaffs* conjoined, that he had before sent to the Relief of the Vant^g guard; which indeed had not so cruelly been shattered. Now also Duke *Bernard* Rallying all the Horse together, advanced to the Charge. The Imperialists had anew put down some Musquetiers into the Cross Ditch or Boundary of Lands, which not a little troubled the *Swedish*. Once or twice did they offer to force that Trench, and to storm over it: But it was so troublesome and dangerous in the dark, that they did but over-tumble one another, and were fain to keep on the other side of it to bring on some Musquetiers, and from thence to give their Volleys. The best of it was, that it was not above 100 paces distant from the High-way, close behind which the Imperialists were ranged. That which most galled the Imperialists, was the *Swedish* Ordnance, which on the Right-hand-Flank of them, and on the nearer side of the High-way, were now turned upon them. This most cruel and hot fight continued till about five a Clock in the Evening, much about which

which time the *Walssteiners*, or *Pappenheimers*, or both together fell off in the dark, and gave it quite over.

This year dyed *Sigismund* King of *Poland*, *Gustaphus Adolphus* King of *Sweden*, slain in the great Battel of *Lutzen*, but now described, and *Fredrick* King of *Bohemia* of the Infection at *Mentz*.

And now died also the Emperours Great General *Wallenstein*, who was slain in his Bed-Chamber at *Egra* in *Bohemia*, for that he practised against the Emperour and Empire, intending to divide *Stakes* with the *Swede*: This being discovered to the Emperour, he assures himself first of *Prague* the Capital City of *Bohemia*; after this he was by two *Scotch* Commanders, *Gorden* and *Lesly*, and *Butler* an *Irish* Man assaulted as he was going to Bed, where the last mentioned ran him through with a *Partizan*, and threw (so some say) his dead Body into the Streets: He was the Son of a Baron in *Bohemia*, and his Religion Protestant; but being afterwards entertain'd as a Page to the Marquels of *Burgh*, Son to the Arch-Duke *Ferdinand* of *Insprack*, he turn'd *Romanist*; and at the first breaking out of the Troubles in *Bohemia* he was employed by the Emperour, and defeated 6000 *Hungarians* with fifteen Troops of Horse, which first signaliz'd him; afterwards his Reputation was advanced by his Conquest, of the Town and Countrey of *Halberstadt*, *Hall*, and its Bishoprick, by the entire defeat of *Bethlem-Gabor* and *Mansfield* at *Novograde*, &c. But his Ambition and Treachery at last brought him to the untimely end but now spoken of.

The Beginning of this year, the King took his Progress into his Native Kingdom of *Scotland* accompanied by a Numerous Train of Nobles.

And for the well-ordering his Majesties Train in this Progress, a Proclamation was issued out May the 5th. pursuant hereto, and another in Reference to the Prizes of Provisions, within the Verge of the Household.

A Proclamation for well-ordering His Majesties Court and Train in his Journey to Scotland and Return thence.

THE Kings Majesty having taken into his Princely Consideration some Inconveniences, which may fall out and happen in his intended Journey towards his Kingdom of *Scotland*, if present care be not had to prevent the same, hath thought fit, by advice of his Privy Council to publish and declare: That his Royal Pleasure and Command is, that none of his Subjects of what Degree or Quality soever they be, during the time of his Majesties going and returning in the said Journey, shall presume within the Verge of his Majesties Court, to take up or possess themselves of any Lodging, of their own private Authority, but shall first receive a Billet from his Majesties Harbingers, or some of them. And his Majesty being graciously pleased, and providently careful to prevent such Grievances, which may in this Journey happen to his loving Subjects, doth likewise hereby straightly charge and command, that none of his Majesties Servants, nor the Servants of any Noblemen, or others whatsoever, shall in the said Journey presume to take any Cart or Carts, but such as shall be delivered unto him, or them

by some of his Majesties Cart-takers, or their Deputies: And lastly, his Majesty's further Will and Pleasure is, that this his Royal Proclamation, and the Directions hereby given and commanded, shall likewise continue and remain in force for his Majesties Service, and the good of his Subjects, in all other his Majesties future Journeys and Progresses whatsoever, the due observing whereof his Majesty expects from all his loving Subjects, as they tender his Pleasure, and will avoid the contrary at their Perils.

A Proclamation concerning the Prizes of Victuals within the Verge of his Majesties Household.

THAT whereas in his Majesties Progress through divers parts of the Realm, necessity requires, that a great number of his Majesties Subjects, not only Noblemen, but others, attending his Service, and others for their necessary Occasions, should frequent those places, where the King in His Royal Person shall resort; and it is therefore requisite that Compendious Provisions be made, that they be not exposed to the intolerable Avarice of Bakers, Brewers, Inholders, Butchers, and Sellers of Victuals, who do ordinarily unlawfully exact and demand unreasonable and extream Prizes for Victuals, Horse-meat, Lodging, &c. above the Prizes they were sold at before the Kings coming into those Parts: Therefore His Majesty doth Publish and Command, that all Persons do keep such Prizes as are and shall be Assessed and Rated by the Clerk of the Market of the Kings Household, or his Lawful Deputy, within and without their Liberties, upon the Presentment of Jurors, by vertue of his Office Sworn and Charged from time to time.

In his Journey he was entertained by several of the Nobility very magnificently: The next year by the Earl of *Newcastle* in *Derbyshire* at *Belpoyr* Castle, and not as some have wrote at *Welbeck*; and in this year afterwards, his Majesty passed on for *York*, where his Reception on the way every where was Princely and stately: He made a short stay at *York*, and thence came to *Ruby* Castle, the House of *Sir Henry Vane*, where his Majesty was treated by *Sir Henry*, then his Servant; thence he went on for *Durham*, where *Doctor Morton*, Lord Bishop of the Diocese, several days entertain'd the King and Nobility; as his Majesty likewise was at *Newcastle* by the Mayor and Government there: And so on the second of *June* he arrived at *Berwick* upon *Twede*, where the Recorder, *Mr. Widdrington*, entertain'd his Majesty with the Speech following.

Most Gracious and Dread Sovereign.

WHAT the Noise of useless and obsolete Canons, what these strong yet desolate Walls, what the Reliques of sometimes warlike Souldiers, what the Ruines of a poor, yet ancient Burrough, what all those would say, (if they could say any thing) and what all we your Majesties humblest and meanest Subjects desire to express with an unanimous and chearful Acclamation, is no more but this, That your Majesties Presence doth now bring as much Joy

Concerning the Prizes of Victuals within the Verge of his Majesties Household.

June the 2
Mr. Widdringtons Speech to the King at Berwick, in his Progress to Scotland, being Recorder of that Town.

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and Comfort to us all, as ever the loss of this Town of *Berwick* brought sorrow to the *English* or *Scottish* Nation.

It were unreasonable for us to represent to your Majesties view, the Gloomy Cloud of our Pressures and wants: No I need not do it; the Mite we are to cast into your Majesties *Treasury* will quickly tell you them; We cannot do it, for that Cloud is suddenly vanished by the Radiant Beams of your Sun-like appearance. By whose approach these Rusty Ordnances, these Solitary Walls, these Souldiers, this now despicable Town, have all instantly received their former Life, Luster, and Vigour; and hence we are induced to think, that this Year (being the Year of your Majesties most Royal Progress) is likewise the Year dreamed on by *Plato*, wherein all things were to return to their former Life, Splendor and Excellency.

You have in Your Majesties Eye the Representative Body of the poor Town of *Berwick*, yet a Town (for *Fuimus Troes*) that hath been the Delight, nay the Ransom of Kings, a true *Helena*, for which many bloody Battels have been fought, lost, and regained several times, within the compass of one Century of Years. A Town the strongest Fortrefs of both your Majesties most flourishing Kingdoms, yet upon each discord and dissention, banded as a Ball between them; if held in the Hands of one, then tossed by the other Kingdom; a Ball that never found rest until the happy Union.

A Town at this day as useless, as Arms in time of Peace, yet may serve for Your Majesty to cast your Eye upon, as a little Map of both your great Kingdoms, as a participating of the nature of both, yet doubtful whether most beyond the ordinary Limits of the one, and without the Jurisdiction of the other Kingdom, but conspicuous in the Eye of both.

A Town neither wholly regulated by *English* or *Scottish* Laws, but by Customs and Usages in some things different from both; yet rather inclined to *English* Laws, and more affecting *Scottish* Fashions and Language, as being oftner saluted by the Rescripts of the one, and seeing and hearing oftner the other.

Although now *English*, and so hath continued since the time of King *Edw. 4.* yet such is our distance from the Center of the Kingdom, that the Lines of those Felicities now enjoyed by that Kingdom, by your Majesties happy Government and Residence there, do not so happily Concenter in us.

We well know (as indeed who knoweth not) that Royal Blood running in your Majesties Veins, to be Extracted from the most Renowned Kings of both these Kingdoms, and by those Kings, (Most Dread Sovereign) especially by your Royal Father of ever blessed and happy memory, hath this Town, though in the Skirts of either Kingdom, been richly Imbroidered, with many Priviledges, Franchises, and Immunities: And therefore we doubt not but your Majesty, in whom each Man may behold the Worth of all your Ancestors, you being no less Rightful Inheritor of their Vertues, than of their Crowns, will graciously maintain what they have most benignly granted.

But few words are best to be used to Kings, especially when they are spoken by an unskilful Orator. We dare boldly say, (Most Gracious and Mighty King) that our Hearts are better than our Tongues, being most of all unhappy

in this, that they are linked with so bad Expressions.

Yet we hope that your Majesty may see in our Countenances, what you hear not so fully expressed by our Tongues; We humbly crave your free Pardon of the one, and your Gracious Interpretation of the other.

Your Majesty is now going to place a *Diadem* upon your most Sacred Head, which God and your own Right have long since given into your Hands.

Our humble Prayers are, that not only that, but all your other Crowns, may be unto your Majesty Crowns of Roses, without the mixture of any Thorns.

And we most affectionately wish, that the Throne of King *Charles* the Great, and wise Son of our Brittish *Solomon*, may be like that of King *David*, the Father of *Solomon*, established before the Lord for ever.

And now we come to the Bound-Road near *Berwick*, where his Majesty was met and received by the Nobility of *Scotland*, and by the Gentry of *Theviot-Dale*, and *Lothian*: Amongst these there was a Troop of 600 well mounted in green Sattin Doublets, and white Taffata Scarfs, who were Gentlemen, and Dependents, relating to the Earl of *Hume*, at whose house at *Dunglas* his Majesty lay that night at his own charge, for that there was a Controversie then depending in Law about the Estate.

Upon *Thursday* the 13th of *June*, he came from *Dunglas* to *Seaton*, an House of the Earl of *Wintons*, where he was entertained by the Earl, and stay'd there till *Friday* the 14th of *June* after Dinner.

From thence he went to *Dalketh*, a House then belonging to the Earl of *Morton*, (afterwards to the Crown) Lord High Treasurer of *Scotland*, where he was also sumptuously entertained by his Lordship that night, and the next day at Dinner.

June 15. his Majesty passed on from *Dalketh* to *Edinburgh*, entering at the *West Port*, where his Majesty was presented with the Keys by the Lord Provost, Aldermen, and Bayliffs in their Scarlet Robes: these, with others of the Council of that City, to the number of 13 score, counting in the young men, who clad in white Sattin Doublets, black Velvet Breeches, and with white Silk Stockins, bearing Partizans in their hands, attended his Majesty, the Train-bands of the City, &c. (as Mr. *Rushworth* gives us the Relation) being ranged on each side the Streets through which his Majesty passed. There were great Acclamations of the people, being entertained with Elegant Speeches at five several Pageants; viz. 1. At the said *West-Port*; 2. At the *West-bow*; 3. At the Old *Tolbooth*; the 4. At the *Trone*, and the 5. At the nether *Bow*. The Ceremony of that Pageant at the *Tolbooth*, there was represented in Effigie the whole Kings in order that had Reigned in *Scotland* since the Monarchy of that Kingdom, even from *Fergus* the first, who himself was represented therein, making a Prophetical Oration of all his Successors till *Charles* the First, the 108 King, and added, that as Heaven had propitiously maintained the successive Sovereignty from him to *Charles*, so he predicted, that as many should succeed his Successors, as he had preceding Monarchs of this Kingdom; besides, there were several witty Speeches in Verse. 1. Called the Speech of *Caledonia*, representing the

the Kingdom. 2. The Song of the *Muses* at *Parnassus*. 3. The Speeches at the *Horoscopol Pageant* by the Planets, where first *Endymion* speaks, then *Saturn, Jove, Mars, Sun, Venus, Mercury, Moon*; and last again *Endymion* closes the Ceremony, all printed amongst the Poems of Mr. *William Drummond of Haythernden*.

The *Scotch Nobility* rid down the Streets, according to their Degrees, in Order of Parliament; next to them the Hoods, the Sword, Scepter, and Crown; immediately after the Kings Person, the *English Nobility* according to their several Ranks and Degrees; his Majesty lighting at the *Abbey Church-door*, where Mr. *Andrew Ramsay*, a Minister of the City, made a very learned Oration to him in *Latin*. And from thence he went to his Palace of *Hallyrood-house*.

June 16 being Sunday, he heard a Sermon at the *Chappel Royal*.

June 17 It being Monday, after Dinner His Majesty publicly created the Earl of *Angus* Marquess of *Douglas*, and Chancellor *Hay* Earl of *Kinnoul*, and presently after went in his Coach to the Castle of *Edinburgh*, and there was worthily entertained that Night by the Earl of *Marr* Governour of the Castle.

The 18 of June, being Tuesday, was the Kings Coronation-Day, where all his Noble Officers of State attended the Kings Majesty in their Robes from the Castle to the *Abbey-Church*, according to their Degrees, and the Honours, Vest, Sword, Scepter and Crown carried after the accustomed manner, lighting at the Church-door, and assuming their respective Places, a Sermon was preached by *David Lindsay* then Bishop of *Brechin* upon these words, 1 Kings 1. 39. And all the People said God save King Solomon,

After Sermon they proceeded to the Coronation, attended with all the usual Ceremonies thereof. It was observed (saith the forementioned Author) that Dr. *Lawd*, then Bishop of *London*, who attended the King, (being a Stranger, yet a Privy Councillor of *Scotland*) was high in his Carriage, taking upon him the order and managing of the Ceremonies and Coronation; and for an Instance, *Spotswood* Archbishop of *St. Andrews*, being placed at the Kings Right Hand, and *Lindsay* then Archbishop of *Glasgow* at his Left, Bishop *Lawd* took *Glasgow* and thrust him from the King with these words, are you a Church-man and wants the Coat of your Order? which was an Imbroidered Coat, and that he scrupled to wear; (no doubt being Antichristian and Superstitious) and for that he is termed a moderate Church-man) and in place of him put in the Bishop of *Rosse* at the Kings left Hand; Thus on all occasions is that Prelate presented by that Author.

At this time (saith he) the Lords and Nobles of *Scotland*, seemed to stand well and equally in the Kings Favour till after the Parliament, (very true, for their perfidious actions were then, smothered but afterwards broke out and appeared, especially the Duke of *Lenox*, and the Marquess of *Hamilton*.)

June the 19. Wednesday, was a day of Rest, The Bands of the City Disciplin'd in the Palace-yard before the King and his Nobles.

June the 20. Thursday, the Parliament rode in order from the Kings Palace to the Parliament-house, the Honours carried, and all Ceremonies observed, as was accustomed. *Spotswood* Archbishop of *St. Andrews* Preached; the King

made his Speech, and the Parliament proceeded to chuse the Lords and Members of the Articles, according to their usual manner; The Bishops being to nominate the Temporal Lords, there were Elected Three Lords suspected to be Popish. These Lords and Members of the Articles consisting of Eight of the Clergy, Eight of the Nobility, and Eight Barons, and Eight Burgeses. The manner of Election was thus:

1. The Noble Men Elect Clergy.
2. The Clergy Elect and Chuse the Noblemen.

3. The Elect Clergy and Noblemen chuse the Barons.

4. The Elect Clergy, Nobility and Barons, chose the Burgeses. Besides the Officers of State make up that Body which devise, contrive, and form all Acts that are to pass in Parliament; and being so presented, are passed without difficulty. These Members of the Articles convened daily, till the 28. day of June; and in the general, what the King proposed was granted: And on Friday the 28. of June, the whole Parliament met, and passed the several Acts which the Articles had so prepared, being 31. publick printed Acts, besides 176. private Acts not printed; such as respect particular persons and things, are promiscuously Titled Acts, Protestations, Ratifications, Commissions, &c.

The 1. and 21. Acts gave the King very great sums of Money; viz. The one a Subsidy or Taxation of Thirty Shillings of every Pound-Land of old Extent for six years to be paid at every Term of *Martimas*, and also the 16 peny of all Annual Rents, or Interest of Money, (the same being then at 10 l. per Cent.) and that for the like space of six years to be paid Termly at *Whitsontide* and *Martimas* equally during that time.

The other Act reduced the Interest of 10 l. per Cent. to 8 l. to be observed as a Law amongst the Lieges; but in consideration thereof, the King was to have 2 l. out of the 10 l. formerly paid, and that for the space of three years: All these made a very great Taxation; And who reaped the benefit thereof, whether the Kings Countrymen, the *Scottish Nobility*, or his Majesty, will afterwards appear, and particularly hereby their gratitude to their natural, courteous, and good Prince; which will presently appear, for that the Clouds began to arise in that Northern Horizon, which afterwards raised a Tempest in the whole Island.

In this Parliament there was little or no difference, except in what related to two Acts, viz. third and fourth; the one entituled, an Act against his Majesties Royal Prerogative, and Apparel of *Kirkmen*: The other, an Act of Ratification of the Acts touching Religion.

As to the former of these Acts, several Noblemen and others were not pleased to have the Apparel of *Kirkmen* joyned with the Prerogative, suspecting the *Surplice* to be intended; (so sagacious some of the *Scotch Nobility* then were, though then this Law of *K. James* was in force) and the King being asked that Question, made no answer: But this Circumstance was observed (saith Mr. *Rushworth*) of him, that he took a List of the whole Members out of his Pocket, and said, Gentlemen, I have all your Names here, and I'll know who will do me service, and who will not, this day. However about thirteen Noble-men, and as many Barons and Burgeses declared, that they agreed to the Act for his Majesties Prerogative, but dissented from that part of it, as to the

the Apparel of *Kirkmen*; and these were afterwards the prime Ring-leaders in the Covenant, and the Rebellion which followed it.

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And indeed at this Parliament, it was as Mr. *Sanderson* hath well noted, that the King first found the first sparks of a discontented Party of the Nobility of that Kingdom, by their most eager opposing of an Act of Parliament, giving full Power and Authority to his Father King *James*, to ordain and appoint any Habit for the Clergy and Judges; and this was still in force: The first and most eager man who appear'd herein, is said to be the Lord *London*, then a young Man, and of a small Estate, which in the guess of some men might put him forward for new Acquisitions; he was lately come from their University, somewhat resembling the *Schola Illustres* beyond Sea, our *Westminster* and *Katon* Schools at home; however power they had to confer Degrees, and a Master of Arts he was in their Calculation; a Defendant Lord he was, faith the forementioned Author, and of a cavilling contradictory nature, that nothing could seem so positive to him by Reason, as his own Opinion; and therefore as if he had been in their Logick School, he argues in the Parliament-House, lays about him in a Scholastick form and way, brings his distinctions and School-forms thus; *Duplici questioni non potest dari una responsio, ita est*; after he disputes in Syllogismes, in Mode and Figure, then sits down, and challenges any man to answer him, in this manner, *Responde, Perge, Urge, Punge*. His Majesty wondering at his bold and strange behaviour, calmly told him, that the Order of that House was not to dispute in that manner, but that he might speak his Opinion, and after give his voice, Yea or Nay, as their manner is; which I do, said he presently, *Negative*; and so sat down in great heat. However it was carried for the Ratification of the former Act by far the greater number of Votes; which this young Noble-man not satisfied with, he again stands up, and questioneth the Register; by great contest, and in much passion, compels the number of Voices, yet all (he sees) in vain. And thus much for his Character in this place, you will hear more of him hereafter.

The King said, during the heat of the Contest, My Lords, I will have no distinctions, but I command you to say *I*, or *No*. Upon which those Lords, and others before-mentioned, declared themselves particularly, that they did dissent from that Act as it was conceived; as to the other Act annent Religion, the same dissenting Lords and Gentlemen declared, that they agreed to the Ratification of the Laws annent the true Protestant Religion, as it was established in Doctrine, and an Act of this nature passed in King *James* the Sixth of his Reign, his Majesties Royal Father, when *Archbishops*, *Bishops*, &c. were opposed, but now they were governing and included, therefore they dissented from that part; and being again commanded to say *I*, or *No*, the said Nobles and others dissented as formerly.

Amongst the *Peers* that dissented were *John* Earl of *Roths*, *John* Earl of *Cassils*, *William* Earl of *Lothian*, and the Lords *Lindsey*, *Porplichin*, *Sinclair*, *Balmerino*, *Cooper*, *Tester*, and four more. The Passing of the Act concerning Ecclesiastical Habits, did much perplex the Dissenting Lords and others, which occasioned some of them to

divulge a scandalous Libel reflecting upon his Majesty, wherein was contained this Reflection, *How grievous a thing it was for a King in that place, by making of the Subjects Votes, to Over-awe his Parliament: And that the same was a breach of Privilege*: A Prelude to what followed in both Kingdoms, &c. This Libel, as afterwards appeared, was made by one *William Hagg*, who fled for it; but being found in the Custody of the Lord *Balmerino*, a person who owed whatever he enjoyed to the Kings mercy, that Lord, by the advice of the Loyal Nobility, and others of the Privy Council, was in a Court of his *Peers* found guilty of concealing Treason, and therefore condemned to lose his Head, but afterwards pardoned by his Majesty; for which afterwards how well he requited his Majesty, shall in the sequel appear.

The Parliament being Dissolved upon Friday the said 28. day of June, the King stayed two days, and observed the Factious with an unfavourable Aspect.

Upon Monday the first of July, the King takes his Progress to his Palace at *Linlithgow*; Tuesday the second to *Strivling*, being presented with Plate by each *Provost*, one of whom being a notorious Stickler, was not admitted to kiss his Hand.

Upon the third he went to *Dumfermlin*, and Thursday the fourth to *Falkland*. The Nobility and Gentry of *Fife* having prepared a Treat for his Majesty, but that many of them being disaffected to his Majesty, he was pleased to take another way, and avoided giving them any countenance.

Friday and Saturday the sixth and seventh, the King hunted in his Park of *Falkland*, and there, every Sunday, *Maxwell*, Bishop of *Ross*, preached before his Majesty.

Monday the eighth the King went to *S. Johnston*, and was Nobly entertained by the Earl of *Kinoul* (then Lord *High-Chancellor*) that night at Supper, and the next day at Dinner, and returned from *Scoon* to *Falkland*.

Wednesday the tenth, there had like to have happened a sad accident, the King with his Nobles and Retinue took Boat at *Brunt-Island* to come to *Leith* (being seven Miles over) in a calm Season about the mid-day. Presently after the Boats put to Sea, arose a violent Storm and Tempest, (though none at Land) to the great hazard of his Majesty, the King passing to a Ship, a Man of War of his in the Road, with much difficulty weathered it, quit his former Boat, and took the Ship and Boat to *Leith*, and there Landed after great danger; one of the Boats in the Kings Presence being over-set, and turned over, perished with the Kings Plate, and near twenty persons, of which number were one *Lewis Somervell* and *Alexander Naper*, who had the charge of the Silver Plate and Vessels, and three persons were saved sitting upon the Keile coming in to Shoar upmost.

Thursday the eleventh, the King staid at his Palace of *Hallyrood-house*.

Upon Friday the twelfth, he went to *Dalkeith*, where he stayed that night.

Upon Saturday after Dinner he went to *Seaton-house*, stayed that night and Sabbath-day.

Munday after Dinner he went from *Seaton* to *Innerwick*, an House of *James Maxwell*, after Earl of *Dirlington*, and was richly entertained.

Tuesday

Tuesday His Majesty and Train went from *In-*
Anno *newick* to *Barwick*, &c.

Anno *newrick to Barwick, &c.*
1633. It may not perhaps be amiss to give you the
Grievances of the *Presbyterian* Ministers, Pre-
sented at *Dalkeith* to the Clerk of the *Articles*,
and by him, to the Lords of the *Articles*, though
they being vain and frivolous, they were rejected,
and never thought fit to be prepared in Parlia-
ment. They were Presented by one *Hogge*, as he
styles himself, Minister of the *Evangel*. and here
follow.

Grievances and Petitions concerning the dis-
ordered Estate of the Reformed Kirk with-
in this Realm of Scotland, Presented up-
on the 29th. day of May, 1633. by me
Mr. Thomas Hogge Minister of the E-
vangel, in mine own Name, and in the
Name of others of the Ministry likewise
grieved, to Sir John Hay Clerk of Regi-
ster, to be Presented by him to such a Court,
according to the Order appointed to consider
them, that thereafter they may be present-
ed to his Majesty and Estate, which are
to be Assembled at the next ensuing Parlia-
ment.

THE opportunity of this solemn meeting of
your gracious Majesty, and the honourable
Estates convened in this High Court of Parlia-
ment, and the Conscience of our Duty to God
and the Reformed Kirk within this Realm of
Scotland, where we serve by our Ministry, con-
strains us to present in all humility to your High-
ness and Estates presently Assembled, those our
just Grievances and reasonable Petitions follow-
ing :

1. Albeit Vote in Parliament was not absolutely granted to Ministers provided to Prelacies, but only upon such conditions as his Highness of happy memory, and the general Assemblies of the Kirk should agree upon, which is evident by the remit and provision expressed in the Act of Parliament holden at *Edinburgh* in September 1597. And albeit the manner of their Election and Admission to the Office of Commissary, and the particular conditions and Cautions to be observed by Ministers Vote in Parliament in name of the Kirk after long disputation, were agreed upon by his Majesty present in Person, and the general Assembly, and were appointed by them to be insert in the body of the Act of Parliament, which was to be made concerning that purpose. Some Ministers notwithstanding have been, and are admitted to Vote in Parliament, in name of the Kirk, as absolutely, as if the Act of Parliament did contain no such reference, and as if his Majesty with the general Assembly had not agreed upon the manner of their Election and Admission to that Office, or upon any limitations; whereby the Kirk hath sustained great hurt and prejudice in her Liberties and Priviledges, and specially by their frequent transgressing the first of the Conditions, although grounded upon the very Law of Nature and Nations. *That nothing be proponed by*

them in Parliament, Council; or Convention in the name of the Kirk without express Warrant and direction from the Kirk, under the pain of deposition from their Office; Neither shall they keep silence, nor consent in any of the said Conventions to any thing that may be prejudicial to the Liberty and Weal of the Kirk, under the said pain.) And the second, That they shall be bound at every general Assembly to give account anent the discharging of their Commission since the Assembly preceding, and shall submit themselves to their Censure, and stand to their determination whatsoever without Appellation, and shall seek and obtain Ratification of their doings at the said Assembly under the pain of Infamy and Excommunication. Therefore our humble Supplication is, that the execution of the Acts of Parliament of matters belonging to the Kirk, to which they have Voted in the name of the Kirk, without any authority or allowance from the general Assemblies of the Kirk, be suspended, till the Kirk be heard, and that in time coming Ministers have no otherwise Vote in Parliament, but according to the provision of the Act of Parliament, and the order of their entry to the Office of that Commissioners and Limitation foresaid agreed upon, as said is.

2. Seeing Ratifications
of Acts and Constitutions
of the Kirk cannot be con-
sidered to be a benefit or fa-
vour to the Kirk, unless
the Ratifications pass ac-
cording to the meaning of
the Kirk, and the Tenour
of the said Acts and Con-
stitutions, without Omis-
sion, Addition, or Altera-
tion of Clauses, Articles,
or Words of importance

‘ and that in the Ratification of the Act of the
‘ Assembly holden at *Glasgow, Anno 1610.* which
‘ past in Parliament holden 1612. under the name
‘ of Explanation, sundry Clauses and Articles
‘ were omitted; as the *subjection of Bishops* in all
‘ things concerning their Life, Conversation, Of-
‘ fice, and Benefice, to the Censure of the Gene-
‘ ral Assembly, the Censure of Bishops in case
‘ they stay of the Censure of Excommunication,
‘ the continuing of the exercise of Doctrine
‘ Weekly, the necessity of the Testificat and alli-
‘ stance of the Ministry of the bounds for the ad-
‘ mission of Ministers; and other Clauses and
‘ Articles are added and insert, as the different
‘ degrees of Archbishops, and Bishops, the pow-
‘ er of giving collation of Benefices granted to
‘ Bishops, the power of giving collation of Be-
‘ nefices granted to Bishops, the disposing of Be-
‘ nefices falling in their hands *jure devoluto*, the ap-
‘ pointing of Moderators in Diocesan Synods in
‘ case of their absence, & some words of the Oath
‘ are changed: By all which Omissions, Additi-
‘ ons, and Alterations, the Kirk hath sustained,
‘ and doth sustain great hurt in her Jurisdiction
‘ and Discipline Our humble desire therefore
‘ is, that the Kirk may be liberate from the pre-
‘ judice of those Omissions, Additions, and Al-
‘ terations of the Act foresaid.

‘3. Notwithstanding the general Assemblies
‘have been holden from the time of Reformati-
‘on, till the year 1603. at least once in the year,
‘and oftner *pro re nata*, Provincial Synods twice
‘in the year, Weekly Meetings for Exercises and
‘Presbyteries every Week, for Matters to be
‘treated in them respective, and their Liberties

iii

'were

Let the Parliament of Scotland look to the tendency of the Petition which saith, That no Constitution of Parliament ought to be esteemed a benefit to the Kirk, except it be according to their Mind and Humour, and whether this be not the right Popish and Presbyterian Doctrine, That the Civil Magistrate is not to meddle in Church-matters.

Anno
1633.
were ratified in Parliament *Anno* 1592. and by that, as a most powerful mean, blessed be God, Peace and Purity of Religion were maintained: And in the Assembly holden at *Glasgow* 1610. when Commissioners Voters in Parliament provided to Prelacies were made liable to the Censures of the general Assembly, it was acknowledged that the necessity of the Kirk craved, that there should be yearly general Assemblies; And the Ministry were then assured, that Liberty would be granted upon their request; whereby they were induced to condescend so far to the Act then made, as they did, which Act also in the very entry thereof a request to his Majesty, that General Assemblies may be holden in all times coming once in the year, or precisely at a set and certain time; nevertheless the wonted liberty of holding General Assemblies is suppressed, the order of the Provincial Synods confounded, Presbyteries in a great part disordered and neglected, whereby Divisions have entred into the Kirk, Ministers are become negligent in their Callings, and scandalous in their Lives, the Godly are heavily grieved, the Weak are scandalized, Erroneous Doctrine is delivered in Kirks and Schools without controlement; the Commissioners Voters in Parliament lie untried and uncensured, and Atheism and Popery increase: Our humble desire is therefore, that the Acts of Parliament, made in favours of the Assemblies of the Kirk, and especially the Act of Parliament holden at *Edinburgh*, in *June* 1592. be revived and ratified in this present Parliament.

4. Notwithstanding the observation of Festival days, Private Baptism, Private Communion, Episcopal Confirmation of Children, have been rejected by this our Reformed Kirk, since the beginning of the Reformation; and it hath been declared by Act of Parliament in the year 1567. that such only were to be acknowledged Members of this Reformed Kirk, as did participate of the Sacraments, as they were then rightly ministred, which was without kneeling in the act of receiving the Sacramental Elements of the Supper, or immediate dispensing of the same to every Communicant by the Minister. And that it was Statute and Ordained in the same Parliament, that all Kings should give their Oath at their Coronation to maintain the Religion then professed, and that for form of Ministration of the Sacraments which then was used: nevertheless Pastors and People adhering to their former profession and practice, are nicknamed *Puritans*, and threatened, not only without any good warrant, but beside the tenour of the Act of *Perth*-Assembly, which containeth no strict injunction, and contrary to the meaning of the Voters, and to the proceedings of that Assembly, where it was professed that none should be pressed with obedience to that Act: Therefore we humbly intreat that by Ratification of the Acts of Parliament, made before that Assembly, and by such ways as

These Meetings were found to be seditious and indeed the Source and Spring of all the Disturbances in the Church, and therefore they were dissolved, even by a great part, at least, the sober part of their Presbytery.

The Reformation of the Church of Scotland was very irregular, and against the mind of their Prince to whom it did appertain to reform; the Prince was then of a contrary Religion, or a Minor, or Deposed by the Subjects unlawfully, so that they might easily obtain what Acts they pleased against the true Interest and Right of the Crown.

shall seem good to your Gracious Majesty, and honourable Estates Assembled, your Majesties good People, Pastors and Professors may both be purged from such foul aspersions, and may be freed from all dangers and fears which may occur by occasion of that Act of *Perth*.

5. Albeit it be determined by the general Assemblies of this our Reformed Kirk, what Oaths Ministers should take at the time of their Admission or Ordination; yet there is a new form of Oath devised and urged

What was herein done, was done by his Majesties power, as Supreme Head over the Church of Scotland, except they will dispute that over with his Majesty; which to deny, is downright Popery.

by the Admitters or Ordainers, upon Intrants to the Ministry, together with Subscription to certain Articles devised by them without direction and warrant from any Assembly of the Kirk, yea, or Act of Parliament, whereby the entry to the Ministry is shut upon the best qualified, and others less able are obtruded upon the people, to their great grief and hazard of their Souls: Our humble Petition therefore is, that all such Oaths and Subscriptions urged upon Ministers at their entry or transplantation may be discharged.

6. Notwithstanding there be Constitutions of the Kirk, and Laws of the Country for censuring of Ministers before the ordinary Judicators Ecclesiastical; yet contrary to that Order, Ministers are suspended, silenced, and deprived, and that for matters meerly Ecclesiastical before other Judicators, which are not established by the Authority or Order of the Country and Kirk: Therefore our humble Petition is, that Ministers deserving Censure, be no otherwise censured than the Order of the Kirk doth prescribe, and that such as are otherwise displaced, be suffered to serve in the Ministry, as before.

Before we leave *Scotland*, it may not be amiss to remember our Reader, how that many things during the King's Fathers minority, had been to his very great prejudice, by indirect means torn from the Crown; which to regain, both his Father and himself seeking by fair and lawful means, was the cause, at least pretext of those many and open violences which afterwards happened in that Kingdom, the Government of the Church by Bishops, which, for any thing that appears yet to the contrary, was as ancient as Christianity it self in that Kingdom, was very much shaken by the violent actions of *Knox* and others of the *Geneva* strain, who were the first Preachers against Popery in that Kingdom, and so the Change of Religion that followed thereupon, as to matters of Discipline, was according to the *Geneva*-Method; invented by *Mr. Calvin*; the Bishops then being Papists, were devided of their Churches and Lands, a great part whereof *per fas & nefas* were got into the hands of the Nobility, who were very loth to part with them again; which being endeavoured both by this good King and his Father, King *James* of happy Memory, were the cause and ground of the grumbling and dissatisfaction of some of the Nobility of that Kingdom, who afterwards brought in the rest to scramble together with themselves, for the residue of the Churches Patrimony, and together with the inferior Ministers, who most of them were fiery and violent in their way of Church-Government, as for the Pattern it self delivered by our Saviour in the Mount, so they usually

Anno 1633. ally stile the *Presbyterian* Government, were the main Actors in those Rebellions and Commotions which followed.

But there is one thing more which doth exceedingly heighten the ingratitude of some of the Nobility of that Kingdom to his late Majesty, their most Gracious and Native Prince, and it is this, That whereas there was a Tax granted to his Majesty of 100000*l.* Scotch Money for four years to come at this Parliament, his Majesty to gratifie some of the Nobility, who afterwards deserved not well from him, was graciously pleased to bestow the whole Tax (thinking, no doubt, thereby the more strongly to oblige them to himself) upon them; so that it being every penny begg'd, there came not any thing to his Majesties Coffers, much to the regret of the People: To others of them he gave Honours, and what not! And these were they, who afterwards were the *Antesignani* in the Rebellion in the Year 1638 & 1639. But their Names I forbear, and for that they are well known to the World.

The Acts of Parliament at which they quarrelled were those Two:

1. An Act anent his Majesties Royal Prerogative, and Apparel of Kirk-men.

Our Sovereign Lord, with advice, consent, and assent of the whole Estates, acknowledging his Majesties Sovereign Authority, Princely Power, Royal Prerogative and Privilege of his Crown, over all Estates, Persons and Causes whatsoever within this Kingdom, ratifies and approves the Act of Parliament made in the Year 1606. anent the *Kings Royal Prerogative*, and perpetually confirms the same, for his Highness, his Heirs and Successors, as amply, absolutely and firmly in all respects, as ever any of his Majesties Royal Progenitors, did possess and exercise the same; and withal remembering, that in the Act of Parliament made in the Year 1606. anent the Apparel of Judges, Magistrates, and Kirk-men, it was agreed, That what Order soever His Majesties Father of Blessed Memory, should prescribe for the Apparel of Kirk-men, and send in writ to his *Clerk of Register*, should be a sufficient Warrant for inserting the same, in the Books of Parliament, to have the strength of any Act thereof, have all consented that the same Power shall remain what the Person of our Sovereign Lord and his Successors that now is, and what the same Clause for execution thereof, as in the said Act contained.

2. An Act for Ratification of the Acts touching Religion.

Our Sovereign Lord, with Advice and Consent of the Estates, ratifies and approves all and whatsoever Acts and Statutes made before anent the Liberty and Freedom of the true Kirk of God, and Religion presently professed within this Realm, and ordains the same to stand in their full Force and Effect, as if they were specially mentioned and set down herein.

The same Humour was fermenting here in our own Kingdom of *England*; where vain and emp-

ty exceptions were made by some deputed, and as they themselves loved to be call'd, *Precisians*, at the Articles set out in Print, as is usual, by several Bishops in their Visitations, more particularly by Dr. Neal Lord Bishop of *Winton*, and others. In the said Lord Bishop of *Winchesters* Articles of Visitation they quarrel at the Particulars following; but whether with any reason, the Reader will easily judge.

The Oath to be administred to the Churchwardens and Sworn Men.

You shall Swear, That you and every of you, without all Affection, Favour, Hatred, Hope of Reward and Gain, or fear of Displeasure or Malice of any Person, shall Present all and every such Person and Persons of or within your Parish, who hath committed any Offence, Fault or Crime, or omitted any part of Duty, which be enjoyned to perform: Wherein you shall deal uprightly, and according to Truth; neither of Malice, Presenting any contrary to Truth, nor of corrupt Affection sparing to Present any, and to conceal the Truth, having in this Action God before your Eyes, with an earnest Zeal to maintain Truth, and suppress Vice. So Help you God, and the Contents of this Book.

First, As to the Articles concerning the Church, they are to enquire, Whether they have the Book of Constitutions or Canons Ecclesiastical, and a Parchment Register-Book, Book of Common-Prayer, and Book of Homilies, &c. And whether the Communion-Table be placed in such convenient sort within the said Chancel or Church, as that the Minister may be best heard in his Prayer and Administration.

As to the Articles concerning the Clergy, Whether doth the Minister read the Constitutions set forth by His Majesty, once every Year?

Whether the Minister or Preacher use to pray for the King's Majesty with his whole Title, as King of Great Britain? And doth he in like manner pray for the Arch-Bishops and Bishops? And doth he observe all the Orders, Rites, and Ceremonies prescribed in the Common-Prayer, and Administring the Sacraments? And whether doth the Minister receive the Sacrament, kneeling at the same, and Administred to none but such as do kneel; as by the 12th. Canon is directed?

Whether hath the Minister admitted to the Communion any notorious Offenders or Schismatics; contrary to the 26th. and 27th. Constitution? And whether Strangers of any other Parish do come often and commonly to your Church, from their own Parish-Church? contrary to the 28th. Canon. And whether doth the Minister use to Sign the Children with the Sign of the Cross when they are Baptized? And whether is your Minister a Licensed Minister? if yea, then by whom? And whether doth the Minister wear the Surplice whilst he is saying the Publick Prayers, and Administring the Sacraments? Whether doth the Minister Catechize and Instruct the Youth of Ignorant Persons of your Parish in the Ten Commandments, &c? And whether he doth Solemnize Marriage, the Banes not being three several Sundays and Holidays first Published in time of Divine Service? And whether doth your Minister in the Rogation days

Anno
1633. use the Perambulation of the Circuit of the Parish? Whether doth the Minister every six Months Denounce in the Parish all such as do persevere in the Sentence of Excommunication, not seeking to be absolved? or hath he admitted any Excommunicated Person into the Church without Certificate of Absolution? Whether is your Minister a favourer of Recufants, whereby he may be suspected not to be sincere in Religion? Whether is your Minister noted to be an incontinent Person, a Frequenter of Taverns, Ale-houses, a Common Gamester, or Player of Dice, &c.? With divers other Articles of Enquiry.

In *Easter-Term*, *Car. 1. 9.* Sir Edward Bullock was Sentenced, and Fined in the *Star-Chamber* 1000*l.* for oppression in Suits of one *Black-hall*; and for pulling down his House, he was Sentenced to pay the Plaintiff 100*l.* Damage; and was besides imprisoned in the *Fleet*.

As also the Lord *Kilmallock Justiciar. de Com. Banc. in Ireland*, was complained of, for that he had caused a Sheriff of a County in the Kingdom of *Ireland* to send for a Grand Jury to his House, and they being brought into the Dining-Chamber there, he caused all persons whatsoever to be shut forth except the Judges themselves, the Jury, the Clerk of the Crown, the Sheriff, and the Defendant *Bealing* the Prosecutor; and the Doors being shut, the Defendant, the Lord *Sarsfield*, Viscount *Kilmallock*, caused a Bill of Indictment to be preferr'd, and read to the Jury against *Bushen*, for the Murder of his Wife, and then bid the Jury go together and find the Bill, and told them they ought to find the Bill: and the Jury desiring to have some Evidence, the Defendant *Kilmallock* call'd the Defendant *Bealing*, who upon his Oath did Depose only, that he heard *Bushen* murdered his Wife, which was all the Evidence they had, saving that the Lord *Sarsfield* told some impertinent Tales and Discourses of the strange and miraculous Discoveries of secret Murders, and said, That unless they would expect a Miracle from Heaven, they could have no better Evidence than they had. And afterward, four of the Jury refusing to find the Bill, the Lord *Sarsfield* told them, if they would not find the Bill, they must attend him in Court; which they did: And one of them being asked, Whether he was with the Bill, or against the Bill? he answering, against the Bill, the Lord *Sarsfield* told him, he look'd for no better at his hands; and told another of them that was against the Bill, it was one of his *London Tricks*, and then Committed the Four that would not find the Bill, put them off from the Jury, and fined them 40*l.* apiece; and striking his hand on his Breast, swore by his Honour, that not one penny of their Fines should be remitted; and immediately after, caused the 11 that yielded to find the Bill, and Two others to be sworn of a new Grand Jury; and they going together, found the Bill *Billa Vera*. And thereupon, *Bushen* coming to be Tryed for his Life by the Petty Jury, and Evidence being about to be given against him, he desired, in respect of his Age and Deafness, and the then Noise of the Glass-Windows, by reason of a present Storm, and the Noise of the People, that he might have leave to come out of the Bar, and stand where he might hear what Evidence was given against him, that he might the better answer for himself; which the Lord *Sarsfield* un-

justly denied him. And *Bushen* being charged, that he himself put his Wife into her Winding-sheet, desir'd, that such persons as did view her Body after her Death, and did wind her, might be heard to discover the Truth; the Lord *Sarsfield* unjustly denied that also: And *Bushen* then desiring that the Justice of Peace, who had taken the Examination of the Business, might be heard; the Lord *Sarsfield* denied him that Request also. And the Petty Jury, after going together, and staying somewhat long, the Lord *Sarsfield* sent them word, that if they would not agree and come away, he would carry them with him the next day in a Cart; and being told, that they were all agreed but one, he sent a Message to the Jury, inciting them to pinch that Man that would not agree; to pull him by the Nose; by the Hair of the Head, and by the Beard; and by that means to compell him to agree with them; and bid the Jury make much of him that night, and that he would make much of him the next day; and sent that one Man word, that it had been better for him to agree. And soon after these threatening Messages delivered to the Jury, and they knowing the usage of the former Jury, did, upon light Evidence of Hear-says only delivered by *Bealing*, and others, find *Bushen* guilty of the Murder of his Wife, and he was Condemned and Executed for the same, when as it clearly appeared she died of a Natural Death, and Disease of the Bloody Flux. For which foul Carriage, the Lord *Sarsfield* Viscount *Kilmallock* was Committed to the *Fleet*, during His Majesties Pleasure; Fined 2000*l.* to the King, and 1000*l.* Damage to *Bushen* the 1000*l.* Relator: *Bealing* Knight, for his malicious prosecution, Devilish Practice and Attempt to get other Men of Power into his Wicked Prosecution, was Committed to the *Fleet*, Fined 500*l.* and to pay 250*l.* Damage to *Bushen*, the Relator. 250*l.* Da.

In the Month of *October*, His Majesty revived his Father of ever Blessed Memory King *James's* Declaration made *An. 1618.* for Tolerating Lawful Sports on *Sundays*; the occasion whereof was a Petition Presented unto King *James* in his Return from *Scotland*, by the Ministers of *Lancashire*, complaining of the great increase of Popery in that Country, the People then of that County consisting especially of two sorts of men *Papists* and *Puritans*; that by the Rigour and Severity of this later sort, not granting the least Relaxation to their Servants on Festival Days, and so straitly commanding the Observation of the Lords Day, as a *Jewish Sabbath*, not allowing them any honest Recreation after Divine Service, as Walking, Dancing, Shooting in the Long Bow, &c. the *Papists* in the mean time, allowing Recreations to their Servants and Children on the Festival and on the Lord's Days, gave occasion to many Servants, and others of the meaner sort, to change their Religion, and turn *Papists*; in like manner the Feasts of the Dedication of Churches, commonly called, in some Countreys, *Wakes*, in others, *Church-Ales*, were by some of the preciser sort complain'd of; and more particularly in *Somersetshire*, the Lord Chief Justice *Richardson*, then Justice of *Assize* there, did together with the Justices of the Peace of that County, make an Order for the abolishing of the same; as followeth:

An Order to suppress Ales and Revels in
Somersetshire.

Whereas divers Orders have been made heretofore by the Judges of *Affize*, for the suppressing of *Ales* and *Revels*, the same Order is now confirmed at the *Affizes*, and again ordered by the Court, in regard of the infinite number of Inconveniences daily arising by means of *Revels*, that such *Revels*, Church-*Ales*, Clerk-*Ales*, and all other Publick *Ales* be henceforth utterly suppressed; and to the end this may be observed, it is further Ordered that the Clerk of the *Affizes* shall leave Copies hereof with the Minister of every Parish, within his severall Hundred, and shall give a Note under his Hand, that he shall Publish it yearly within the Parish the first Sunday in February, and likewise the two Sundays before Easter yearly.

This Action of the Lord Chief Justice's meddling in Church-Matters, and not only so, but giving thereby a total suppression to a Custom honest and laudable, nay in some measure Religious also, was taken in evil part by his Majesty; for that Outrages and Disorders, if any such had been, might have been punished by them, and the Feasts themselves, both for Neighbours meeting, and in a grateful commemoration of the Patron of the Church his Piety in founding the Church, might have yet been continued: Moreover, the Bishop of the Diocese had not been made acquainted in the least manner with this piece of Reformation, and therefore the Chief Justice was commanded to attend the Board; where, after the Arch-Bishop had made his Complaint against the Lord Chief Justice, he was Commanded to Revoke the former Order made at the *Affizes* against *Revels*, &c.

The Chief Justice replied, that the Order was made at the Request of the Justices of the Peace in the County, with the General Consent of the whole Bench, and upon view of divers Ancient Presidents in that kind; but nevertheless he was Commanded to Revoke his Order.

Upon which Occasion the Arch-Bishop of Canterbury, on the 4th. of October writ a Letter to the Bishop of Bath and Wells concerning the said *Revels*, to this effect.

A Letter from the Bishop of Canterbury
to the Bishop of Bath and Wells about
Wakes and Revels.

That there hath not been of late some Noise in Somersetshire about the Feasts of the Dedication of Churches, commonly called the Wakes; and it seems the Judges of *Affize* formerly made an Order to prohibit them, and caused it to be Published in some, or most of the Churches; thereby the Minister, without my Lord the Bishop's Consent or Privy, the pretence of this hath been, that some Disorders derogatory from Gods Service, and the Government of the Commonwealth are committed at those times: by which Argument, any thing that is abused may quite be taken away. It seems there hath been some heat struck in the Country about this, by the carriage of the Lord Chief Justice Richard-

son, as the two last *Affizes*, especially the last, with which his Majesty is not well pleased. And for the preventing of Outrages, or Disorders at those Feasts, no man can be more careful than his Majesty; but he conceives, and that very rightly, that all these may and ought to be prevented by the Care of the Justices of Peace, and leave the Feasts themselves to be kept, for the Neighbourly meeting, and Recreation of the People, of which he would not have them debarred under any frivolous pretences. And further, His Majesty hath been lately informed by men of good Place in that County, that the Humors increase much in those Parts, and unite themselves by banding against the Feasts; which Course, as his Majesty no way likes, so he hath been informed also for this last Year, since warning was given, there have not been any noted Disorders at any of those Feasts kept in those Parts; yet for his better satisfaction, he hath Commanded me to require you to inform your self, and give a speedy account how these Feasts have been ordered, &c.

According to his Majesties Command, the Lord Chief Justice *Richardson* in his next Circuit into that Country, revokes his Order about the Wakes; Commanding the Clerk of the *Affizes* to enter the Order of Council *verbatim*; which gave occasion to some of the Justices of the Peace of that County (but all in vain) to Petition his Majesty for a Confirmation of their Order; for that they were told, that though some Disorders might have been committed at those Wakes, yet by that way of arguing, any thing that in it self is never so laudable and harmless, may by its abuse (which ought not to be) be utterly abolished, and quite taken away.

In pursuance hereof, and for taking away as much as in his Majesty lay, the Judaizing humor and opinion, which then (though it is not in any of the other Reformed Churches beyond Sea, where honest Recreations, as Dancing, and the like, even in Geneva it self, are allowed) began with some rigour to be preached up here in England, his Majesty commanded his Declaration (commonly nicknamed by the Puritan Party, the *Book of Sports*) to be Printed and Published to this Effect:

That King James of Blessed Memory, in his Return from Scotland, coming through Lancashire, found that his Subjects were debarred from Lawful Recreations, upon Sundays after Evening Prayers ended, and upon Holy days. And he prudently considered, that if these times were taken from them, the meaner sort, who labour hard all the Week, should have no Recreations at all, to refresh their Spirits. And after his Return, he further saw, that his Loyal Subjects in all other Parts of his Kingdom, did suffer in the same kind, though perhaps not in the same degree: And did therefore in his Princely Wisdom, Publish a Declaration to all his Loyal Subjects, concerning Lawful Sports to be Used at such times; which was Printed and Published by his Royal Commandment in the Year 1618. in the Tenor which hereafter followeth.

Whereas upon his Majesties Return the last Year out of Scotland, he did Publish his Pleasure, touching the Recreations of his People in those Parts, under his Hand; for some Causes him thereunto moving, hath thought good to Command these his Directions then given in Lancashire, with a few words thereunto

The Kings
Majesties
Declara-
tion to his
Subjects
concern-
ing Law-
ful Sports
to be used
issued out
the 18th.
of October
1633.

thereunto added, and most appliable to these
Anno parts of the Realms, to be published to all his
 1633. Subjects.

Whereas he did justly in his Progress through
Lancashire, rebuke some *Puritans* and *Precise*
 People, and took order that the like unlawful
 Carriage, should not be used by any of them
 hereafter, in the prohibiting and unlawful punish-
 ing of his good People for using their Lawful
 Recreations, and Honest Exercises upon *Sun-*
days and other Holydays, after the Afternoon-
 Sermon or Service, His Majesty hath now found
 that two sorts of People wherewith that Coun-
 try is much infected, *viz.* Papists and Puritans,
 hath maliciously traduced and calumniated those
 his Just and Honourable Proceedings: And
 therefore lest his Reputation might, upon the
 one side (though innocently) have some Asper-
 sion laid upon it, and that upon the other Part,
 his good People in that Country be misled by
 the mistaking and misinterpretation of his mean-
 ing, his Majesty hath therefore thought good
 hereby to clear and make his Pleasure to be ma-
 nifested to all his good People in those Parts.

It is true, that at his first entry to this Crown
 and Kingdom, he was informed, and that too
 truly, that his County of *Lancashire* abounded
 more in Popish Recusants, than any County of
England, and thus hath still continued since, to
 his great regret, with little amendment, save
 that, now of late, in his last riding through his
 said Country, hath found both by the report of
 the Judges, and of the Bishop of that *Diocese*,
 that there is some amendment now daily begin-
 ning, which is no small contentment to his Ma-
 jesty.

The Report of this growing amendment a-
 mongst them, made his Majesty the more sorry,
 when with his own Ears he heard the general
 Complaint of his People; that they were bar-
 red from all Lawful Recreations and Exercises,
 upon the Sundays Afternoon, after the ending
 of all Divine Service, which cannot but pro-
 duce two Evils: The one, the hindring of the
 Conversion of many, whom their *Priests* will
 take occasion hereby to vex; perswading them
 that no honest Mirth or Recreation is Lawful
 or tolerable in Religion, which the King pro-
 fesseth, and which cannot but breed a great dis-
 contentment in his Peoples hearts, especially of
 such as are peradventure upon the point of turn-
 ing: The other Inconvenience is, That this
 Prohibition barreth the Common and Meaner
 sort of People from Using such Exercises, as
 may make their Bodies more able for War, when
 his Majesty or his Successors shall have occasion
 to use them; and in place thereof, sets up Tip-
 ling and filthy Drunkenness, and breeds a num-
 ber of idle and discontented Speeches in their
 Alehouses. For when shall the Common People
 have leave to exercise, if not upon the Sundays
 and Holidays, seeing they must apply their la-
 bour, and win their Living in all Working-
 Days?

The King's express Pleasure therefore is,
 That the Laws of this Kingdom, and *Canons* of
 the Church be as well observed in that County,
 as in all other places of this his Kingdom. And
 on the other part, that no Lawful Recreation
 shall be barred to his Good People, which shall
 not tend to the Breach of the foresaid Laws and
 Canons of his Church: which to express more
 particularly, His Majesties Pleasure is, That

the Bishops, and all other inferior Churchmen,
 and Church-wardens, shall for their parts be
 careful and diligent, both to instruct the igno-
 rant, and convince and reform them that are
 misled in Religion, Presenting them that will
 not Conform themselves, but obstinately stand
 out, to the Judges and Justices: whom he like-
 wise commands to put the Laws in due Executi-
 on against them.

His Majesties Pleasure likewise is, That the
 Bishop of that *Diocese* take the like strict Order
 with all the Puritans and Precisians within the
 same, either constrain them to Conform them-
 selves, or leave the Country, according to the
 Laws of this *Kingdom*, and *Canons* of the
 Church, and so to strike equally on both hands,
 against the Contemners of his Authority, and
 Adversaries of the Church; and as for his good
 Peoples lawful Recreation, such as Dancing,
 either Men or Women; Archery for Men,
 Leaping, Vaulting, or any other such harmless
 Recreation, nor from having of *May-Games*,
Whitson-Ales, and *Morice-Dances*, and the set-
 ting up of *May-Poles*, and other Sports there-
 with used; so as the same be had in due and con-
 venient time, without impediment or neglect
 of Divine Service. And that Women shall
 have leave to carry Rushes to the Church for
 the decoring of it, according to their old Cu-
 stom; but withal his Majesty doth here account
 still as Prohibited all unlawful Games to be U-
 sed upon Sundays only, as *Bear and Bull-baitings*,
Interludes, and at all times in the meaner sort
 of People by Law prohibited, *Bowling*.

And likewise bars from this Benefit and Li-
 berty, all such known Recusants, either men or
 women, as will abstain from coming to Church
 or Divine Service, being therefore Unworthy
 of any Lawful Recreation after the said Service,
 that will not first come to Church, and serve
 God: Prohibiting in like sort the like Recreati-
 ons to any that, though Conform in Religion,
 are not present in the Church at the Service of
 God, before their going to the said Recreati-
 ons. His Pleasure likewise is, that they to
 whom it belongeth in Office, shall Present and
 sharply punish all such, as in abuse of this his
 Liberty, will Use these Exercises before the end
 of all Divine Services for that day. And he
 doth likewise straightly Command, that every
 Person shall resort to his own Parish-Church to
 hear Divine Service, and each Parish by it self
 to use the said Recreation after Divine Ser-
 vice. Prohibiting likewise any offensive Wea-
 pons to be Carried or Used in the said times of
 Recreation: And his Pleasure is, that this his
 Declaration shall be Published by order from the
 Bishop of the *Diocese*, through all the Parish-
 Churches, and that both the Justices of the
 Peace be informed thereof.

Given at the Mannor of Greenwich the
 24th. Day of May, in the Sixteenth
 Year of his Majesties Reign, of Eng-
 land, France and Ireland, and of
 Scotland the one and fiftieth.

Now out of a like Pious Care for the Service of
 God, and for suppressing of any Humours that
 oppose Truth, and for the Ease, Comfort and Recre-
 ation of his well-deserving People, his Majesty doth
 Ratify and Publish this his Blessed Fathers Decla-
 ration: the rather, because of late in some Counties
 of this Kingdom, his Majesty finds that under pre-
 sence

rence of taking away abuses, there hath been a General forbidding, not only of ordinary Meetings, but of the Feasts of the Dedication of the Churches, commonly called Wakes. Now his Majesties express Will and Pleasure is, That these Feasts, with others, shall be observed, and that his Justices of the Peace, in their several Divisions, shall look to it, both that all Disorders there may be prevented or punished, and that all Neighbourhood and Freedom with Manlike and Lawful Exercises be used. And his Majesty further Commands all Justices of Assize in their several Circuits to see, that no man do trouble or molest any of his Loyal and Dutiful People, in or for their Lawful Recreations, having first done their Duty to God, and continuing in Obedience to his Majesties Laws. And for this his Majesty Commands all his Judges, Justices of Peace, as well within Liberties as without, Majors, Bayliffs, Constables, and other Officers, to take notice of, and to see observed, as they tender his Displeasure: And doth further Will, that publication of this his Command be made by Order from the Bishops, through all the Parish-Churches of their several Diocesses respectively.

Given at the Palace of Westminster, the 18th. day of October, in the Ninth Year of his Reign.

GOD save the KING.

Much about the same time, his Majesty was pleased to confirm a Decree made in the High Court of Star-Chamber, after Consultation had among the Judges, and Certificates of their Opinions herein, for the regulation of Taverners, Chandlers, Keepers of Inns, Victualing-houses, Ordinaries, and petty Ostries, which was Printed by his Majesties Command; and hereafter followeth.

A Decree of Star-Chamber.

Charles, by the Grace of God King of England, Scotland, France and Ireland, Defender of the Faith, &c. To all and to whom these Our Letters Patents shall come, Greeting.

Now ye, that we have seen a certain Decree made by Our Council, in Our Court of Star-Chamber the 13th. day of November, in the 9th. Year of our Reign, which remaineth of Record among the Records and Remembrances of that Court, containing divers Ordinances; which Decree followeth in these Words:

In Camera Stellata coram Concilio ibidem 13 die Novembris, Anno nono Caroli Regis.

His Majesties Attorney General did this day inform this Honourable Court, that it having been presented to the Lords of his Majesties most Honourable Privy Council, that as well the Prizes of all sorts of Victuals, as also of Horse-meat, were grown to excessive Rates; and that Instance thereof was given in particular by his Majesties Officers of the Green-Cloth, in several provisions made for his Majesties House, whereby the Weekly Accounts of the Household were much increased.

It was thought fit and ordered, that his Ma-

jesties Attorney General, as well upon Conference with such of the Judges, and such of his Majesties Learned Council as he should think fit; as upon perusal of all such Laws and Statutes as are in force concerning the setting of Prizes of Victuals and Horse-meat, should make report unto the Board of his Opinion concerning the same, as by their Lordships Order of the 9th. of October last past appeareth: and declared that according to the said Order, he had at several days attended his Majesties Justices of the King's Bench and Common Pleas, and Barons of the Exchequer, who made Certificate of their Opinion in Writing subscribed by them, which Certificate the said Attorney presented unto this Court, and followeth in these Words:

Mr. Attorney, We send you here inclosed our Opinions of these things, which were propounded, and thought fit to be reformed at our last General Meeting.

Thomas Richardson.
Robert Heath.
Humphrey Davenport.
John Denham.
Richard Hutton.
William Jones.
George Crook.
Thomas Trevors.
George Vernon.
Robert Berkeley.
Francis Crawley.

Touching Victuals, we find Ingressing to be a great occasion to raise the Prizes thereof, an offence utterly against the Common Law: and amongst Ingressors we find the Chandlers to be great Offenders in Buying great quantities of all sorts of Grain brought unto, or towards the Market.

We also find that Taverns are of late exceedingly increased in their number, in and about London; and that they Dress Flesh and Fish, and utter the same at excessive Prizes, to the increase of Riot and other Abuses; whereas by the Law, as Taverners, they are to sell nothing but Wine, unless it be Bread to eat therewith.

We find that Bakers do sell their Bread at 14, 15, and 16 to the Dozen, where they should keep the Assize, and not sell above 12, or 13 at the most to the Dozen; and this pincheth the Poor.

We wish that Ordinaries in and about London, may be regulated to a convenient sum, and not to exceed two shillings for the Meal: and we wish that both Taverners and Ordinary-keepers may be wholly restrained from suffering unlawful Games in their Houses: for we find that this draws unthrifty Guests unto them, and is an apparent means to overthrow the Fortunes of many Gentlemen and Citizens.

Touching Horse-meat, upon hearing of divers Justices of Peace of Middlesex and Surrey, and of divers Inn-Keepers of London, Westminster, Middlesex and Surrey; We are of Opinion that the present Prizes of Hay and Oats considered, six pence day and night for Hay for a Horse, and for Oats six pence a Peck Winchester-measure, is a Competent Rate to be given to Inn-holders, and to take nothing for Litter and if they exceed these Rates, we reckon them punishable by the Law, as for exacting excessive and unmeasurable Prizes. For Horses which come

Anno 1633. come to Inns in the day-time, we conceive it to be a convenient Rate for the *Inn-Keeper* to take a Penny for a Horse, for his Stable-room only, the Horse not being unbridled; if he be unbridled, and have Hay, and go away the same day, to take two pence the Horse, and no more.

We find that of late years, there are many petty *Ostries* set up in and about *London*, which entertain Horses in by-corners, and receive Stable-Horses, and the Horses of such who are persons suspected, and these have no Lodging for Travellers. By these *Ostries* great Inconveniences happen to the Subject in general, and much prejudice to the *Inn-holders* in particular, who by Law are bound to Lodge their Guests, and to be answerable for the Goods brought in to their Charge.

We find also that there are divers, who unlawfully ingross great quantity of Hay to sell again: These are Ingrossers punishable by the *Common Law*; and humbly moved this Honourable Court, that the same might be here recorded; and that the Court would be pleased for the good of his Majesty's people, to Decree and Command that the particulars thereof be strictly observed. Whereupon this Honourable Court taking the same into their serious Consideration, hath ordered, that the Certificate be Recorded in this Honourable Court; and hath Decreed,

First, For that it is notoriously known, that Ingrossing is a great occasion to raise the prices of Victuals, and also of Hay; and Ingrossing to inance prices is punishable, not only by the Statutes, but also by the *Common Laws* of the Realm; His Majesties Justices of the Benches at *Westminster*, and Barons of the *Exchequer*, the Justices of *Affize* of *Oyer* and *Terminer*, and Justices of Peace in their several places, are required to cause diligent enquiry to be made of all Ingrossers of all sorts of Victuals and Hay, and let the Delinquents herein be severely punished.

And his Majesties Attorney General is likewise Commanded to cause such of them as shall be brought to his notice, to be informed against in this Honourable Court, that of them example may be made to deter others from the like Offence.

And it is Decreed, That after publication of this Decree in *London*, no *Chandler* presume to buy Corn, Grain, Meal, or Flowre to sell again, either in Market, or out of Market.

And this Court concurring in Opinion with the said Reverend Judges; and considering the great Excess and Riot, that is occasioned by preparing and selling of Victuals in *Taverns*, and how the prices of sundry sorts of Viands are hereby increased; hath Decreed, that no *Taverner* or *Vintner*, selling Wine by Retail, do hereafter sell, or make ready for sale any sort of Flesh or Fish, or other Victuals save Bread; nor to defraud this Ordinance, do by himself, or any other, set up, or cause, or procure to be set up the Trade of a *Cook*, within the same House, or in any Shop or Room thereunto belonging, or in any House thereto near adjacent; permit or suffer any Flesh, Fish, or other Victual, except Bread, as aforesaid, to be brought into his House, to be there eaten by any of his Guests.

And the Court taking into Consideration, how the Poor are oppressed and pinched, when *Bakers* do sell their Bread to those that vend the

same by Retail, at the Rates of more than twelve to the Dozen, in that the weight is abated in every Loaf; and the Buyer being sometimes but a Passenger, is not able to make complaint of the *Baker*, whom he knoweth not: It is therefore likewise Ordered and Decreed, that no *Baker* shall sell any Bread at other rate than 12, or 13 at the most to the Dozen.

And further it is Decreed, That none that shall keep *Ordinary-Tables*, or other Victualing-Tables, shall take more of the Guests than after the rate of two shillings the man for the Meal, nor more than eight pence for each Servant attending his Master; and that nothing be taken above that rate for Wine, or other thing, or under colour thereof, whereby the true intent of this Decree may be deluded or defrauded. And that none of them, or *Taverners*, or other Victualers, keep or suffer to be used Games of Dice, Cards, Tables, or other unlawful Games in their Houses, wherein this Court declareth the Licences given by the *Groom-Porter* of his Majesties House, or others, for Licencing or Permitting any of the said Games, are not of validity to excuse the Offenders.

Concerning Horse-Meat; For that upon hearing of the said Justices of the Peace, and *Inn-keepers*, the present Prices considered, the Rates before specified are competent;

It is for the present Ordered and Decreed, that no *Inn-keeper*, or *Ostler* within the Cities of *London* or *Westminster*, or in any place within the distance of ten miles from either of those Cities, the Suburbs, or Liberties of either of them, shall take above six pence for a Horse standing in his Stable at Hay, a day and a night, nor more then six pence for a Peck of Oats, of the Measure commonly called *Winchester-Measure*, without taking any thing for Litter, nor more than a penny for standing of a Horse in his Stable a day without Meat, nor above two pence for a Horse standing at Hay in the Day, and going away before Night.

And that no *Inn-keeper* shall exceed those Rates in any part of this Realm; and where Grain and Hay are sold at lesser Prices, there the Rates and Prices shall be accordingly. And this Ordinance shall continue, until in the County of *Middlesex* it shall be made to appear to the Justices of the King's Bench, and in other Counties and Places, to the Justices of Peace there, that because of the increase of Prices in the parts adjoining, greater Rates are necessarily to be permitted: and thereupon other Rates shall from time to time be set; which being set, are hereby Commanded and Injoynd to be strictly and duly observed, until the same by like Authority shall be altered.

And to the end that there may be from time to time, moderate Rates and Prices for Hay, and Grain of all sorts, taken by *Inn-keepers* and *Ostlers*, of Passengers and their Guests; his Majesties Justices of the King's Bench are desired, and the Justices of the Peace of other Counties and Places are required yearly, and more often if there shall be occasion, to make diligent enquiry of Hay and other Horse-meat, and to make Declaration in Writing, fixed in publick places, what Prices and Rates for Hay and other Horse-meat are allowed to be taken by *Inn-keepers*, which the said *Inn-keepers* and *Ostlers* are Commanded to observe.

And

1633. And if any of them shall presume to offend therein, that diligent enquiry be made of them; that they being Presented, may without Connivance receive severe punishment, as oppressors of his Majesties people, by taking excessive Prices.

Moreover, the Court considering the great Inconveniences that do arise by the number of petty *Ostries* and *Ostlers*, that keep Stables for Horses, without Lodging for Guests; not liable, nor able to make satisfaction for Goods under their Custody, that shall be stolen or imbezzeled: yet taking consideration of their Poverty, and that it would tend to their undoing, if they should be suppressed before such time as the Store they have already provided, shall be spent; the Justices of the Peace of the City of London, Suburbs and Liberties thereof, the City of Westminster and Borough of Southwark, and of the Counties of Middlesex and Surrey, are required with all convenient speed, to make enquiry of all such petty *Ostries* within the said Cities, Burroughs, Suburbs, Liberties, and all places not distant above two miles from some part thereof, and what Provision of Hay, Oats and Provender remaineth in their hands unspent; and to Command them not to make any farther Provision.

And after that which is remaining in their hands shall be spent, no longer to use or keep such *Ostries*.

And it is Decreed by this Court, that none after that time shall keep or use any such *Ostries*.

And to the end that Notice may be taken of this Decree, by all those whom it may concern, and that none may excuse himself upon pretence of being ignorant of the Contents thereof;

It is Ordered, That the same be Published in the Cities of London and Westminster, and in the several Counties of this Realm, at *Affizes*, *Sessions*, and other places of publick Assemblies.

And all they to whom the Execution thereof pertaineth, are required, that they see the same put in due Execution.

Know ye, That we taking into our Consideration, that the said Decree was made upon grave and sad Advice, and upon the Certificate of our Judges, and that the same is Just and Necessary to be observed, have Approved the same Decree, and do Ratifie and Confirm the same; and the Necessity of these Times requiring it,

We do Command, That the same, by all those whom it concerneth, be obeyed, and put in execution, under the pains to be inflicted upon the Contemnors of our Command, and the Decrees of that Court.

And to the end that all our Loving Subjects may be participants of the good thereof, and may complain of those things wherein they shall be grieved, contrary to the Tenor of the said Decree, and of those that in disobedience shall contemn or neglect the due observance thereof;

We do Command our Printer, that he forthwith cause these Presents to be Printed, and Dispersed into the several Counties of this Realm with expedition; so that in every of those Counties, the same may be published at the general Session of the Peace, to be holden

next after the Feast of the Epiphany now next coming, that our People of those Counties may take notice thereof.

And we do Command the Justices of the Peace, that at their said Sessions in every of the said Counties, the same be openly read: and we do require our Council in our Court of Star-Chamber, the Justices of our Benches, Barons of our Exchequer, Justices of Assize and Oyer and Terminer, and Justices of the Peace, that against all those that shall offend against the said Decree, they proceed without Connivance, as they tender our Service, and the Good of our People.

Whereof We have caused these Our Letters to be made Patents.

Witness Our Self at Westminster, the 14th. Day of December, in the 9th. Year of our Reign. *Per ipsum Regem.*

WILLIS.

Forasmuch as several persons had confederated together, and made and vended counterfeit Farthings and Tokens, the Authors and Workmen herein, were proceeded against in the Star-Chamber, and four, viz. Jagger, Cooper, Meacomb and Augur were Imprisoned, and Fined 100*l.* apiece, set on the Pillory in Cheapside, and publicly whipped through the Streets,

About this time died Dr. Abbot, Archbishop of Canterbury, betwixt whom and Dr. Land, Bishop of London, there had been Bickerings and private Animosities, from which, even good men are not free; and which the Discontented party made use of for their own advantage: He was succeeded in that See by Bishop Land.

In October following, her Majesty was happily delivered of her Second Son; he was Baptized some ten days after, and named James, and Created Duke of York, by Letters Patents under the Great Seal of England. Concerning this great Honour, take what followeth: Edward the 5th Son of Edw. 3., was Created by his Nephew King Ric. 2. Duke of York, and his Son and Heir Richard Plantagenet succeeded Duke of York, and died without Issue; Richard Plantagenet his Nephew was Created Duke of York, and after his Death, this Honour hath been reserved by the Kings of England for their Second Sons; so Ed. 4. Created his Second Son Duke of York, Hen. 7. his Second Son Henry Duke of York, and King James his Second Son Charles, (Prince Henry being then alive,) Duke of York also.

We have formerly acquainted our Reader what Care King James of Famous Memory, took to rectifie Religious Worship in his Native Kingdom of Scotland, when he was last in that Kingdom; the same pains and pious Care was taken by his Religious Successor K. Charles the Martyr, concerning the rectifying of the undecent Administration of Holy Duties in that Kirk: He sends therefore some Articles of Order to be observed by the Dean of the Chappel-Royal only; which that unthankful People clamoured against, as if Rome had been at the Gates of Edinburgh. The Articles were these:

K k k

Charles

Anno

Charles Rex.

1633.

October 8.

1633. The

Articles

for his

Majesties

Royal

Chappel.

OUR express Will and Pleasure is, That the Dean of our Chappel, that now is, and his Successors, shall be Assistant to the Right Reverend Father in God, the Archbishop of St. Andrews, at the Coronation, so oft as it shall happen.

That the Book of the Form of our Coronation lately used, be put in a little Box, and laid into a Standard, and committed to the Care of the Dean of the Chappel successively.

That there be Prayers twice a day, with the Quire, as well in our absence, as otherwise, according to the English Liturgy, till some Course be taken for making one, that may fit the Custom and Constitution of that Church.

That the Dean of the Chappel look carefully that all that receive the Blessed Sacrament there, receive it Kneeling; and that there be a Communion held in that our Chappel the first Sunday of every Month.

That the Dean of our Chappel that now is, and so successively, come duly thither to Prayers upon Sundays and such Holy days as that Church observes, in his Whites, and Preach so, whenever he Preacheth there. And that he be not absent from thence, but upon necessary occasion of his Diocess, or otherwise, according to the Course of his Preferment.

That these Orders shall be our Warrant to the Dean of our Chappel. That the Lords of our Privy Council, the Lords of the Sessions, the Advocate, Clerks, Writers to the Signet, and Members of our College of Justice, be commanded to receive the Holy Communion once every Year at the least, in that our Chappel Royal, and Kneeling, for Example-sake to the Kingdom. And we likewise command the Dean aforesaid to make Report Yearly to us, how we are obeyed therein, and by whom; as also if any Man shall refuse, in what manner he doth so, and why.

That the Copes which are Consecrated to our use, be delivered to the Dean, to be kept upon Inventory by him, and in a Standard provided for that purpose, and to be used at the Celebration of the Sacrament in our Chappel Royal.

And for the Enforcement hereof, he wrote the following Letter to the Bishop of Dunblane, Dean of the Chappel Royal.

Charles Rex.

The Letter, Oct. 8.

REverend Father in God, Trusty and well-beloved Councillor, We Greet you well. We have thought good, for the better ordering of Divine Service, to be performed in our Chappel Royal there, to set down some Articles under our own Hand, to be observed therein, which we send you here inclosed. And it is our special Pleasure, That you see every thing carefully performed, according as we have directed by these our inclosed Articles; and likewise that you certifie to the Lords of our Privy Council, if any of those appointed by our former Letters to them, to Communicate in our Chappel-Royal, shall not accordingly perform the same, to the end such Order may be taken by our Council therein, as by our said former Letters to them we did appoint. Wherein expecting your Diligence and Care, we bid you Farewell.

From our Court at Whitehall
the 8th. day of October,
1633.

And in regard some Indecencies had crept in, and were tolerated and encouraged privately by some Bishops themselves in this very Church of England, Inspection was made into the Neglects of Religious Duties and Discipline in our own Church. The Lord's Table had been brought down from the upper end of the Chancel, where it always stood, even at, and long time after the Reformation, and now too also in the Chappel-Royal, and all the Cathedrals of the Land, Altarwise, and placed in the middle of the Chancel, where some rude persons used to throw their Hats, and stand leaning thereon in the time of Divine Service; and also the Bread and Wine for the Blessed Sacrament, on the Table, standing in that way, was exposed to the Rapine of Dogs, which being unseemly; hereupon the Dean and Chapter of St. Pauls, being the Ordinary of St. Gregories Church adjoining, to prevent such like Undecencies, caused the Communion-Table to be removed from the middle of the Chancel; where, for some time it had formerly stood, and placed it Altarwise; which was opposed by some few Precisians of that Parish; and an Appeal being made from the Ordinary, by these men, to the Dean of the Arches, at last this Cause was heard at the Council-Board; where it was Ordered, That the Dean of the Arches should confirm the Ordinary's Act; for though some hot and fiery men clamour'd against this their Act, as against an Innovation, yet they might have known thereby the Statute of 1 Elizabetha. Her Majesty was sufficiently Authorized by the Advice of her Metropolitan, upon the hapning of any Irreverence to be used in the Ceremonies or Rites of the Church of England, or by misusing the Orders appointed in the Book of Common-Prayer, to Ordain and Publish such further Rites and Ceremonies as may be meet for advancement of Gods Glory, the Edifying of the Church, and the due Reverence of Christ's Holy Mysteries and Sacraments. And in conformity hereto it was that the Order of Council hereupon was made.

Present,

The King's Most Excellent Majesty.

Lord Archbishop of Canterbury.
Lord Keeper.
Lord Archbishop of York.
Lord Treasurer.
Lord Privy-Seal.
Lord Duke of Lenox.
Lord Chamberlain.
Earl of Bridgewater.
Earl of Carlisle.
Lord Cottington.
Mr. Treasurer.
Mr. Comptroller.
Lord High-Chamberlain.
Earl Marshal.
Mr. Secretary Cooke.
Mr. Secretary Windebancke.

ON the 3d of November was debated before his Majesty, sitting in Council, the Question and Difference which grew about the removing the Communion-Table in St. Gregories Church, near the Cathedral Church of St. Pauls, from the middle of the Chancel, to the upper end, and there placed Altarwise, in such manner as it standeth in the said Cathedral and Mother-Church,

Anno 1633. Church, as also in all other Cathedrals, and in his Majesties own Chappel, and as it is consonant to the practice of approved Antiquity; which removed, and placing of it in that sort, was done by order from the Dean and Chapter of St. Pauls, who are Ordinaries thereof, as was avowed before his Majesty by Dr. King and Dr. Montfort, two of the Prebendaries there; Yet some few of the Parishioners, being five in number, did complain of this Act by Appeal to the Court of Arches, pretending that the Book of Common-Prayer, and the Eighty second Canon, do give Permission to place the Communion-Table where it may stand with most fitness and convenience. Now his Majesty having heard particular relation made by the Council of both parties, of all the carriage and proceedings in this Cause, was pleased to declare his dislike of all Innovation, and receding from Ancient Constitutions, grounded upon just and warrantable Reasons, especially in Matters concerning Ecclesiastical Order and Government, knowing how easily men are drawn to affect Novelties, and how soon weak Judgments, in such Cases, may be overtaken and abused: Further also observing, that if these few Parishioners might have their Wills, the Difference thereby, from the aforesaid Cathedral Mother-Church, by which all other Churches depending thereon, ought to be guided, would be the more notorious, and give more Subject of Discourse and Disputes that might be spared, by reason of St. Gregories standing close to the Wall thereof. And forasmuch as concerns the Liberty given by the Common-Prayer-Book, or Canon, for placing the Communion-Table in any Church or Chappel with most convenience; it was answered, That such Liberty is not so to be understood, as if it were ever left to the discretion of the Parish, much less to the particular Fancy of any humorous person, but to the Judgment of the Ordinary, to whose Place and Function it doth properly belong, to give direction in that Point, both for the thing it self, and for the time when, and how long, as he may find cause; upon which Consideration, his Majesty declared, That he well approved and confirmed the Act of the said Ordinary, and so gave Commandment, that if those few Parishioners before mentioned, did proceed in their said Appeal, the Dean of the Arches, who was then attending at the hearing of the Cause, should confirm the said Order of the aforesaid Dean and Chapter.

At this time that great Person and worthy Statesman Thomas Lord Wentworth, Lord Deputy of Ireland, gave his Majesty to understand the Condition and Estate of his Kingdom of Ireland, together with the best ways and means for the preservation of the Peace thereof, and for the satisfying the publick Debts of that Nation, and selling the Revenues thereof for the future, that it may not (as most commonly hitherto) be a burden to his Majesty, but a help rather, which that great Lord did in the Letter following, Dated Jan. 22. 1633.

The Lord Deputy of Ireland his Advice to the King concerning the Calling a Parliament.

Albeit the calling of the Parliament in this Kingdom, is at no time of so much ha-

zard (where nothing is propounded as a Law, before it first borrows motion from Your Majesties immediate Allowance under Your Great Seal) as it is in England, where there is a Liberty assum'd to offer every thing in their own time and order; and this Subordination, whereunto they have been led by the Wisdom of former Times, is ever to be held as a Sacred Privilege, not to be departed from, in no piece to be broken or infringed: yet is the Proposition always weighty, and very necessary to be considered with great deliberation, whether the present Conjunction of Affairs doth now advise a Parliament or no? and after a serious Discourse with my self, my Reason perswades me for the Assembling thereof.

For the Contribution from the Country to the Army, ending in December next, Your Majesties Revenue falls short Twenty Thousand Pounds Sterling by year of the present Charge it is burdened withal, besides the vast Debt of Four score Thousand Pounds Irish upon the Crown; which yearly Payments alone are impossible by any other way to be in time supplied, but by the Subject in Parliament; and to pass to the Extraordinary, before there be at least an Attempt first to effect it with ease, were to love difficulties too well; rather voluntarily to seek them, than unwillingly to meet them; and it might seem as well vanity in the first respect, so to affect them, as faintness to bow under them, when they are not to be avoided.

The next Inclination thereunto ariseth in me from the conditions of this Countrey, which is grown very much more civil and rich, since the Access of Your Royal Father of Blessed Memory, and your Majesty to the Crown.

That all You have here issued out again among them for their protection and safety, without any considerable Reservation for other the great Affairs and Expences abroad.

That this great Charge is sustained, and this great Debt Contracted through Employments for the Publick, whereof the benefit hitherto hath been entirely theirs. That there hath been other but one Subsidy granted in all this time, nor any Supply but this Contribution; in exchange whereof of Your Princely Bounty return'd them Graces as beneficial to the Subject, as their Money was to Your Majesty; so as their Substance having been so increased under the Guard of Your Wisdom and Justice, little issued hence from them. The Crown so pressed only for their Good; and so modest a calling upon them now for a Supply, which in all Wisdom, Good Nature, and Conscience, they are not to deny; Should they not conform themselves to Your Gracious Will, their unthankfulness to God, and the best of Kings, would become inexcusable before all the World, and the Regal Power more warrantably to be hereafter extended, for redeeming and recovering Your Majesties Revenues thus lost, and justly to punish so great a Forfeit, as this must needs be judged to be in them.

Next, the frightful Apprehensions, which at this time makes their Hearts beat, lest the Quarterly Payments towards the Army, continued now almost Ten years, might in due turn to an Hereditary Charge upon their Lands, incline them to give any reasonable thing at present, to secure them from that fear for the future; and therefore according to the wholesom Counsel of the Physician, *Dum dolet, accipe.*

Anno 1633. And lastly, if they should meanly cast from them these mighty Obligations, which indeed I cannot fear, your Majesties Affairs can never suffer less by their starting aside, when the General Peace abroad admits more united Power in your Majesty, and less distracted thoughts in your Ministers to chastise such a forgetfulness, to call to their remembrance, and to inforce from them other and better Duties than these.

In the second place, the time your Majesty shall in your Wisdom appoint for this Meeting imports very much, which, with all submission, I should advise might not be longer put off than Easter or Trinity Term at farthest, and I shall crave leave to offer my Reasons.

The Improvements mentioned in my Dispatch to the Lord Treasurer, (from which I no way recede) would not be foreflowed, wherein we lose much by deferring this Meeting: a Circumstance very considerable in these streights, wherein, if surpriz'd, it might be of much disadvantage, in case the Parliament answer not expectation; and to enter upon that Work before, would be an Argument for them to scant their Supply to your Majesty.

Again, a Breach of a Parliament would prejudice less thus, than in Winter; having, at the worst, six Months to turn our Eyes about, and many helps to be gain'd in that space; where, in the other Case, the Contribution ending in December next, we should be put upon an instant of Time, to read our Lesson at the first sight.

Then, the calling of a Parliament, and determining of the Quarterly Payments falling out much upon one, might make them apprehend, there was a necessity enforcing a present Agreement, if not the good one we would, yet the best we could get; and so embolden them to make, and flatter themselves to gain their own Conditions; and Conditions are not to be admitted with any Subjects, less with this People, where your Majesties absolute Sovereignty goes much higher, than it is taken (perhaps) to be in England.

And lastly, There being some of your Majesties Graces, which being passed into Laws, might be of great prejudice to the Crown; and yet it being to be fear'd, they will press for them all, and it's uncertain what humor the denying any of them might move in their minds: I conceive, under favour, it would be much better to make two Sessions of it, one in Summer, the other in Winter; in the former to settle your Majesties Supply; and in the latter, to Enact so many of those Graces, as in Honour and Wisdom should be judged equal; when the putting aside of the rest might be of no ill consequence to other your Royal Purposes.

All the Objections I am able to suggest unto my self are two: That it might render fruitless the intended Improvement upon the concealments, and prejudice the Plantations of Connaught and Ormond. The first may easily be helped by a short Law propounded in my Dispatch to my Lord Treasurer; and *Posita*, that there do no other Law pass the first Session, the second is likewise sufficiently secur'd.

Then it is to be foreseen what your Majesty will demand; how to induce, and pursue the same, for the happy settlement of the Regal Rights and Powers in this more subordinate Kingdom.

My humble Advice is, to declare at the first

opening of the Meeting, that your Majesty intends, and promises two Sessions: This former for your self; that latter in Michaelmas Term next for them. This to ascertain the payments of your Army, and to strike off the Debts of your Crown; That for the Enacting of all such profitable and wholesome Laws, as a moderate and good People may expect from a Wise and Gracious King.

That this being the order of Nature, Reason, and Civility, your Majesty expects it should be intirely observ'd, and your self wholly intrusted by them; which they are, not only to grant to be fit in the general Case of King and Subjects, but ought indeed to acknowledge it with thankfulness due to your Majesty in particular, when they look back, and call to mind, how for their ease you were content to take Sixscore Thousand Pounds (which their Agents gave to be paid in Three) in Six Years; and not barely so neither, but to double your Graces toward them the whilst, which they have enjoyed accordingly much to their advantage, and greatly to the loss of the Crown.

And that considering the Army hath been represented over to your Majesty from this Council, and in a manner from the Body of this whole Kingdom, to be of absolute necessity, to give comfort to the quiet minds in their honest labours, to contain the Licentious Spirits within the modest bounds of Sobriety; It consists not with your Majesties Wisdom to give unto the World, no not the appearance of so much improvidence in your own Councils, of so much forgetfulness in a case of their Safety, as to leave that Pillar of your Authority, and their Peace unsettled, for continuance at least one Six Months before the wearing forth of their Contribution.

Therefore your Majesty was well assur'd, in conformity to the Rules of Reason and Judgment, they would presently grant three Subsidies to be paid in three years, to disengage the Crown of Fourscore Thousand Pounds Debt, and continue their Quarterly Payments toward the Army four years longer; in which time it was hopeful (suitable to your Gracious Intentions) some other Expedient might be found out, to maintain the Army without farther Charge to them at all; which Law passed, they should have as much leisure to Enact for themselves at after, as they could desire, either now, or in Winter. Nay, your Majesty would be graciously pleased, with the assistance of your Council, to advise seriously with them, that nothing might remain, either unthought of, or denied, conducing to the Publick Good of this Kingdom; but if they make difficulty to proceed with your Majesty in this manner, other Counsels must be thought of, and little to be relied on, or expected from them.

I am not to flatter your Majesty so far, as to raise any hope on that side, that all this should be granted but by pressing both, and especially the continuance of the Quarterly Payments to the Army, which they dread above any earthly thing. I conceive it probable, that to determine and lay asleep (as they think) the Contribution, and in acknowledgment of your Majesties happy access to the Crown, they may be drawn to a present gift of three Subsidies, payable in three years, which alone would keep the Army on foot during that time; and if my Calculation hold, almost discharge the Debt of the Crown beside.

For

1633. For thus I make my Estimate. The Contribution from the Countrey is now but twenty thousand pounds sterling by the year; whereas I have good Reason to trust each Subsidie will raise thirty thousand pounds sterling, and so there will be 10000 l. for three years, over and above the establishment which thirty thousand pounds sterling, well and profitably issued, will (I trust) with Honour to Your Majesty, and moderate satisfaction to the Parties, strike off the whole fourscore thousand pounds Irish, which in present presseth so sore upon this Crown.

And then Sir, after that in *Michaelmas Term*, all Beneficial Acts for the Subject be thought of, as many, no fewer, nor no more Enacted than were fit in Honour and Wisdom to be granted; If for a Conclusion to this *Parliament*, we could gain from them other two Subsidies, to buy in Rents and Pensions to ten thousand pounds yearly value (a thing they are inclinable unto, as is mentioned in my Dispatch to the Lord Treasurer) I judge there were a happy issue of this Meeting; and that it should through God's Blessing, appear to the World in few years, You had without Charge made a more absolute Conquest of this Nation by your Wisdom, than all your Royal Progenitors have been able to accomplish by their Armies, and vast expence of Treasure and Blood.

These being the Ends in my poor Opinion, which are to be desired, and attained; the best means to dispose and fit all concurring causes thereunto, are not to be forgotten; and therefore as Preparatives, I make bold to offer these ensuing Particulars.

It seems to me very convenient, a Committee be forthwith appointed of some few of us here, to take into consideration all the Bills intended, when there was a Parliament to have been called in the time of my Lord Faulkland: Such as shall be judged beneficial to make them ready; such as may be of too much prejudice to the Crown, to lay them aside, and to draw up others, which may chance to have been then omitted. This Work may be by the Committees, either quickned, or forewarned, as the Parliament proceeds warmer or cooler in your Majesties supplies.

Next, That your Majesties Acts of Grace directed to my Lord Faulkland, the 24th. of May 1628, may be considered by such of Your Council in England, as shall please your Majesty to appoint; there being many Matters therein contained, which in a Law would not so well futurely sort with the Power requisite to be upheld in this Kingdom, nor yet with your Majesties present profit; which hath perswaded me to except against such, as I hold best to be silently passed over, and transmit a Paper thereof to my Lord Treasurer.

It is to be feared, the meaner sort of Subjects here live under the pressures of the great men, and there is a general Complaint, that Officers exact much larger Fees than of right they ought to do. To help the former, if it be possible, I will find out two or three to make Examples of; and to remedy the latter, grant out a Commission for examining, regulating and setting down Tables of Fees in all your Courts; so as they shall find your Majesties Goodness and Justice, watching and caring for their Protection and Ease, both in private and publick respects.

I shall endeavour the Lower House may be so

composed, as that neither the Recusants, nor yet the Protestants shall appear considerable, more one than the other, holding them as much as may be, upon equal Ballance; for they will prove thus easier to govern, than if either party were absolute. Then would I in private discourse shew the Recusant, that the Contribution ending in December next, if your Majesties Army were not supplied some other way before, the twelvpence a Sunday must of necessity be exacted upon them; shew the Protestant, That Your Majesty must not let go the twenty thousand pounds-Contribution, nor yet discontent the other in matter of Religion, till the Army were some way else certainly provided for; and convince them both, that the present quarterly payments are not so burdenson, as they pretended them to be; and that by the Graces they have had already more benefit than their Money came to. Thus poising one by the other, which single might perchance prove more unhappy to deal with.

I will labour to make as many Captains, and Officers Burgeses, as possibly I can, who having immediate dependance upon the Crown, may almost sway the Business betwixt the two Parties, which way they please.

In the Higher House your Majesty will have, I trust, the Bishops wholly for you. The Titular Lords, rather than come over themselves, will put their Proxies into such safe hands, as may be thought of on this side; and in the rest your Majesty hath such Interest, what out of duty to the Crown, and obnoxiousness in themselves, as I do not apprehend much any difficulty among them.

To these, or any thing else directed by your Majesty, I will with all possible diligence, apply my self so soon as I shall understand your pleasure therein; most humbly beseeching, you will take it into your Gracious Memory, how much your Majesties speedy Resolution in this great Business imports the prosperity of your Affairs in this place, and in that respect vouchsafe to hasten it, as much as conveniently may be.

The present mean condition of this Army, and the necessary course to be held in the speedy Reformation thereof, I fully now set forth in my Dispatch to Mr. Secretary Cook.

The state of your Majesties Revenue, the Annual Issues of your Treasure, and the Debt charged upon this Crown upon my coming to the Government; the Propositions humbly offered by me, for the bettering your Majesties Affairs in this particular, together with a way of raising a constant great Rent forth of the Salt, I have at this time also transmitted to my Lord Treasurer; of all which I beseech your Majesty at your best leisure be pleased to take a summary account.

Now I trust the importance and weight of this inclosed Discourse will recompence for the length thereof, and obtain my pardon, albeit I presume thus to present it immediatly to your Sacred Hands; for indeed I take it to be no less than the Ground-plot, whereupon to set and raise Safety and Quiet to this Kingdom, as it is in dependence to the Crown of England.

And therefore I do most humbly beseech your Majesties quickning Spirit may move upon these Waters, that we may from your Directions receive Life, and from your Wisdom borrow

W borrow Light to guide and conduct us along in the way we are to take towards the accomplishment of so happy a Work.

W 1633. God Almighty assist You in these, and all other Your Counsels, and long preserve your Majesty in full Power and Greatness, &c.

Dublin-Castle,
Jan. 22. 1633.

Neither was that worthy Prelate the Lord Archbishop of *Canterbury* less careful for the Peace-establishment of the Church here at home, and accordingly of his Majesties Orders, that none should hereafter be Ordained Minister in the Church *absque titulo*; according to the Canon: for by the Neglect hereof, a multitude of Lecturers and Chaplains wandered up and down to the scandal of their Calling, for want of other means to live, to get Maintenance by humouring their Auditors, and other insufferable ways; In pursuance hereof, the Archbishop wrote to the several Bishops to Pray and Require them, that at all times of Ordination, they be careful to admit into Holy Orders none but such men as for Life and Learning are fit, and which have a Title for their Maintenance, according to the Law and ancient Practice of the Church; and the Archbishop declared what shall be a Title according to the Canon, which these persons Ordained must have.

1. A Presentation to some Ecclesiastical preferment.
2. Or, A Certificate undoubted, that he is provided of some Church void there.
3. Or, A Grant of some Petty-Canons place, or the like, in a Cathedral or a Collegiate Church.
4. Or, A Fellow, or in the right of a Fellow, in some College in *Oxford* or *Cambridge*.
5. Or, A Conduct of Chaplain in some College in *Oxford* or *Cambridge*.
6. Or, A Master of Arts of Five years standing, living at his own Charge in either of the Universities.
7. Or the intention of the Bishop that Ordains, shortly to admit him to some Benefice or Curates Place then void.

Much about this time there hapned a Quarrel betwixt the Lord Deputy of *Ireland* and Sir *David Fowlis*, &c. of the County of *York*, who had been a little too free in his Discourse concerning the Lord Deputy, as if he had not accounted for such Sums of Money as his Lordship had received in that County, from those who had compounded for not taking the Order of Knighthood; and that he openly diswaded persons from such Compositions, to his Majesties great Dis-service: Hereupon an Information was exhibited against him, &c. for the matters aforesaid, and he was Fined 5000*l.* and put off his Places he enjoyed in that County, and moreover enjoined publick acknowledgment of these his Offences, both to the King's Majesty, as also to the Lord Viscount *Wentworth*.

In *Hilary* Term also was exhibited an Information by the King's Attorney *W: Noy* Esq; against *William Prim* Esq; of *Lincolnes* Inn. *William Buckner*, *Michael Sparks* and others setting forth, That about 8 *Car. Rég.* Mr. *Prynn* compiled and put in Print a Libellous Volume, Entituled by

the name of *Histrionastix*, against Plays, Masques, Dancings, &c. And although he knew well, that his Majesties Royal Queen, Lords of the Council, &c. were in their publick Festivals, and other times, present Spectators of some Masques and Dances, and many Recreations that were tolerable, and in themselves sinless, and so published to be, by a Book Printed in the time of his Majesties Royal Father: yet Mr. *Prynn* in his Book hath railed, not only against Stage-Plays, Comedies, Dancings, and all other Exercises of the People, and against all such as behold them; but farther in particular against *Hunting*, *Publick Festivals*, *Christmas-keeping*, *Bonfires* and *May-Poles*, nay, against the dressing up of a House with *Green Ivy*: and to manifest his evil and mischievous design in publishing of this Libel, he hath therein written divers incitements, to stir up the People to discontent, as if there were just cause to lay violent hands on their Prince, and hath expressed in many Speeches against his Majesty, and his infamous terms unfit for so Sacred a Person. He hath cast an aspersions upon her Majesty the Queen, and railing and uncharitable censures against all Christian People. He hath commended all those that are factious persons, that have vented any thing in any Book against the State, as the factious Book of Dr. *Leighton*, *Jo. Mariana* a Jesuit, to draw the People from his Majesties Government, which is of a most dangerous consequence to the Realm and State. His Book is of above 1000 Pages; and he dealt with one *Michael Sparkes* for the Publishing, Licensing and Printing thereof, who is a person that is a common Publisher of unlawful and unlicensed Books; and dealt also with Mr. *Buckner*, another Defendant for the allowing of it for the Press; and with the other four Defendants to Print part of it, and Publish the same: and by this means this Volume was allowed and published, to the great scandal of the whole Realm; and to have this punishment according to the demerit of the Cause, is the end of Mr. Attorney's Information.

Mr. *Atkins* of the same House, afterward one of the Justices of the Common Pleas, was of Councell with the Defendant; who said in his Defence,

That having read several Councils, Laws and Statutes against the common frequenting of Stage-Plays, and his Judgment being the same, he did about four years ago Compile a Book call'd *Histrionastix*, not intending to reflect in the least upon the King, Queen, State or Government, that he gave part of it to *Sparkes* to Print, who Entred the Copy in *Stationers-Hall*, and carried part thereof to *Buckner* for his allowance; who would not, but with difficulty License the same, He said farther on Mr. *Prynn's* behalf, That he had taken the Oaths of Supremacy and Allegiance, That he doth not approve Schism or Sedition; but if any thing in the Book, contrary to his meaning, may have a misconstruction towards his Majesties Government, or the State, he prostitute himself at his Majesties feet, for his Grace and Pardon: This (saith Mr. *Atkins*) is the Substance of his Answer.

Mr. *Jenkins* opened the Answer for four of the Defendants, and saith, that they were persons altogether illiterate, not able to judge whether the Books were fit to pass the Press or not; That it was Entred in the Hall, and there allowed; and for *Sparkes* his Charge, That he was a common Printer of unlawful Books (he saith) That some

some of his own Trade envied him for his thrift, and the like.

1633. Mr. Lightfoot, Councel for Mr. Buckner, Chaplain to the late Lord Bishop of Canterbury, said, That the Chaplain is a through-paced conformable man, and detesteth many things said by Mr. Prynne in that Book; that he Licensed but part of the Book, and endeavoured to suppress it.

After Noy the Attorney General makes good the Charge against Prynne, and observeth that he is the sole Author of the Book; that much of it reflects upon his Majesty and his Government; other Matters upon the Church, as mentioning Ceremonies, the Church-Discipline, Altars erected as late Innovations, that for these he is not charged, though he manifested sufficiently his hatred to the Constitution of the Church, in taking to those things of Decency and Order therein, which fell out under his Theam.

I wonder (saith he) what Altars he means; I hope the Church will examine him in due time; as also who he means by his *Modern Innovators* in the Church, and by Cringing and Ducking to Altars, a fit term to bestow upon the Church; he learnt it of the *Canterbs*, being used among them. The Musick in the Church, the charitable term he giveth it is, Not to be a Noise of men, but a *Bleating of Bruit Beasts*; *Choristers bellow the Tenor*, as it were *Oxen*; bark a *Counter-point* as a *Kennel of Dogs*; roar out a *Treble* like a sort of *Bulls*; grunt out a *Base*, as it were a number of *Hogs*: his complaint for suppressing Repetitions by way of Conventicles; also his general Censure of all the Bishops, and of all the Clergy; they scorn to feed the Poor; the *Silk and Satin Divines*; very charitable terms upon them of the Church! *Christmas*, as it is kept, is a *Devils Christmas*; nay, he doth bestow a great number of Pages to make men affect the Name of *Puritan*, as though Christ were a *Puritan*, and so he saith in his *Index*. Then concerning the Images in the Church, he speaketh against them, and putteth that now in Print, which was contained in an Answer in this Court. Also for the *Sabbath-day*, whether to begin on *Saturday-night*, and end on *Sunday* at six of the Clock? These are things proper to the examination of the Church; and whatsoever becometh of the Cause in this Court; yet I commend these things to the consideration of the Church. I wonder what the man means to bring these things under the Title of *Stage-Players*; *Pluralities* under the Title *Stage-Players*. He had an end in it, he had an end in it.

Concerning the Book it self, he observes, That Mr. Prynne's avowing himself to be the Author, that he would, to make trouble, have Printed it in the late Parliament; that he had brought it to Dr. Goade and Dr. Harris, who both of them disallowed it; he Printed some part of it in the Parliament-time; but it came not to Mr. Buckner long after; and that *Sparkes* said he would, and durst Print any thing in time of Parliament.

Then he observed how it grew to a just Volume, and that after it came first to the Press, it hath grown up with divers things, which then were impossible to be known at that time when it was delivered to the Press; which appeareth by this; In 1628. was the Parliament, and in 1631. St. George began to look abroad into the World.

This man bestows eight whole Pages upon St. George, for being so bold to look out; He saith, that St. George the *Arrian* was a *Cappadocian*, though born in *Cilicia*, a Part or Province of *Cappadocia*, &c. and that St. George his Advocate was an *Englishman*, born in *Glocester*; and that St. Basil the Great was Bishop of *Casarea* in *Cappadocia*, the Native Country of St. George the *Arrian*. Certainly he could not tell that St. George would then remove himself abroad, or in the County of *Glocester*, &c. at that time: but this man did go on according to the occasion in 1628. A Woman 1628. acted a part of a Stage-play at *Black-Friars*; he spends many Pages about this.

We all know what time the Dearth was, three years ago, he taketh occasion not to pass it over. He maketh a long Discourse of *Plays*, *Masques*, &c. in the late penurious times, how they were as expenceful as the Wars were. This is to shew how by pieces it did grow bigger from time to time.

All *Stage-Players*, he terms them *Rogues*: in this he doth falsifie the very Act of Parliament; for unless they go abroad, they are not *Rogues*. The same term he giveth unto Scholars Acting. Mr. Prynne had a purpose, not only in this, to fall upon Stage-Plays, but upon the Body of the Commonwealth, and to infuse it into mens minds, that we are now turning into *Paganism* and *Gentilism*. He falleth upon those things that have not Relation to Stage-Plays, Musick in the Church, Dancing, New-Years-Gifts, whether Witchery or not? Witchery, Church-Ceremonies, &c. indistinctly he falleth upon them; then upon Altars, Images, Hair of Men and Women, Bishops and Bonfires. Cards and Tables do offend him, and *Peruques* do fall within the compass of this Theme. St. George never offended him; but all this is to the end to bring a belief among the People, that we are returning back again to *Paganism*. His end is therefore to persuade men to go and serve God in another Country, as many are gone already, and set up new Laws and Fancies among themselves. Consider what may come of it.

It may be fit enough and lawful to write against Plays, by men that have a Mission; and they must do their Errand in mannerly Terms, and in the same Terms as other men expect to bear with them.

Mr. Prynne had no Mission to meddle with these things, to see whether men should not return to *Gentilism*: The Terms which he useth, are such as he finds among the Oyster-Women at *Billingsgate*, or at the common Conduit. He hath raked up all the vile Terms that could be found.

Now to prove that this is Mr. Prynne's Book, read Mr. Prynne's Book, read Mr. Prynne's Examination, Inter. 5th. (which being read, was to this effect) That Mr. Prynne, without the help of any other, did Write, Pen and Compile the whole Book, called *Histrion-mastix*, and the Epistle before the Book, and the Index and Table following.

Now for the Publishing of this Book, it doth appear by the Deposition of Dr. Goade, that about eight years since, Mr. Prynne did bring a Book to him in writing, of about a Quire of Paper, concerning Stage-Plays, to have the same Licensed; but he held it unfit to be allowed; and doth well remember, that as to his Argument of the unlawfulness for a Man to put on Womans Apparel, he put Mr. Prynne this Question,

Anno 1633. stion; Suppose Mr. Prymme your self, as a Christian, were persecuted by Pagans, think you not, if you did disguise your self in your Maids Apparel, you did well? Who answered, that he thought himself rather bound to yield to death than to do so.

Dr. Harris also depofed, that about seven years ago Mr. Prymme came to him to License a *Treatise concerning Stage-plays*, but he would not allow of the same. So this man did deliver this Book when it was young and tender, and would have had it then Printed; but it is since grown seven times bigger, and seven times worse.

That he had not spared the King himself. I am sorry I shall have occasion to speak any thing of it; but there is a great deal too much in his Book. My Lords, After he hath made all these complaints as intolerable, he falleth upon all indistinctly, and never taketh upon him to discern to make a distinction, that there may be a toleration, but falleth foul upon every thing, that we are falling into *Paganism*; men and women are naught: he spareth not the King himself, but takes upon him to teach a remedy; the remedy is worse than the disease. What hateful comparisons he bringeth with other Princes? As *Nero*; and speaketh of the consuming of the *Treasure* of the Realm with Masques, and of the late penurious Times; a base word! a Declaration of Infamy upon Princes, with such like Conclusions as these are. When all this is done, he teacheth the remedy not by way of Precept, but by way of Example; invites men to read *John Mariana*, and two grave Authors more, he saith men not censured. I am very sorry I am to speak any thing wherein the King should be named, but he would not forbear it when the Pen was in his hand; some of the words are so nasty, that I will not speak them.

Then Mr. Atkins on the part of the Defendant craved leave, and said, that many things in his Book were not positively spoken, but only relatively; and that many of them are but the Opinions of other Authors; and his Argument, if fairly proposed, will run thus:

That which doth ordinarily (if not always) defile the Eyes, the Ears, and Souls both of the Actors and Spectators, by ingendring, by exciting Meretricious, lustful, lewd, adulterous desires and affections in their hearts, or by instigating, by preparing, by inducting them to actual uncleanness, must needs be abominable and unlawful unto Christians; but these Stage-Plays, &c. therefore they must needs be abominable: And there is none but Whores, Panders, or foul Incarnate Devils, who dare control that Minor truth.

That he doth not condemn Dancing, as single, and dancing the Measures, that he doth not condemn New-years-Gifts; and where (he saith) that Dancing, Revelling, and Masquing have been as expensive as the Wars, he meant it of the times of King Henry the Eighth.

I shall end (said he) as I did begin in the opening of his Answer, that he may lay fast hold upon the Rock of the Kings Favour and Mercy, and Compassion of this Court; and what his intentions are, they are best known to his heart, his expressions known to your Lordships. I cannot condemn his Heart, I will not excuse his Pen.

He lastly saith, he had known him very long

in their Society, and that his ordinary discourses have not been factious, but that in this matter he resembled him to the Astronomer that fixed his eyes so much upon the Stars, that he did not look to his Feet, and so fell into a Ditch: for his eyes were so fixed upon this Subject, upon the common resort to *Stage-Plays*, and the great abuse that comes by them, that he forgot to look down to his hand that guided his Pen, which now bringeth him under your Lordships censure.

That I may not offend the patience of this Court, (the Court is full, and the expectation is great;) I will conclude with all humility, and wish and crave, that he who is the Supreme Judge, may be with your Lordships in this matter, and may be over all your good Thoughts, Judgments and Sentences this day, in this cause of this poor Gentleman.

The next day Mr. Holborn pleads for Mr. Prymme, and said, that for the Book he did humbly submit himself to your Lordships; he confesseth he hath been guilty of evil expressions, which may be scandalous by misconstruction, but that the intention of heart was fair and honest, though he had been harsh in expression, and for that he medleth with other matters not proper to his subject, as the Sabbath day, Habits, and Recreations, &c. his meaning was of Stage-plays on the Sabbath day, and unlawful Recreations; that if there be any thing amiss in the Book, he hopeth they are guilty of it who were Licensers thereof; that his honest intentions were apparent in this, that he dispersed his Book to men of known integrity; in particular, he gave one to the Attorney General himself; and as to the Perjury charged upon, he saith, that it was another Book of about a Quire of Paper he shewed to Dr. Harris, and Dr. Goad, though of the same subject, yet of another frame and contexture.

Then Mr. Hern said, that he must needs confess to their Lordships, that Mr. Prymme did come under great disadvantage before their Lordships, considering both the ability of the Kings Council, the weight and dubiousness of his Cause, and the aggravations made upon it by the Kings Learned Council, which were the true Motives that they had craved farther time; that he for his part had no other matter to offer on his behalf, but the intentions of his heart, which were clear and honest; that he hoped your Lordships would look upon him not as writing these things out of the perverseness of his spirit, but out of the abundance of his heart, transported with zeal against the growing Evils that have befallen this Nation, and some of his Acquaintance, by their frequenting Stage-Plays; that he had frequently, as occasion served, spoke well of their Majesties, and he related to some expressions in the Book, &c. And thus three whole days spent in this hearing, on the fourth Sentence was given, where the Lord Cottington, Chancellor of the Exchequer, being lowest in Quality, began and said:

My Lords,

The Kings Attorney General hath brought Mr. Prymme, and these other Defendants, before this Honourable Court, for publishing and printing a Libellous Book, scandalous to his Majesty and the State; nay, the height and greatness of Mr. Prymme's malice hath been so great, that

1633. that it hath vented it self against all sorts of men, and the best of men, as the King, Queen, Peers, Prelates, Church, Magistrates and Governours of both: the Book, he said, tends to create a dislike in his People of his Majesty and his Government, and so to create and stir up disobedience in the People.

He confesseth that he did write the Book, and it's true he did endeavour the Printing of it, and the Publishing of it, this is proved very well; yea, but Mr. Prynne had no other intention but a tenderness of Conscience, he meant no hurt to the King or State, (as his Council said:) but Mr. Attorney answered them, that he is not the Declarer of his Intentions, he must be judged by the Book, by his words, more certainly by the effect; for all good men do receive scandal by this Book, and all of Mr. Prynne's humour were glad of this Book. When I consider what kind of Libel it is, it is not like other Libels: other Libels have been by persons discontented, some poor Rogues, scattered up and down; but here's a Libel in Folio, and in Print, and justifieth it self by Authors with an high hand, *That is there, and that is there.* And, (my Lords,) when I consider those high passages in his Book, I protest unto you they are things to be abhorred; they are not spoken relatively (as his Council would have it) but positively, That *our English Ladies, Shorn and Fritzed Madams, have lost their Modesty; that the Devil is only honoured in Dancing; that Plays are the chief delight of the Devil; that they that frequent Plays are damned, and so are all that do not concur with him in his Opinions, Whores, Panders, foul Incarnate Devils, Judases to their Lord and Master, &c. Princes dancing in their own Persons, his censure of them is Infamous, &c.* But the foulest of all is, *That this was the cause of untimely ends in Princes.*

For his Defence, I took notice of it likewise, I do remember that all those Gentlemen that were employed and assigned as Council for his Defence, every one of them began to crave Mercy of the Court; yet they came with a Defence and Justification, so far as their cause would bear. Mr. Holborn said, That for *Players, they were Rogues by the Statute*: yet Mr. Attorney said, *they are not Rogues by the Statute, unless they wander, &c.* My Lords, he said, his intention was against *Publick and Common-Plays*, yet seek all his Book through, and you shall find it against *Plays in Princes Palaces*. His intention now must be understood by his Book, and by his words; and that which he doth apply of any Author, is his own. And I think his Defence did aggravate his Offence. As to his defence against the Ladies, he saith, he speaketh it *Relatively*, and not *Positively*; yet he saith, *Our English Ladies are so and so whorish, &c.* And for that part of his Book, wherein he condemns Murder, Mr. Prynne will have Murder unlawful, but execution of *Princes* is not Murder, and therefore that is a lawful Act. Mr. Attorney said well, the end of this man and *John * Mariana*, &c. they are all one, they all cry Malice against Princes.

I shall humbly crave pardon, and discharge my Conscience, and shall let your Lordships see, how I do understand the sense, and that so I am to judge, and I conceive it to be as your Lordships see, and the Malice in this Book is against *King and State*; and, My Lords, with this I Sentence Mr. Prynne.

His Book I Sentence to be burnt by the Hand of the Common Hangman, though a thing not used

in this Countrey, that he be expelled the Society of *Lincolnes-Inn*, and degraded in the University of *Oxon*, and besides, that he stand in the Pillory, be condemned to pay 5000 l. to the King, and to undergo perpetual Imprisonment.

As to Mr. *Buckner*, I Fine him in 50 l. to the King, and imprisonment according to the course of the Court, for his connivency at Mr. Prynne's Book, and that he be severely reprehended for the Licensing of it.

As to *Sparkes*, I Fine him in 500 l. to his Majesty, for that he said, *It was an Excellent Book, and would be called in, and therefore sell well*; moreover, that he stand on the Pillory, without touching his Ears, and have a Paper on his Breast, expressing his Crime.

The Lord Chief Justice *Richardson* spake next, and in his Sentence concurred with the Lord *Cottingham*.

The next was Mr. Secretary *Cook*, who said, By this great Volume of Mr. Prynne, it will appear to this Court, that he hath read more than he hath studied, and studied more than he hath digested; whereas, if he had read but one Sentence of *Solomon*, it had saved him from the danger he is now like to fall into. The Preacher saith, *Be not over-just, nor make thy self over-wise, for why wilt thou destroy thy self?* My Lords, It is a Sentence requireth much study and consideration. It is most certain, that Righteousness and Wisdom are such Vertues, as they help forward Justice; but when Wisdom is mixed with a Mans own humours, as for the most part it is with Flesh and Blood, there is danger of straining it too far, and that will tend to the destruction of himself and others. Examples are too pregnant of this, and he may take it from a good Author, even from Christ himself. When his Apostles, out of zeal to their Master, would have called for Fire from Heaven against the *Samaritans*, that refus'd to entertain him, the Answer was, *You know not of what Spirit you are.* I would Mr. Prynne would have considered this.

This is a good Spirit that is meek, tempered with Modesty and Humility, with Mildness and with Equity; and such a Spirit is always tender, not to destroy, root up, overthrow, but to bind, repair and preserve. But there is another fiery Spirit, which is always casting of Fire, nothing but Damnation and Destruction; certainly such a Spirit ever tends to its own Confusion. And if this be well observed every man shall find it true, that such a Spirit cometh before destruction. I wish Mr. Prynne were not an ill example of this. Certainly, My Lords, Vice and Corruption ought not only to be reprehended, but to be punished severely, and that sharply too where it is; but Mr. Prynne should have considered, every Man is not a fit reprehender. He had no Invitation, nor Office, nor Interest to employ a Talent which doth not belong unto him. If *Magistrates* and *Princes* should inveigh against all things, and tolerate nothing, we must live no longer among men; and certainly if we will be thought to live with them that are wholly virtuous, we must go out of the World; we have a good Author for this. But my Lords, a Toleration must be used, and that Mr. Prynne would have found, if he had considered his own body. Shall a man upon every light distemper and disorder in his Body, take Physick? Or shall ill Humors be purged till he purge all out? Certainly he will purge Spirit, Life and all away with it. And as it is in the Natural Body, so

Anno 1632. it is in the Politick; there must be a Toleration and Connivence: it cannot be governed without it, and we have a Warrant for it. Did not Christ himself forbid the cutting out of the Tares, lest they should pluck Corn, and destroy that too? I think, if Mr. Prynne should have been asked the Question that Naaman did to the Prophet, he would not at all have bid go away in peace; he would have threatned Hell and Destruction. There is a Christian Wisdom, and there must be a Toleration in all States. And certainly the faults that have been tolerated in all times, were greater than modest Plays, or modest Dancing. It is not my Intention, neither do I think it is the intention of any of your Lordships to Apologize for Stage-Plays, much less for the Abuse of them; I wish, and so I think doth every good man, that the Abuse of them were restrained; but my Lords, not by Railing, Cursing, Damning, Inveighing, &c. not only against the Faults and Players themselves, but against all Spectators, and those that come to them; and that of all Degrees, and with such bitterness and acrimony, that in all the Authors alledged, which are infinite, there is not to be found an Example. My Lords, I am very sorry he hath so carried himself, that a man may justly fear he is the *Timon* that hath a quarrel against Mankind. But I love not too much to aggravate Offences, which of themselves are heavy enough.

He calleth his Book *Histrion-mastix*; but therein he sheweth himself *Ajax Anthropomastix*, as the Grecians called him, *The Scourge of Mankind*, that is, the Whipper and the Whip. I cannot but concur with the Censure already begun by my Lord Cottington, given against Mr. Prynne, Buckner and Sparkes.

The Lord of Dorset was more severe in his Censure; for that he Fined him in 10000 *l.* to the King, to have his Nose slit, and his Forehead branded, &c.

Let us see for a while the estate of things in the neighbouring Provinces of the Low-Countries; where those adhering to the Crown of Spain, suffered a very great loss by the Death of the *Infanta Clara Eugenia*, their Governess, whose Government over that People had been very mild, gentle and obliging; She did by all good means, perceiving the miserable and low Condition of that Countrey, seek to procure for them at last, after all the Miseries of War, a Peace so necessary for their Welfare; but all in vain: for the Dutch, I mean the Confederate Netherlands, being puffed up with the Prince of Orange's late Success before *Rhinbergh*, taking that Town in less than three weeks time; and withal being instigated hereto by Monsieur Charnasse, the French King's Ambassador, who drew them into a League with his Master and the Swede, against the Spaniard, refused all moderate Terms of Peace proposed to them by the Spaniard, and so those Countries to their (almost) ruine, continue all this whole year in War. To the *Infanta* succeeds the Cardinal *Infanto*, who by the Generals *Ailona* and Marquess of *Ledio*, dissipates the plotting of Henry Count of *Bergues*, the Prince Duke of *Aschol*, and others, and retakes the strong House of *Argenteau* and Dutchy of *Limburgh*, making as if he intended the Siege of *Maeſtricht*; whom to dislodge, the Prince of Orange seems to attack *Breda*, but upon the Spaniards Approach, he marcheth off.

About this time his Majesty of Great Britain by Death was deprived of the greatest Ornament of his Gown, the Attorney General Noy, whom the Malecontents of this Government equally hated as the great Archbishop, and whom they equally Libelled and reviled by their impudent and scandalous Libels; to which Vice, that party of men (who yet pretend to Religion) to their infamy have been, and to this day are yet most passionately addicted, to their disgrace and disadvantage, in the Judgment of all sober and discreet men.

And in regard Mr. Prynne had, to the Scandal of his Brethren and Profession, notoriously been culpable (as before you have heard) in Libelling and abusing the Government, by decrying all innocent and harmless Mirth and Recreations, as Stage-Plays, Dancing, &c. all the four Inns of Court now joyn in the presenting a Masque to their Majesties at *Whitehall*; which was done with that Magnificence by the Undertakers, that perhaps this Age hath not, for the splendor thereof seen the like; which they partly did, to shew their Dislike and Abhorrence of Mr. Prynne's Sentiments, and to give his Majesty not only a Welcome home from his Progress into Scotland, but a hearty representation of their Judgments in that Matter: On *Candlemas-Day* at night rode four Gentlemen of each Inn of Court, followed by a Train of Christian Captives, sent by the Empeior of *Morocco* to our King, as a Present, for his Assistance in taking of *Sally*, a Port of Pyrates in the *Mediterranean* on the *African* Shore, who much annoyed and disturb'd our Trade into the *Levant*.

Immediately after, the City invite their Majesties to *Merchant-Taylor's Hall*, where the Treatment was indeed (had it been hearty, all had been well) every way magnificent; where, to please that People, the Revelers also of the Inns of Court adorned the King's Feast, and the Masque was shewed to the City, though (in affection) not obliged to their Majesties by it, as we all know by what after happened.

His Majesty now began to apply himself to Naval Affairs; and indeed it was high time; for the Narrow Seas themselves began to be infested with *Turks* and *Algerines*, and even the Dominion thereof was questioned by the Dutch; who being ever intent upon their Gain, became almost Masters of the Fishing-Trade, if not of our Seas themselves: The Northern Fishing produced to our People no great gain, and therefore was by them neglected; at last the Dutch set upon the Trade of *Herring-Busses*, and (as one gives us hereof a very good Account) of the general Fishing of the very *British* Seas and our own Coasts, after much muttering of our Fishmongers, and the complaint upon their Markets; the State were rowzed up, by several Overtures and Projects, concerning Busses for our own Coast, and prevention of strangers, as an Inlaw over all the *Narrow-Seas*, some petty quarrels thereabout happened between us and the *Hollander*, and then began the Dispute, which that able Scholar *Grotius* intended to conclude, by his Tract of *Mare Liberum*, and although the *English* Right was not now to be questioned by a new Challenge of the *General* Interest, and so to make the case common to all; and that by the Pen. Yet, to answer him therein also, he was encountred by as Learned a Piece entituled *Mare*

Anno 1634. *Mare Clausum*, the Author, Mr. Selden, able enough to make it good, and did so far as he intended towards them, proving the Sovereignty of those Seas, under the Dominion of this Crown of England, and by continual practice of our former King's levying Monies of the Subject, meerly for that purpose to maintain that Right. But, when the King found that it was now in controversie, and must be kept by force, which his Coffers failed to perform, herein he considers the way and means, to require Supply of his Subjects by Duty, which hitherto had been denied of *Curtessie*, or by *Privy Seals*, or by *Loans*, which are miscalled [*disgustful, Impositions illegal*] they were not so, they had been lawfully demanded, and no Impositions but seemly and necessarily used, by all former Sovereigns. Disgustful indeed they might be, so are all demands of Money, from hard-hearted Subjects, and being constrained (by his own consent) to the late Petition of Right; he would depend upon his own, the Revenue by his right of *Prerogative*. And having Precedents of former Sovereigns, he sets on foot that payment of *Ship-money* as a Duty; for indeed Mr. Selden comes short of home in his Proofs, bringing his Levies of *Naval-Aid* but to the time of Henry the Second, and might no doubt by his reading, have reached home without help, even of a Parliament.

But the Course went on by the orderly, legal proceeding of *Writ*; in effect, *An ancient Precedent of raising a Tax upon the Nation, for setting forth a Navy, in case of danger*. And being managed by that excellent Artizan of Law, the Attorney Noy, whose Readings and Search had no doubt happened upon Records for Levying a *Naval-Aid* by sole Authority of the King, for safety of the Kingdom, as also in time of those Parliaments, when free Subsidies, and this enforced Command of *Aid* came together, the one by their love to support what might refer to himself, this other by Authority, when it concerned the Publick. But the wisdom of State made restrictions, and bounded the *Writ* at the first but to *Maritime* Counties, as mostly receiving the present benefit of security from *Pirates*; but that not sufficient for the common necessity, the *Writs* became afterwards general to all Counties, and so did the quarrel; the whole (amounting unto two hundred thirty six thousand pounds, in lieu of all payments) came but to twenty thousand pounds per *ensem*. The Clergy never pleaded, but indeed they muttered (their case) to be free from all secular and civil charges: And to prevent the boldness of any pretence, the Laws made disputes of the three-fold necessity binding all, Clergy and Laity, viz. aid in War, building of Bridges, and raising of Forts. Nor had they any Exception; that which the Archbishop did for them, was upon their just Complaint of their unequal Tax by their Neighbour; therefore the Sheriffs were required not to tax the Clergy of *Parsonages* above a tenth part of their Land-rate of their several Parishes; and no doubt we may easily believe the *Inlanders* might mutter, as conceiving it strange to be concerned in the Sea. But in truth the main Exception was, to be taxed out of Parliament against the late Petition of Right, and endured long debate in Courts of Justice thereafter, whilst the first Mover, Noy the Attorney having set the Wheel a going, took his last leave, as before, to rest for ever from the toil of an Attorney General.

The Swedes were now renewing their Quarrel with the Emperour, and to solicit for aid and assistance, they dispatch the Great Chancellour Axel Oxenstjerne to his Majesty of Great Britain; but his Majesty being not over-kindly used by the late King of Sweden, as to the restitution of the Palatinate, when it was in his power to have done it, and being now in Treaty with the Emperour about that Affair, he was not over-ready to promise any thing to the Embassadour, whom yet he presented with Gifts answerable to his Quality, which the Embassadour not succeeding in his Embassy, was pleased to return.

This year also there was summoned a Parliament in Ireland at the motion of the L. Deputy Wentworth, founded on very good reasons, for that in the time of Edward the Third, that Kingdom did yield to the Crown *ultra reprisas*, all charges born, thirty thousand pounds per annum. But now his Majesties Revenue fell short of defraying the yearly charge twenty thousand pound per annum, which was supplied by way of Contribution from the Subject, and the Crown had contracted a debt of eighty thousand pounds. This Contribution was to be determined the next year, and renewed it could not legally be, but by Parliament; and if that Parliament would but grant three Subsidies, they would advance enough to maintain the Army, and providently ordered to discharge his Majesties debt; and that the Parliament should be inclined thereto, the King had many reasons to hope: First, they had granted but one Subsidy since the beginning of King James his Reign. Secondly, the Kingdom was now grown rich, peace begetting plenty. Lastly, his Majesty had lately obliged them by settling all Estates where there had been twenty years continued possession; nor did his expectation miscarry, the Lord Deputy proceeding with that prudence, that he obtained his ends.

Great complaint was now likewise made, and they were brought to the Council Board, how that the *Romish Recusants* made their Compositions at under-rates, much to the Kings prejudice; upon which the Attorney General excogitated a more exact method of proceeding therein, that very little detriment might thereby accrue to his Majesty.

It is well known, how that ever since the departure of the States of Holland from the Spanish subjection, there was ever in the service of these States very considerable Troops of his Majesties Subjects under their Pay; and because the Commanders had no great care in the choice of their Chaplains, many whereof inconformable persons, and thereby capable to influence the Soldiers to their dislike of Church Government established in each of his Majesties Kingdoms, the Archbishop of Canterbury tendered certain Propositions concerning this matter to the Council Board, which hereafter follow.

1. Whether it be not fit that the several Colonels in the Low-Countries should entertain no Ministers as Preacher to their Regiments, but such as shall conform in all things to the Church of England established, and be commended unto them from your Lordships, by the advice of the Lord Archbishop of Canterbury or York, for the time being.

2. That the Company of Merchants residing there, or in any other forreign parts, shall admit no Minister, as Preacher unto them, but such as are qualified, and commended as aforesaid.

3. That if any Minister, having by feigned carriage,

Anno
1634. riage, got to be so recommended, either to any of the several Colonels, or to the Deputy-Governour and Body of the Merchants there, that he after found unconformable, and will not mend upon warning given by the Colonels, or Deputy-Governour of the Merchants, he shall within three Months after such warning given, and refused, be dismissed from his service, that a more orderly and peaceable man may be sent unto them.

4. That every Minister or Preacher with any Regiment of Souldiers that are his Majesties born Subjects, or with the Company of Merchants there, or elsewhere, shall read Divine Service, Christen Children, Administer the Sacrament of the Lords Supper, Marry, instruct the Younger or more ignorant sort in the Catechism, Visitt the Sick, Bury the Dead, and do all other duties according as they are prescribed in the Book of *Common-Prayer*, maintained in the Church of England, and not otherwise; and that he which will not conform himself so to do, shall not continue Preacher, either to any Regiment of English, or Scottish, or to the Merchants.

5. That if any Minister, or Preacher, being the Kings Subject, shall with any bitter words, or writings in Print, or otherwise, defame the Government of the Church of England established, his Majesties Ambassador or Agent in those parts, for the time being, is to be informed of it, and upon notice given from him to the State, he or they so offending shall be commanded over by *Privy-Seal*, or otherwise, to answer their offence, or offences here.

6. That no Colonel of any several Regiment, or Deputy-Governour of the Merchants shall give way, that their Minister or Preacher shall bring any other Minister to preach for him in time of his Sicknes, Absence, or other necessary employment, but such, as for whose conformity to the Church and Government he will be answerable.

7. That if any Minister being a Subject of the King's, in any parts beyond the Seas, shall in any Auditory, or elsewhere publicly Speak, Write, Print or Divulge any thing derogatory to the Doctrine or Discipline established in the Church of England, or against the Temporal State and Government, that the Kings Agent do certifie his Offence, that so he may be recalled by *Privy-Seal*.

8. That no man shall be chosen, or sent over by the Merchants here, either to Delf, or any other part of their Residence beyond the Seas (whensoever any place or places shall become void) but such a man as is conformable to the Church of England; and such as will be careful to see, that they who are under his Government shall observe all such Church-duties, as are expressed and required in any of the former Proposals.

9. That whensoever the Merchant-Adventurers shall become Suitors to renew or confirm their *Patents* (as in most Kings times is usual to do) that then there be a Clause inserted into their *Patent*, to bind them to the observance of all, or so much of those Instructions, as shall be thought fit by his Majesty, and the Lords, &c.

And in regard of the great number of English Merchants residing in Holland, more particularly at Delf, he wrote to the Factory as followeth.

After our hearty Commendations, &c. We are commanded by his Majesty to signifie unto you, that this Bearer, Mr. Beaumont, chosen by joynt-consent of your Company to be your Preacher at Delf, or where else you shall at any time reside, is a man learned, sober and conformable to the Doctrine and Discipline established in the Church of England, and that you are to receive him with all decent and courteous usage fitting his Person and Calling, and to allow him the usual ancient Stipend which Mr. Forbes lately, or any other before him hath received. And further we are to let you know, that it is his Majesties express Command, that both you, the Deputy, and all and every other Merchant that is, or shall be residing in those parts beyond the Seas, do conform themselves to the Doctrine and Discipline settled in the Church of England: And that they frequent the Common-Prayers with all Religious duty and reverence at all times required, as well as they do Sermons: And that out of your Company, you do yearly about Easter, as the Canons prescribe, name two Church-Wardens, and two Sidesmen, which may look to the Orders of the Church, and give an account according to their Office. And Mr. Beaumont himself is hereby to take notice, that his Majesties express Pleasure and Command to him is, that he do punctually keep and observe all the Orders of the Church of England, as they are prescribed in the Canons and the Rubricks of the Liturgy. And that if any of your Company shall shew themselves refractory to this Ordinance of his Majesty, (which we hope will not be,) he is to certifie the name of any such Offender, and his offence to the Lord Bishop of London for the time being, who is to take order and give remedy accordingly. And these Letters you are to Register and keep by you, that they which come after may understand what care his Majesty hath taken for the well-ordering of your Company in Church affairs. And you are likewise to deliver a Copy of these Letters to Mr. Beaumont, and to every Successor of his respectively, that he and they may know what his Majesty expects from them, and be the more inexcusable if they disobey. Thus not doubting but that you will shew your selves very respectful to these his Majesties Commands, we leave you to the Grace of God, and rest,

June 17.

Your very Loving Friend,

W. Canterbury.

In Michaelmas Term of this year, Sir Robert Heath was removed from being Lord Chief Justice of the Court of Common Pleas, and Sir John Finch the Queens Attorney was advanced into his place; upon which account the Lord Keeper Coventry in that Court at the time of his Inauguration spake as followeth.

The Lord Keepers Speech to Sir John Finch, at the time he was to be made Chief Justice of Common-Pleas, the 16th. of October 1634.

Mr. Serjeant Finch,

THE King's Majesty calling to mind your many Services to himself, and the Queen, and knowing well your great Learning, accompanied with much Dexterity in the accomplishing of Business of weight, hath appointed you to succeed in the Place vacant in this Court, and here

here to sit as Chief Justice. In this you see a manifest Argument of singular Goodness of the King and Queen, so mindful of their Servants, imitating God above, that rewardeth not *secundum, sed supra Bona Opera*. Now as many heretofore, so you in your due time have cause to acknowledge with David, that *your Cup doth overflow*. As this is a great comfort to see your Endeavours not only favoured with Acceptance, but Crowned with Reward; so it will instruct you (your Service having brought you Promotion) and put you in mind of your Service, that the Gifts of Princes, though they are *sine aliquo reddendo*, yet they are not to be reckoned so by them that have them; but as Fruits sown in fruitful Ground to them that receive them: And of this Nature is your Place, which your Master gives you to serve him in; and yet you must serve him so, as you may be fruitful to his People. I remember in *Rotulo Parliamenti*. 20 Ed. 1. in a great Cause between Humphrey de Bohun, and Gilbert de Clare; It was said of that King, he was as great a Lawgiver, as a Victorious Prince, and therefore stiled the Justinian of England, *Rex omnibus Justitia Debitor*. The King, our Master, as much as any, makes the same acknowledgment in Practice: never any King, I may say, never any Man of juster, or more upright heart, that equal Justice should be ministered to his Subjects; for he knows well, that *Rex & Subditus* are Correlatives, even as Man and Wife; and the Emblem of King not wanting betwixt them. As the Subject owes Obedience, so the King Protection and Justice. This Debt is *Debitum Justitie*, too great and heavy a Burden to be born by a King, compounded only of Mortal Flesh, were it not that his Councel were as Religious and Just, as he is Wise and Politick; and thereby the Load of the King's Business is lighted, by laying a part of the great and insupportable Burthen upon the Judges: For his *Debitum Justitie*, which is the Debt of a King primarily, by a secondary means becomes the Debt of Judges, and under as great Bonds as may be; greater there cannot be to bind the Consciences of men. The first Bond is *Debitum Patrie*, due to all the Kings People, whose Causes and Places are the proper Subjects of this Tribunal, and whose flourishing Estate depends much upon the Just Proceedings of this Court. Were there no other Motive, yet this that prevails among the Heathen, *Amor Patrie*, were strong enough to make Judges desirous of their Duty. The second is, *Debitum Regi*; for he trusts them with his Richest Treasure, that which is dearer than the Apple of his Eye. His Justice is one Prime part of his Oath at his Coronation, *Facies fieri in omnibus Justitiam Equam & rectam*: And what you are to give the King for this, you shall need to go no farther than your Oath, the neglect of which puts you to the Will of the King, for Body, Laws and Goods. The third the greatest of all, *Debitum Deo*, as he is the Fountain of all Justice, and a fearful avenger of them that do the contrary. And three ways I shall mind you how this is a Debt to God. First, *Ratione Juramenti*, by reason of your Oath, for the immediate relation it hath to God; that it is *Religio Jurisjurandi*, and therefore, under this Oath, you are bound to God in a full discharge. Secondly, *Ratione Loci*, for the seat of Judges; God sits whereon you sit; and you may assure your selfe, that he that sets you there,

will take strict account of you. Thirdly, *Ratione Judicii*: The Judgment it self is God's, *Car. 10.* if you be upright, as you ought. It is said in the 82d. Psalm, *God stands in the Congregation of Princes*, is the Judge among Gods; and so when you sit here, you must think God is in your face, to give Judgment as it is right, or otherwise, to punish; and therefore when you shall sit your self on your Cushion, either here, or in any other place, you have cause to say, as Jacob did when he had slept in Bethel, *How dreadful is this Place! This is the House of God*. This in the general. I fear I have spent too much time; I will make amends in the Particulars: Somewhat for Order. *Communia Placita*, the Pleas of the People; as they are numberless, so necessarily must their Pleas and Causes be, therefore they are all Civil, whether for Lands, Goods real, personal, or mixt: they are the proper Object of this Court. First therefore, you must use diligence in attending and dispatching the multitude of business in this Court. Common Industry may discharge Common Employment; but this is Superlative and Transcendent, and therefore your diligence must be extraordinary. Secondly, you must use great patience in matters brought before you; I must confess, that a multitude of Business, and a good-will to dispatch, will as soon try ones Patience as any thing; yet whatsoever Tryal you are put to, be not from your Tryal. Nothing better becomes a Judge than Patience. Thirdly you must use great caution in discerning those things brought before you; for those that have ill Causes will omit no endeavour to beguile you: therefore you must keep Watch and Ward, and try every thing, that no Counterfeit come to be put upon you. Then, in the fourth place, it is necessary to use all expedition. *Nulli deferemus* is coupled with *Nulli negabimus*, *Nullo vendemus Justitiam*: all three naught, and none can tell which is the worst. In the first place, I shall advise and wish you, in all your Judgments, to insist upon the ancient ways of your Common law. New Opinions are many times in a Councillor retain'd, to defend a Side; but they stand not with the Gravity of a Judge. To invent or find any thing is commendable in a Councillor, but let a Judge stand *super antiquas vias*; for *Lex Loci & Consuetudo Anglia* is all in all. One Particular more, which (I think) conduceth much to Justice, is, to give all encouragement to the good and expert clerks of this Court. It hath ever been the great commendation and Honour of this Court to be furnished with the best Clerks. These encourage others, inform, and reduce to the same purity of pleading, which (as Mr Littleton saith) is one of the most Honourable things in the law, And if a Man observe what a multitude of Just Causes are overthrown by vitious Entries, and Pleadings, he will have Just cause to believe it. I know to whom I speak. Your great Understanding and Judgment, and that Integrity in you, need not that I should say half this: and yet, considering what Order is, and the duty of my place, and affection to your Person, I could do no less. I shall shut up all in two *Memento's*. The one, That the Justices of this Court are styled by the Name of *Justitiarij* without Addition, and the Process likewise *coram Justitiariis* without Addition. Addition, for the most part, diminishes. It is an Honour, and somewhat more, that it hath been attributed more

Anno 1634. to this Court than to any other. Think on it, and let it be an occasion for you to think what it is, and to follow it. The next *Memento* is, to remember the Catalogue of your Predecessors: for I may be bold to say, as many and Reverend Men have been upon the Cushion in this Court, as ever sat on any; especially the remembrance of the best is the best Instruction and Lesson for your self. Out of my true and hearty affection to you, I wish you may often think of them; and so think of their Ways, that your Ways may exceed, and out-run the best.

And the Lord Chief Justice returned, as followeth;

May it please your Lordship,

Levis est Dolor, qui Consilium capere potest.

Great Joy brings forth no less, and breeds no less perturbation in their thoughts that enjoy it. How it must then be with me, at this present, I leave to your Lordship to Judge. to my self, I must confess, I appear like one for a long time shut up in a dark Room, upon whom a great Light, on a sudden, hath broken in. I muse at the consideration of my own weak acknowledgment of the Kings Goodness shining upon me at this time. *Ignotus moritur sibi*, is a sad finishing of a man's own Course. I shall crave your Lordships patience; and if I live, shew you how unwilling I am to live the one or die the other. I have now spent (I would I could say not mis-spent) *Thirty-four years* in relation and Practice of the Common-Law; Relation I call it, for the first *Six Years* bestowed by me in the Books of Law, by some unhappy means I was diverted, and my resolution fitted to another way for Forreign Employment, to which, after *Nine or Ten Years*, I was design'd: and at that time, the *Great Seal* being put into the Hands of that *High-Treasurer* of all Learning and Eloquence, the Lord of St. Albans, (pardon, my good Lord, if my never-forgotten Favours desire to revive him, whose faults let them be buried with him in the Grave; I remember his Vertues (by him was I invited to the practice of the Common-Law. His Fall, and other Misfortunes to your Lordship not unknown, drew me from my Study: But afterwards, resolutely turning my Hand to the Plough again, it pleased God to send your Lordship that Place, which now you hold, (which God continue) and my prayer shall be ever from the bottom of my Heart, that I may never see it in another Hand: and when *Atalanta-like* I stooped at the Ball of Profit, neglecting the Goal of Honour, spending my time more in the Service of the Subject, than my own Good; He, in whose Hands the Hearts of Kings are, hath bowed the Heart of my Gracious Sovereign and Master to me; and I learn to think that is best which he doth, and so submit my self to His Pleasure. This hath bred in me several Meditations, some of comfort and Consolation. Here sit by your Lordship Three Grave and Learned Judges well-versed in the ways of this Grave Court; and I am as confident of their particular Affection to me, as certain of my own to them; two of the same Society where I was bred, my Ancient Acquaintance; and from the third I ever had a respective Carriage. I shall think it no disparagement to see with their Eyes, to hear with

their Ears, and to speak with their Tongues, till my own Observation and what I shall hear by them, may make me more substantial. In the Gospel of Christ His Coat is said to be without Seam; and in the Psalms, that the Queens Vesture was of divers colours: upon which one of the Fathers makes this Observation, *In Veste varietas, Scissura nulla*. Sometimes we may differ in opinion; but our Hearts shall be like our Robes. My chiefest Comfort is in the confidence of your Lordships Noble Favour, whom I shall ever set as a Mirrour before my Eyes. I count it happy, that I shall attend your Lordship in a Court whereby I may learn, and you see my Endeavours to follow your Precepts and Example, which hath ever been accompanied with all Vertues: The assurance of the King's Majesties Favour is Happiness, as fit for my Wonder, as for my Words. At his first Access to the Crown, He was pleased, upon some small occasion to cast a Princely Eye upon me; after he made me of his Learned Council, and then commended me to the Service of my ever most Gracious and Excellent Mistress; and still doubled his Favours in continuing me in his own Service. Afterward he pricked me out to the Parliament to serve him and the Commonwealth; and though my own disability made me seek to decline it, himself gave me means to support it (a thing before not known) and found out a way to add some more value to me, by ranking me above others before me in Place and Merit. These, and more Favours innumerable have comforted me; that nothing but my own demerits can lessen his Grace to me. I begin to think of what *Demosthenes* said to the People of Athens, when they chose their Officers:

To take up Thoughts and Cogitations fit for the Greatness and Dignity of this Place; and in that I cannot but remember those Judges which *Jethro* commended to *Moses* (whom your Lordships remember) Men *Timentes Deum, & qui oderunt avaritiam*. His Majesties Love shall make me hate all base and sordid Thoughts, and stir up in me all zeal to his Service. For Uprightness between Man and Man, I shall need no other Argument but the justness of his Royalty, who likes best of those Servants that best distribute his Justice to his People; for the rest, *Levavi oculos meos in montem unde venit auxilium*; God's Grace give me assistance, as he did to the poor Fishermen. I shall account it your Lordships great Favour to make my humble Recognitions and Resolutions, with the best advantage of your Lordships Expression, known to the King's Majesty.

I know not whether it may be thought material to acquaint the Reader with some Decrees of Star-Chamber, made much about this time.

The first whereof was against Mr. *Prym*, about his leaving a Libellous Writing in the Attorney Noy's Chamber, this writing reflecting very highly against the Justice of that Court, and some eminent Members thereof; in fine, upon his submission, and the intercession of the Archbishop in his behalf, he was pardoned.

The Second was, A Decree against the Imposition of Farthing-Tokens upon poor people for their wages.

The Third was against *Sope-Boylers*, for using *Fish-Oyl* in making their Sope, and not suffering the Assay-Master to try and mark their Sope, but meeting

meeting in Taverns, being no Legal Corporation, to consult hereupon.

1634. Having mentioned his Majesties Resolution, by Advice of his Privy Councel, to maintain the Sovereignty of the Narrow Seas, as well as his Majesties Subjects, the Merchants in their Navigation, and the result thereupon of levying Ship-money, according to usage of former times, his Majesty now Issued out the first Writ for levying the Duty of Ship-Money; and it was directed to the Mayor, Commonalty and Citizens of London.

Carolus Rex, &c.

To the Mayor, Commonalty and Citizens of our City of London, and to the Sheriffs of the same City, and good Men in the said City, and in the Liberties, and Members of the same, Greeting. Because we are given to understand, That certain Thieves, Pirates and Robbers of the Sea, as well Turks, Enemies of the Christian Name, as others, being gathered together, wickedly taking by force, and spoiling the Ships and Goods, and Merchandizes, not only of our Subjects, but also of the Subjects of our Friends in the Sea, which hath been accustomed anciently to be defended by the English Nation; and the same, at their pleasure, have carried away, delivering the Men in the same into miserable Captivity: And forasmuch as we see them daily preparing all manner of Shipping, farther to molest our Merchants, and to grieve the Kingdom, unless remedy be not sooner applied, and their Endeavors be not more manly met withal; also the dangers considered, which on every side, in these times of War do hang over our heads, that it behoveth us and our Subjects, to hasten the Defence of the Sea and Kingdom with all expedition or speed that we can; we willing by the help of God chiefly to provide for the Defence of the Kingdom, Safeguard of the Sea, Security of our Subjects, safe Conduct of Ships and Merchandizes to our Kingdom of England coming, and from the same Kingdom to Foreign Parts passing; forasmuch as we, and our Progenitors, Kings of England, have been always heretofore Masters of the aforesaid Sea, and it would be very unknown unto us, if that Princely Honour in our times should be lost, or in any thing diminished. And although that Charge of Defence which concerneth all men, ought to be supported by all, as by the Laws and Customs of the Kingdom of England, hath been accustomed to be done: Notwithstanding we considering, that you Constituted in the Sea-Coasts, to whom by Sea as well great dangers are imminent, and who by the same do get more plentiful Gains for the Defence of the Sea, and Conservation of our Princely Honour in that behalf, according to the Duty of your Allegiance against such Attempts, are chiefly bound to set to your helping hand; we command firmly, enjoining you the aforesaid Mayor, Commonalty and Citizens, and Sheriffs of the said City, and the good Men in the same City, and in the Liberties and Members of the same, in the Faith and Allegiance wherein ye are bound unto us, and as ye do love us and our Honour, and under the forfeiture of all which ye can forfeit to us, That ye cause to be prepared and brought to the Port of Portsmouth, before the first Day of March now next ensuing, one Ship of War the Burden of Nine hundred Tuns, with three Hundred and fifty Men at the least: as well expert Masters, as very able and skilful Mariners: One other Ship of War of the Burden of Eight Hundred Tuns, with Two Hundred and Sixty Men at the least, as well expert Masters, as very able and

skilful Mariners: Four other Ships of War, every of them of the Burden of Five Hundred Tuns, and every of them with Two Hundred Men at the least, as well expert Masters, as very able and skilful Mariners: and one other Ship of War, of the Burden of Three Hundred Tuns, with One Hundred and Fifty Men, as well expert Masters, as very able and skilful Mariners: And also every of the said Ships with Ordnance, as well greater as lesser, Gunpowder, and Spars and Weapons, and other necessary Arms sufficient for War, and with double Tackling, and with Victuals, until the said first of March, competent for so many Men; and from that time, for Twenty six weeks, at your Charges, as well in Victuals as mens Wages, and other things necessary for War, during that time, upon defence of the Sea in our Service, in Command of the Admiral of the Sea, to whom we shall commit the Custody of the Sea, before the aforesaid first Day of March, and as he, on our behalf, shall command them to continue; so that they may be there the same day, at the farthest, to go from thence with our Ships, and the Ships of other faithful Subjects, for the Safeguard of the Sea, and defence of you and yours, and repulse and vanquishing of whomsoever busying themselves to molest or trouble upon the Sea our Merchants, and other Subjects, and Faithful People coming into our Dominions for Cause of Merchandize, or from thence returning to their own Countries. Also we have Assigned you, the aforesaid Major and Aldermen of the City aforesaid, or any thirteen, or more of you, within thirty days after the receipt of this Writ; to Assess all men in the said City, and in the Liberties and Members of the same, and the Land-holders in the same, not having a Ship, or any part of the aforesaid Ships, nor serving in the same, to contribute to the Expences, about the necessary provision of the Premises; and to Assess and lay upon the aforesaid City, with the Liberties and Members thereof, viz. upon every of them according to their Estate and Substances, and the portion Assessed upon them; and to nominate and appoint Collectors in this behalf. Also we have Assigned you, the aforesaid Major, and also the Sheriffs of the City aforesaid, to Levy the Portions so as aforesaid Assessed upon the aforesaid Men and Land-holders, and every of them in the aforesaid City, with the Liberties and Members of the same, by Distress and other due Means; and to commit to Prison all those whom you shall find Rebellious and contrary in the Premises, there to remain until We shall give further Order for their delivery. And moreover We command you that about the Premises ye diligently attend, and do, and execute those things with effect, upon peril that shall fall thereon: but We will not, that under colour of Our aforesaid Command, more should be levied of the said men, than shall suffice for the necessary expences of the Premises; or that any, who have levied money for Contribution, to raise the aforesaid Charges, should by him detain the same, or any part thereof, or should presume, by any manner of Colour, to appropriate the same to other uses; Willing, that if more than may be sufficient shall be Collected, the same may be paid among the Contributors, for the rate of the part of them belonging.

Witness My Self, at Westminster the 20th day of October in the 10th year of Our Reign.

Parkhurst, then Mayor, hereupon Summons the Common Councel of the City; who deeming themselves exempt by ancient Priviledges, Grants and

and Acts of Parliament, Petition his Majesty, as
Anno followeth;

1634.

TO THE

Kings Most Excellent Majesty.

The Humble Petition of your Faithful Subjects, the Mayor, and Commonalty, and Citizens of your City of London, most humbly shewing;

That whereas your Majesty by Writ, bearing teste 20 Octobris last, Commanded your Petitioners, at their Charge, to provide seven Ships of War, furnished with Men, Victual, and all Warlike Provisions, to be at Portsmouth by the first of March next, and to continue from thence by the space of twenty six Weeks in your Majesties Service, upon the defence of the Seas, and other causes in the said Writ contained.

Your Petitioners do in all submissive humbleness, and with acknowledgment of your Sacred Majesties many Favours unto your said City, inform your Majesty, that they conceive that by ancient Priviledges, Grants, and Acts of Parliament (which they are ready humbly to shew forth) they are exempt, and are to be freed from that Charge.

And do most humbly pray,

That your Majesty will be graciously pleased, that the Petitioners, with your Princely Grace and Favour, may enjoy the said Priviledges and Exemptions, and be freed from providing of the said Ships and Provisions.

And they shall pray, &c.

In this year likewise it was that the Church of Ireland received and approved the Book of Articles of Religion of the Church of England, though some will say that the Articles framed in the Convocation 1615. were now repealed by the Irish Clergy in their Convocation, which Mr. L^d Strange denieth, upon the Information given him by the most Reverend Primate Archbishop Usher, p. 137. of his Reign of King Charles.

The Canon of the Church of Ireland hereafter followeth.

Of the Agreement of the Church of England and Ireland in the Profession of the same Christian Faith.

For the manifestation of our Agreement with the Church of England, in the confession of the same Christian Faith, and Doctrine of the Sacraments: We do receive and approve the Book of Articles of Religion, agreed upon by the Archbishops and Bishops, and the whole Clergy, in the whole Convocation holden at London, Anno Dom. 1562. for the avoiding of diversities of Opinions, and for the establishing of consent touching true Religion. And therefore if any hereafter shall affirm, that any of those Articles are in any part Superstitious, or Erroneous, or such as be may not with a good Conscience subscribe unto, let him be Excommunicated, and not absolved, before he make a publick Revocation of his Error.

The Scotch discontents began now to rent themselves; one *Hagge* had been the Author of an infamous and virulent Libel against his Majesty, as his Majesty in their last Parliament had by indirect means gotten the Votes of the Nobility in that Parliament, which the secret Council of Scotland taking into their most serious consideration, as a thing highly reflecting upon the King, and enquiring therein, found out the Author to be *Hagge*, but the Lord *Balmerino* the Grand Abettor and Promoter thereof. This Lords Father had been formerly Secretary of State to his Majesties Father King *James*, who going a Hunting, and being in some haste, calls for the Secretary the Lord *Balmerino*'s Father to bring forth the Dispatches to be Signed; he cunningly shuffed a Letter, in order to a Cardinals Hat for a Countryman of his own, to the then Pope unknown to the King, who signed it amongst the rest of the Papers the Secretary had offered: This being objected by *Bellarmino* to his Majesty, who being ignorant hereof, questions *Balmerino*, who confessing the Fact, had Condemnation passed upon him to be hang'd, and to have his Estate confiscated, whom yet his Majesty upon seeming repentance pardoneth, and restoreth him to life and fortune.

This Lord *Balmerino* (saith one) being Heir *ex asse* (even to his very perfidiousness) of what was his Fathers, thus lapsed into a similiary Crime, under-went similiary proceedings of Tryal and Arraignment, was also by his Peers found guilty, and Sentence of Death ready to be pronounced against him. True it is, the Verdict of his Peers past amongst those who wished well both to him and that Libel, as over-severe. But the Lord finding himself convicted as a Malefactor, and by consequence his life at the dispose of his Majesty, had the wit his Father taught him, to resort to the Kings Mercy, which (that the parallel might still proceed) was as graciously dispensed to him. This Princely favour the Lord received (as well it merited) in the lowest posture of a Suppliant on his knees, with highest recognisance of his Majesties goodness, and deepest Vows of future Loyalty, that an Obligation so high could deserve. But long he held not to the Conscience of those Protestations, so ingratelously relapsing some few years after, as if he had only craved leave to offend again.

Balmerino's great Enemy was said to be the Noble Earl of *Kenoul*, Lord Chancellour of Scotland, who this year departed this life, and left his Office to the famous *Sporwood*, Archbishop of *S. Andrews*; a most learned, moderate, and most wise Prelate was he, as may by that excellent Book of his the Church-History of Scotland be seen, at whose Promotion the Scotch Presbyterian Nobility were much offended, though this is no new thing in Scotland, as may appear by the Catalogue following in Mr. *Saunderson*'s Reign of King Charles.

Andrew Foreman, 15 Jac. 4.

James Stuart, Brother to James the Fourth.

James Beaton, 10 Jac. 5. and Queen Maries Reign.

David Beaton Cardinal, succeeded him.

Jo. Hamilton, Brother to the Duke of Chatterheralt, was the last of the Popish Bishops, and many more before those, and all of them Archbishops of *S. Andrews*, and Chancellours.

Then there were William Lowater, Anno 1412.

Andrew Foreman, Jac. 4.

Gavin

Gawin Dunbar, Præceptor to James 5. and after him,
James Beaton.

And these following were Archbishops of Glasgow, and Chancellours.

Adam and Patrick, Bishops of Brocher, Chancellours, Annis 1360. and 1370.

Thomas Spence Bishop of Galloway, and Chancellor to Jac. 2.

William Elphinston Bishop of Aberdeen, Chancellor to Jac. 3.

But more especially, for that in that Country Justiciaries were *Itinerant*, seven whereof were alway Church-men, and the other seven Lay-men.

This year died also here in England Richard Weston, Earl of Portland, Lord High Treasurer of England, a great Favourite of his Majesties, by reason of his great Abilities; at this time more useful he was to his Majesties affairs, by how much they required his known Abilities to advance his Majesties Interest in the procurement of Money, which his Majesties affairs now very much required; but Death will admit no Reprieve, and his set period was come, his Office was put into the Administration of Commissioners for some time.

Now likewise also died Sir Edward Cook, a known and great Common Lawyer, whereof one gives this Character; 'His abilities in the Law, whereof he passed for the great Oracle, raised him to the Dignity first of Attorney General to Queen Elizabeth, then of Lord Chief Justice of the Kings Bench under King James. His advancement he lost the same way he got it, by his tongue. So rare is it for a man very Eloquent, not to be over-loquent. Long lived he in that retirement to which Court-indignation had remitted him, yet was not his recels inglorious; for at improving a disgrace to the best advantage, he was so excellent, as King James said of him, *He was like a Cat, throw her which way you will, she will light upon her feet.* And finding a Cloud at the Court, he made sure of fair weather in the Country; applying himself so devoutly to Popular Interest, as in succeeding Parliaments, the Prerogative felt him, as her ablest, so her most active Opponent. Upon which account he was *Caroli*, made High Sheriff of Buckinghamshire, on purpose to exclude him the ensuing Parliament, there being an especial Nolumus and Clause in his Commission prohibiting his Election, notwithstanding which, elected he was in Norfolk, and those words of Restraint upon debate of the Question in the House of Commons voted void.

An account of the posture of Military affairs in Germany having met with them more truly and succisely, described by Mr. Sanderson than elsewhere, take from him as followeth.

The Swede (saith he) having a continued confederacy with the Protestant Princes, and the French assistance against the Emperour and Spain; for although they fought and treated for a Conjunction, Duke Bernard had been so often misled by former promises of Wallenstein before his Murther; that now he trusted to fair words no longer. And the good Duke Francis Albert of Saxon Lauenburgh, the Instrument chosen to tie these two different dispositions into a Ligation, was not his Crafts-master, but was carried Prisoner for many years to Vienna.

The King of Hungary for the Imperial Party having cured the Army with good Gold, af-

ter the disorder of Wallenstein's murmur, and taken new Oath of the Souldiers, when news came to his Camp of a notable Victory gotten by Arnem upon the Imperialists in Silesia, and of his marching towards Pragna, whither the King sent so strong a supply, Arnem was constrained to retire into Saxony, at the same time the Town of Ratibon was regained for the Emperour in July, the brave and famous General Aldring being slain a little before at Landsut; He was of Lauenburgh obscurely born, whose virtues and valour had raised him thus high and eminent in many Battels against John de Wiert, with success.

And the business Military in Germany requiring all assistance for the Emperour against such a Confederacy of friends: Thither comes the Cardinal Infante from Milan, with the old Spanish, Italian, and Burgundian Bands, through all Switzerland, soon reforming the riotous Swedes by their example into a true Military Discipline. These Forces joyning with the Imperialists, marched into the Dutchy of Weissemburg, but first must pass the fiery Tryal of a strong Town Norlingen.

The Swedes and their Allies are likewise summoned together from all parts; Horn joyns with Duke Bernard, and advises to spare the Enemy a Town or two, rather than to hazard the Publick Cause. But the Duke would fight for it, and designed the day the sixth of September; and the rather, because some private offer had been for Overtures of a Peace, which the Swedes took for a good Augury, what e're it presaged. It procured to both Armies the most horrid bloody fight that had been between Christians.

To the Protestants Party were already arrived the Forces of the Duke of Weissemburg, the Lantgrave of Hessa, and Count Cratz, (He who was for Bavaria, and should have betrayed Ingolstadt to the Enemy, and so being discovered, was fled hither) wanting none but the Rhingrave, and his four thousand men. The fight began early, the most furious first shock was for a Hillock; the storming of a mined Fort lost many of the Swedes Infantry. The Canon, hidden behind some Bushes, did mighty Execution also, and the Swedes constrained to fly, and their Cavalry pursued by the Duke of Lorain, and John de Wiert, were utterly defeated; eighty Pieces of Canon, three hundred Colours taken and twelve thousand men slain, and six thousand Prisoners; amongst whom, that brave man Gustave Horn was Nobly received by the King. The fruit of this Battel begat a Peace, short and sweet, only to let that miserable Country tast of the blessing, which lasted not long, when the Revenger of Blood opens the Veins, to let out more evil fumes. This Victory might answer for their Eminent success heretofore at Leipsick and Lutzen; and as the Swedes did then, so does this Victorious General divide their great Body into flying Armies, carrying on an offensive War up and down where they pleased; for Norlingen forthwith surrendred, the Dutchy of Weissemburg soon submits, and their Duke flies to Strassburgh. The Emperour sufficiently recovering his Eagles Plumes, formerly obscured by the Septentrional Mists; And yet to shew to the world reason and right from the difference of contraries. The one would have War in the continuation of Conquest: But the Emperour declines his desire of Peace even in Victory.

They would carry on all with violence; He, M m m to

Anno 1634. to restore all to the first Owner by a moderate accommodation. And truly so it was offered by the King of Hungary to the Duke of Saxony, and the other Prince, which was afterwards the next year accepted for a while, until the French Flower de Luce, with her Odour, marred the scent of the sweet smelling Frankincense. In which time the Cardinal Infanto took time to visit his Government in Flanders.

In Michaelmas Term several persons were sentenced in the Star-Chamber; one Mr. Myn, Clerk of the Hanaper, and Daw his Deputy, for taking excessive Fees by Extortion in the Execution of that his place. 2. One Morley for reviling, striking, and challenging Sir George Theobald at the Court at White-Hall; and lastly, Allinson of Ipswich, and Robins, the one for spreading, and the other for inventing of a scandal upon the Archbishop of York.

The great inconvenience that Ministers for their subsistence should depend upon the courtesy of the Inhabitants of their Parishes, put the Ministers of the City upon the preferring a Petition to his Majesty, and the Council-Board, to the effect following.

The Parsons and Vicars in the City of London, in the Month of May, presented to his Majesty a Petition, Humbly shewing.

The London-Clergy Petition to the King concerning that matter.

THAT the Benefices in London were a hundred years since very great; that the Decree for Tythes, now in force, provides this 9 d. to be paid upon every Pound rent without fraud; that notwithstanding the said Decree, (the variation of tythes considered) they are now very poor and mean, many of them not worth 40 l. per Annum, the most not 100 l. only one, Christ-Church, a City-impropriation worth 350 l. That the Petitioners have not independent maintenance, and for want thereof are daily thrust upon dangerous and great inconveniences: That this is because the Petitioners have no means assigned in the said Decree, for the discovering of the true value of their said Rents by the Oath of the Parties, and for that many London-Landlords (to the defeating of the Petitioners, and endangering their own Souls) have, and daily do contrive double Leases, or make Provisos, wherein they call some small part of the true Rent by the Name of Rent, and all the rest (which yet is quarterly paid) by the Name of Fine, Income, or the like; which Practice, in the year 1620. was signified to be unjust and Sacrilegious, under the hands of the Reverend Bishops, and Heads of Houses of both Universities. And lastly, for that the Lord Mayor for the time being is our ordinary Judge, and the Petitioners generally want both ability and leisure to prosecute and appeal from him to the Right Honourable the Lord Keeper, or otherwise to wage Law with rich and powerful Citizens.

May it therefore please the Great Patron of the Church, your Royal Majesty, to take into your Princely Consideration these Pressures and Grievances of your poor Clergy of London, with the Causes of the same, and to take such course for redress thereof, as to your Majesties great Wisdom and Clemency shall seem meet.

And your Petitioners, &c.

The Petition by order of his Majesty was referred to the Archbishop of Canterbury, the Lord Keeper, the Earl Marshal, the Lord Bishop of London, and the Lord Cottingham, and Secretary Windebanck to hear, end, and report, if they could not.

The Cause coming to a hearing, the Mayor, Aldermen, and Recorder present said, they were impowered by the Common-Council of the City to consent, that the matter in difference should be referred to his Majesty: hereupon time was given them for that purpose, and a Common-Council called; they alledge, that in the Reign of King Henry the Eighth, this difference was settled by the Common-Council of each Ward, and therefore pray it may now be likewise settled as formerly: But the Attorney General gave in Presidents as ancient as Edward the Fourth, that the matters then in difference were arbitrated and settled by his Majesty; hereupon they were admonished to submit likewise, or if they should continue refractory, they should stand to their own hazard; and so gave them further time to consider hereupon, which was to the 23d of November, when with some regret the City submitted, and the matter afterwards settled, as it yet continues.

About this time the Archbishop of Canterbury held his Metropolitan Visitation; and as is usual, summoning all Ministers whatever to attend the Walloon and French Churches, thought themselves aggrieved at the Injunctions, which were especially these two.

1. That all the Natives of the Dutch and Walloon Congregations in his Graces Dioceses should repair to their several Parish Churches of those several Parishes where they inhabited, to hear Divine Service and Sermons, and perform all Duties and Payments required in that behalf.

2. That the Ministers, and all other of the Dutch and Walloon Congregations, which were not Natives and Born-Subjects to the Kings Majesty, or any other Strangers that should come over to them, while they remained Strangers, might have and use their own Discipline, as formerly they have done; yet it was thought fit that the English Liturgy should be translated into French and Dutch, for the better settling of their Children to the English Government.

Upon the publishing of these Injunctions, the Dutch and Walloon Churches at Norwich presented an humble Petition and Remonstrance to the Bishop of that Diocese, that the said Injunctions seemed to be opposite, not only to the sundry Orders of his Majesties most Honourable Privy Council, heretofore upon several occasions granted unto several Congregations of the said Strangers, but chiefly to all the Gracious Privileges granted unto them of old, and continued during the Reign of three most famous Princes, King Edward the Sixth, Queen Elizabeth, and King James of Glorious Memory, and confirmed by his now Majesties Regal Word, which he was pleased graciously to give unto the Deputies of all the strange Congregations in England prostrate at his Majesties Feet the 30th of April 1625. But the Petitioners finding no redress as to their complaint by the Bishop of Norwich,

Afterwards they presented a Petition to the Archbishop of Canterbury, to the effect of

of that given to the Bishop of *Norwich*; to which Petition the Archbishop of *Canterbury* gave an Answer in a Letter to the said *Durch* and *Walloon* Churches at *Norwich*: Dated *Aug. 19. 1635.* to this effect.

That his Majesty was resolved that his Instructions should hold, and that obedience should be yielded to them by all the Natives, after the first Descent, who might continue in their Congregations, to the end the Aliens might the better look to the Education of their Children, and that their several Congregations might not be too much lessened at once; but that all of the second Descent, born here in *England*, and so termed, should resort to their several Parish Churches where they dwelt, concluding his Letter in these words: *And thus I have given you Answer fairly in all your Particulars, and do expect all obedience and conformity to my Instructions; which if you shall perform, the State will have occasion to see how ready you are to practise the obedience which you teach: And for my part, I doubt not but your selves, or your Posterity at least, shall have cause to thank both the State and the Church for this care taken of you; but if you refuse, (as you have no cause to do, and I hope you will not) I shall then proceed against the Natives, according to the Laws and Canons Ecclesiastical: So hoping the best of your selves, and your obedience, I leave you to the Grace of God, and rest,*

W. Cant.

It was very usual for several Non-conformists to resort to these Churches; nay more than so, the Ministers of them, at least some of the most intemperate, could not forbear to Preach against the Ceremonies of our Church, and inveigh against them openly in their Pulpits; and therefore it was high time for the Governours of the Church to have an eye to those men: Moreover, there had been a great neglect of Ecclesiastical Discipline and Order in Archbishop *Abbot's* time, yea in the very times succeeding our Reformation, as may be seen at large in Dr. *Heylin's* History of the Reformation, and more particularly yet in the beginning of the good Queen *Elizabeth's* days, who never in the least favoured either *Romanist* or *Non-conformist*: The Prelates had been too remiss in the Government of the Church, and in looking after the good order hereof; and for this I have a very good Author, the ever famous *Cambden*, who in his *Annals* of Queen *Eliz.* gives us this account of the times immediately preceding Archbishop *Whitgift's* time.

John Whitgift (saith he) was Successor to *Edmund Grindal*, Archbishop of *Canterbury*; he was advanced from the See of *Worcester* to that Archbishoprick, a man of singular goodness and learning. He obtained much commendation for his Justice in the Precedency of *Wales*, and likewise for his great Doctrine in the defence of the Ecclesiastical Policy, which by his worth, wisdom and patience, he daily increased. The Queen (who held for a Maxim, that she ought not to be more remiss in Ecclesiastical Affairs than in Politick) above all commanded him to re-establish the Discipline of the Church of *England*, that as then lay dismembered by the connivency of Prelates, the obstinacy of Innovators, and by the power of some great Ones, whilst some Ministers covertly impugned the Authority of the Queen in things Ecclesiastical,

separating the Administration of the Sacrament from the preaching of the Word, using to their own fantastic new Rites of Services in their private houses, utterly condemning the Liturgy, and the appointed manner of administering the Sacrament, as being in many things contrary to the holy Scripture; and therefore many refused to go to Church, but openly became Schismatics; the Papists all this while applauding them, and drawing many to their Party, as though there had been no Unity in the Church of *England*. To abolish which things, and to reduce them to an unity, he propounded these Articles to the Ministers, by them to be subscribed.

First, That the Queen had Sovereign power over all those that were born within her Dominions, of what conditions soever they were; and that no other Stranger, Prince, or Prelate, ought to have any Power, either Civil or Ecclesiastical, within her Majesties Realm. Secondly, that the Book of Common-Prayers, and that of the Ordination of Bishops and Priests, contained not any thing contrary to the Word of God, but might be lawfully used; and that they should use that and no other form of Prayer, or administering of the Sacraments. Thirdly, that they should approve and allow of the Articles of the Synod holden at London the year 1562. published by Royal Authority, and should hold them as conformable to the Word of God.

He endeavoured to unite the English Church.

But it is incredible what Controversies and Disputations arose upon this, what hatred and reproach he endured of the factious Ministers, what troubles and injuries he suffered of certain Noble-men, who by placing men unfit in the Church encreased their Estate, or else had hopes upon the Goods of the Church: But by his constancy and patience, he overcame all difficulties, using for his Motto this, which he chose not rashly:

Vincit qui patitur.

Neither was the Church only tossed and troubled by those people within the Realm, but by others who had left the Kingdom; as by *R. Brown*, a Cambridge Divine, of whom the new Sectaries were called *Brownists*, and by *R. Harrison*, Master of an inferiour School. For these men presuming to judge of Religion, according to their own imaginations, by certain Books which they set forth at that time in the Country of *Zealand*, and dispersed through many places in *England*, utterly condemned the Church of *England* as no Church. Which Books notwithstanding were prohibited by Royal Authority, and strongly confuted by many learned men, and two of the same Sect also put to death at *S. Edmundsbury*; yet many were intangled in the snares of this new Schism.

Brownist Schismatics.

On the other side, there were certain Books dispersed by certain Papists against the Queen and other Princes, as Excommunicate, which caused divers admirers of the Papal Power to revolt from her Majesty.

Upon these and the like Occasions and Omission of the Bishops and Governors of the Church from one time to another, and the continual endeavour and clamour of the Puritan Faction (I

Anno 1634. use that word not to upbraid any honest man or sober Christian many Ceremonies of our Church, which yet were ever in use in the King's Majesties Chappels and Cathedrals of this Land, as Copes, Chalice, Side-Board, or *Credentia*, Altar, or Communion-Table placed close to the Wall, enclosed with Ballasters, Painted Glasse in Church-windows, &c. were traduced by the Presbyterian and other factious parties, as Innovations in Matters of Religion: hereupon, as Mr. *Rushworth* saith, p. 273, *Historical Collection*.

'The People made a great clamour at the Archbishop's sudden (though this was no new thing) setting up of Pictures in the Church-windows at his Chappels at *Lambeth* and *Croyden*, That the Archbishop endeavoured to subvert God's true Religion by Law established in this Realm, and instead thereof set up Popish Superstition and Idolatry; aggravating this his Action to be the greater Crime, because he was Primate and Metropolitan of all *England*, principally intrusted with the care of Religion, who should of all other men have been most vigilant against all Popish Idolatrous Innovations, and not professedly to set up afresh those Idolatrous, Superstitious, Romish Pictures, which were by our Statutes, Homilies and Injunctions purposely defaced and broken down at the beginning of Reformation, as Monuments of Popery, Superstition and Idolatry, contrary to the Word of God, and established Injunctions of the Church of *England*.

But the Collector being not willing to be thought uncharitable to the Deceased Archbishop (though ever his back-friend to the best of his skill and power) was willing to mention his Defence which he made to the Commons Objections hereupon, when he was afterwards questioned in the House of Lords by the Commons about such horrid Innovations, as if Rome had been entering the City at *Algate*.

'The first thing (saith that most worthy and Learned Prelate) that the Commons have in their Evidence charged against me, is, the setting up and repairing Popish Images and Pictures in the Glasse-windows of my Chappel at *Lambeth*, and amongst others, the Picture of Christ hanging on the Cross between the two Thieves in the East-window; of God the Father in the form of a little old Man, with a Glory, striking *Amyriam* with a Leprosie; of the Holy Ghost descending in form of a Dove; and of Christ's Nativity, last Supper, Resurrection, Ascension, and others, the Pattern whereof Mr *Prynne* attested I took out of the very *Mas-Book*, wherein he shewed their Portraitures.

To which I answer, First, 'That I did not set these Images up, but found them there before.

'Secondly, That I did only repair the Windows which were so broken, and the Chappel which lay so nastily before, that I was ashamed to behold, and could not resort unto it, but with some disdain, which caused me to repair it, to my great Cost.

'Thirdly, That I made up the History of these old broken pictures, not by any Pattern in the *Mas-Book*, but only by the help of the Fragments and Reminders of them, which I compared with the Story.

'Fourthly, Though the very Resemblances of them be in the *Mas-Book*, yet I protest I never knew they were there, till Mr. *Prynne* shewed them in it at this Bar; it being but a meer Fal-lacy, The Pictures which I repaired are in the *Mas-Book*; Ergo, I took the Pattern of them out of it.

'Fifthly, Mr. *Calvin* himself allows an Historical Use of Images, *Inst. l. 1. cap. 11. Sect. 12.* where thus he writes, *Neque tamen ea superstitio-ne tenetur, &c.*

'Sixthly, Our Homilies themselves allow an Historical Use of Images; as appears by Page 64, 65.

'Seventhly, The Primitive Christians approved, and had the Pictures of Christ himself, *Tertullian* recording, That they had the Picture of Christ engraven on their Chalice, in form of a Shepherd carrying home the lost Sheep on his back.

'Eightly, I hope the repairing and setting up of these Pictures is no High Treason by any Law.

'Ninthly, Images and Pictures in Arras, or Glasse-windows, are not against the Statute of 3 E. 6. c. 10. but Statues only.

To this was Replied; 'First, That he did not find those Images there, compleat or entire, but broken and demolished by virtue of our Statutes, Homilies, Injunctions fore-cited, and that at the beginning of Reformation; ever since which time they continued un-repaired, as Monuments of our indignation and detestation against them, like the Ruines of our Abbies and Monasteries.

'Secondly, We have here *confitentem reum*, the Archbishop plainly confessing that we charge him with, viz. the repairing of the broken Images of Christ, the Holy Ghost, in Glasse-windows; and no ways denying, extenuating, but justifying this Popish Fact of his against our Statutes, Homilies, Injunctions, Writers, yea, his own frequent Subscriptions to our Homilies, and Articles of Religion: Nay, Mr. *Brown*, his own Joyner, attested, That he, by the Archbishop's directions, repaired and new-made the broken Crucifix in *Croyden-Chappel*, as well as in *Lambeth-Chappel*; and the Archbishop plainly confesseth, that he had no great devotion to serve God in *Lambeth-Chappel*; nor yet to resort unto it, till these Images were repaired, and new-beautified, to please his Eyes.

'Thirdly, That himself took pains, and gave directions to the Glaziers to make up the Stories and Pictures in the Windows, out of the broken Fragments remaining, and new-made them, to his excessive Cost: whereas he might have new-glazed them with unpainted Glasse, for the tenth part of that his painted Pictures cost him.

'Fourthly, He confesseth the very Portraitures of the new-furbished Pictures in this Chappel to be all contained in the *Mas-Book*, which we made so apparent to your Lordships, that he could not but with shame deny it; but protests he knew them not to be in it, and that he took not his Pattern out of it. To which we must reply, That he having noted his *Mas-Book*, wherein we shewed them to be portrayed in every Page almost with his own hands, and turning this Book so frequently over, must of necessity see these Pictures in it, which are so large and visible, unless we shall suppose him blind, or such a hater of them, as purposely to turn his

his Eye-sight from them, which is improbable; and therefore notwithstanding this bold Protestation of his, we hold our Argument both true and solid. The new Images in his Chappel-windows, exactly agree in all things with the printed ones in his Mass-Book, which he could not but know and see too, as oft as he noted or perused his *Roman Missal*; Ergo, He took his Pattern from the Mass-Book, in the repairing, as well as his Popish Predecessors in the first making of them, since no other Pattern hath been produced by him, by which he gave directions to new-make them, but by the *Roman Missal*.

Fifthly, We wonder greatly, that he that hath so much traduced and reviled M. Calvin heretofore, should fly thus unto him for shelter now; but as he abused his Person and Memory then, so he miserably perverts and misapplies his words now point-blank against his meaning. Mr. Calvin only affirms, That he is not so superstitious as to think it altogether unlawful to make any Images of Men or Beasts for a civil use, since Painting is the gift of God; from whence the Archbishop hath inferred, Ergo, Mr. Calvin holds it lawful to make the Picture of Christ's Nativity, last Supper, Passion, Resurrection, Coming to Judgment; of God the Father, like an Old Man; of Christ on the Cross, of God the Holy Ghost in form of a Dove, and cloven Tongues; of the Virgin Mary, other Saints, and to set them up in Churches, as he did these Images in the Chappel: Whereas Mr. Calvin, in the self-same place, in most positive terms, concludes the contrary; witness the very next words following those he objects: *Purum & legitimum utriusque usum requiro, ne qua Dominus in suam gloriam, & bonum nostrum nobis consulit, ea non tantum polluantur prapostero abusu, sed in nostram quoque perniciem convertantur. Deum effingi visibili specie nefas esse putamus, quia id venit ipse, & fieri sine aliqua gloria ejus deformatione non potest*; which he proves at large. Then speaking of Images in Churches, he writes, they were introduced thither, *Non judicio aut delectu, sed stulta & inconsiderata cupiditate*.

This Author hath many such like Passages in his other Works, and therefore the Arch-Bishop's citing of him to justify his Chappel-Images, argues either extream ignorance, or Falshood.

Sixthly, Whereas he would pray in aid from our Homilies, to justify the Historical Use of these Images in his Chappel, the Homilies are so point-blank against it, as we have proved, that Impudency it self would blush to cite them to such a purpose, especially since the third part of the Homily against the Peril of Idolatry, pag. 41, 42, 43. expressly resolves it unlawful to make the Picture of Christ, or any Person in the Trinity, much less to set them up in Churches.

Seventhly, For his averment that the primitive Christians approved of Images, and had the Picture of Christ in their Churches, and engraven on their Chalice, is a most notorious falshood. For Justin Martyr, Clemens Alexandrinus, Irenaeus, Tertullian, Minutius Felix, Origen, Arnobius, Cyprian, Lactantius, Gregory Nysson, Ambrosius, Ambrose, Epiphanius, Eusebius, Hierome, Augustin, Hilary, Chrysostom, Theodoret, Theophylact, and other Ancients unanimously agree, that the primitive Christians had no Images at all in their church-

es; together with the Councils of Eliberis, Constantinople, Toledo, Frankford, and Constantine the Great, Constantius, &c. with sundry other godly Emperors, utterly demolished and cast them out of Churches; as Ecclesiastical Authors, our own Homilies, Writers, prove at large against the Papists. Lactantius and other Primitive Christians write expressly that without doubt there can be no Religion at all in that Place wheresoever any Image is; whereupon Epiphanius rent the Image of Christ, or some other Saint, which he found in a Church, painted in Cloth, out of holy indignation, as contrary to the Authority of the Scriptures. In few words, our own Homilies against the peril of Idolatry, Part 2. p. 38. expressly resolve, that when Images began to creep into the Church, they were not onely spoken and written against by godly and learned Bishops, Doctors and Clerks, but also condemned by whole Councils of Learned men assembled together; yea the said Images by many Christian Emperors and Bishops were defaced, broken and destroyed; which Mr. Calvin in the place objected by the Bishop affirms likewise: And therefore it is a most desperate assertion in the Arch-Bishop, thus falsely to affirm the contrary, point-blank against our Homilies and his own subscription to them. And whereas he cites Tertull. to prove that the Christians in his days had the picture of Christ upon their Chalice; we answer, that if the Book *De Pudicitia* be Tertullian's own (of which some doubt) yet his words import no such thing, which are these *A parabolis licet incipias ubi est Ovis perdita à Domino acquisita*; &c. *Pictura Calicem vestrorum*, &c. (not nostrorum.) and that he hath most grossly abused Tertullian, your Lordships and his Auditory, in alledging Tertullian in defence of Images, and their use among the primitive Christians: certainly Tertullian is so far from any such opinion, that he hath written a whole Book *De Idololatria*, next before this *De Pudicitia*, wherein he expressly condemns, not only the having, but making of any Image or Picture for any use, and the very Arts of Carving and Painting Images, as contrary to the second commandment (as the Jews, Josephus, Philo and others did before him, and the very Turks and Persians at this day.) Take but this sentence of his instead of many; *Omnis forma vel formula Idolum se dici exposcit. Idolum TAM FIERI quam colit Deus prohibet: quanto precedit*, &c. which he prosecutes at large throughout this Eloquent Book, and therefore his Sophistry in citing Tertull. for defence of Images in Churches, (who is thus point-blank against the making of any Image whatsoever, even for civil uses) is an intolerable, inexcusable boldness.

Eighty, Whereas he answers, that the setting up of these glass-Images is no high Treason by the Statute: We grant it not to be so simply in it self, neither do we urge it to be so, but as it tends to subvert our Religion, Laws, and set up Popery, concurs with other Practices of this nature, so it may, and will prove high Treason. The second part of the Homily against the Peril of Idolatry, pag. 37. assures us, that the maintainance of Images hath brought in a Sea of Mischief, horrible Schisms, Rebellions, Treasons; and his maintaining them hath done the like.

Ninethly, We conceive that the Statute of E. 6. c. 10. which commands all Images of Stone,

Anno 1634. Stone, Timber, Alabaster, or Earth, graven, craved or painted; which heretofore have been taken out of any Church or Chappel, or yet stand in any Church or Chappel, to be defaced and destroyed, extend to Images in glass-windows as well as others, which are but painted Earth; and that which confirms us in this opinion is, that the Homilies against the peril of Idolatry (the occasion of this Law) and the injunctions of Queen Elizabeth made in pursuance of it; extend in direct terms to Images in Glass-Windows, as well as to Images of Stone Timber, and the like: yea the practice of that time in defacing the Glass-Images in Lambeth Chappel Windows (which be of late repaired) and in most other places, infallibly proves it; together with the Statute of 3 Jac. c. 5 which reckons up Images and Crucifixes, of what matter soever, among the Relicks of popery, and enjoyns them to be defaced: wherefore this evasion of his is most false and frivolous, especially since Popery may creep in at a Glass-Window, as well as at a Door; and our Homilies, Injunctions, Writers censure all of them alike, if this Statute do it not.

After the Reply was made, the Bishop proceeded in his Defence.

The second thing objected against me (said he) as a popish Innovation in my Chappel at Lambeth, is, my removing and Railing in the Communion-Table there, Altarwise, with the ends of it North and South against the Wall; my furnishing it with Basons, Candlesticks, and other Furniture, and hanging a Cloth of Arras behind it, with the Picture of Christ and his Apostles, eating the Lord's Supper together.

To which I answer; First, That the Railing in and placing the Table Altarwise, is warranted by Queen Elizabeth's Injunctions, which prescribe, than the Holy Table in every Church be decently made and set in the Place where the Altar stood: Now the Altars generally in all Churches, as all Antiquity manifests, stood at the East end of the Quire, North and South close to the wall, as the Tables were lately placed, and there were Railed in: this therefore is no Innovation.

Secondly, The Furniture on the Altar is no other than such as is in use in the Kings own Chappel at Whitehall, and had been there used ever since, and before my time.

Thirdly, That the Arras-Piece at the Back of the Table, containing the story of Christ's last Supper, was fit for that place and occasion: that such Images and Representations were lawful, approved by the Lutheran Churches, yea by Mr. Calvin himself, for an Historical use, in the place fore-cited, Inst. l. 1. c. 11. Sect. 42.

To this the Commons Replyed; First, That neither Queen Elizabeth's Injunctions, nor the Rubrick in the Common-Prayer Book, nor any Law or Canon of our Church, prescribe the Railing in of our Communion-Tables, or placing them Altarwise against the wall, with the ends North and South; there is no syllable in any of them to warrant any such Popish Innovation, prescribed only by Popish Canons, as we have proved: That it cannot be proved,

that Altars were generally so placed and railed in anciently, either in England or elsewhere; the contrary whereof we shall prove anon: That the makers and executors of these Innovations knew best of any, where, and how Communion-Tables were to be situated by virtue of them; and they generally placed them throughout the Realm, in the midst of the Quire or Chancel, with the Ends East and West, standing a convenient distance from the East-Wall, without any Rail about them, in which posture they generally stood in all Churches, Chappels, and in Lambeth-Chappel it self for one, ever since these Injunctions Published, till this Innovating Archbishop altered this their ancient Situation. Yet both the Rubrick in the Common-Prayer-Book, the Queens Injunctions, the Eighty second Canon, Bishop Jewel, Bishop Babington, Doctor Fulk, and other of our Writers agree, that when the Sacrament is administered, it ought to stand in the Body of the Church or Chancel; of which more hereafter: This therefore is an Innovation, and that a Popish one too, tending to introduce private Mass, to remove the Lord's Table as far as possible from the view and audience of the Common People, when the Sacrament is celebrated at it.

Secondly, We have proved, that this Altar-furniture of Candlesticks, Tapers, Basons, Crucifixes, and the like, was originally borrowed from the Roman Ceremonial, Pontifical and the Popish Council of Aix, which enjoyn them; That the third part of our Homilies against the Peril of Idolatry, and Queen Elizabeth's Injunctions (which he cites for placing of the Lord's Table Altarwise) Injunct. 2. 23, 25. condemn, censure, abolish, as Superstitious, Ethnical and Popish, all Candlesticks, Trenchals, Rolls of Wax, and setting up of Tapers, for that they be things tending to Idolatry and Superstition, which, of all other Offences, God Almighty doth most detest and abhor, for that the same diminish most his Honour and Glory: Therefore the King's Altar-Furniture in his Chappel at Whitehall, can be no justification nor extenuation of his Offence, who should have reformed his Majesty's Chappel (whereof he was the Dean and Superintendent, according to our Laws, Homilies, Injunctions, which condemn such Altar-Trinkets) not conformed his own Chappel-Altar to the King's, in these meer Popish superstitious Innovations.

Thirdly, The Arras-hanging was rather suited to the Crucifixes in the Glass-window over it, and other Images of Christ in that Chappel, than to the Place or Lord's-Table, where it hanged; the Table and Sacramental Elements themselves, with the usual participation of them every Month, being sufficient to mind us of our Saviour's last Supper, Passion, and Death too, and to shew them forth till he come (who used no such Pictures nor Crucifixes, when he instituted his last Supper) without any such Image or Crucifix; which being condemned by our Statutes, Homilies, Injunctions, Canons, Writers, as we have formerly evidenced, yea, by all Antiquity, by Mr. Calvin himself, and many Lutherans too, ought not to have been placed there, the rather, because there is no Warrant nor Precept for it, but only in the Roman

Anno 1634. *Roman Ceremonial*, Page 69, 70. his Conformity whereto, was the only Ground of hanging those Arras-Pictures, which well deserves another Hanging, especially in an Arch-Prelate, who professeth himself a Protestant, and as averse from Popery as any man whatsoever.

The third sort of Innovations in my Chappel, charged against me, is, the setting up of a *Credentia* or Side-Table, my own and my Chaplains bowing towards the Table or Altar at our Approaches to it, our going in or out from the Chappel; my Chaplain's, with my own using of Copes therein, at the Celebration of the Lord's Supper, and solempn Consecration of Bishops, attested by Doctor Heywood, my own Chaplain, who confessed, that he celebrated the Sacrament at Lambeth-Chappel in a Cope; That my other Chaplains did the like, and that he thought I was sometimes present when they did it; That the Bread when the Sacrament was administred, was first laid upon the *Credentia*, from whence he took it in his hand, and then carried it too, and kneeling down upon his Knee, presented it, laid it on the Lord's Table, on which there were Candlesticks, and Tapers, but not burning, as he had seen them at Whitehall; which Mr. Cordwell, once my Servant, likewise deposed: adding, that I was present sometimes when this was done, and that my Chaplains bowed down thrice towards the Altar at their approaches to it.

To which I answer, First, That I took my Pattern of the *Credentia* from Bishop Andrews's Chappel.

Secondly, That this bowing towards the Altar, was used in the King's Chappel, and in many Cathedrals, both in Queen Elizabeth and King James their Reigns.

Thirdly, That the Use of Copes is prescribed by the 24th. Canon of our Church, Anno 1503. which orders thus in all Cathedral and Collegiate Churches, the Holy Communion shall be Administred upon principal Feast-days, sometimes by the Bishop, if he be present, and sometimes by the Dean, sometimes by a Canon or Prebendary, the Principal Minister using a decent Cope: This therefore is no Innovation.

To this was retorted in general, That Sir Nathaniel Brent and Dr. Featly deposed, there was no such *Credentia*, bowing towards the Table, Altar, or any Cope at all used in Lambeth-Chappel, in his Predecessor's time; therefore all these are meer Innovations: In particular, it was replied, that it appears not by proof, Bishop Andrews had any such Utensils, Vestments, or Bowing in his Chappel; therefore this is a meer groundless Evasion. But admit he had, yet Bishop Andrews Chappel was no Law, Canon, nor Pattern for him to follow, against our Laws, Common-Prayer-Book, Homilies, Injunctions, which exclude such Innovations: And if the Pattern of the Chappel and its Furniture, which we gave in evidence, were Bishop Andrews, as he avers, it was as grossly Popish and Superstitious as the Pope's, or any Popish Prelate's Chappel whatsoever. As for the *Credentia*, it is directly taken out of the *Roman Ceremonial* and *Pontifical*, as we have proved, the only Canons we know prescribing it: and we find the use

of it only in some Popish Churches, and mentioned nowhere but in the *Roman Missal*, among the Rites of celebrating the Mass; and therefore it is a meer Popish Utensil, appropriated to the Mass, and a forerunner of it. Car. 10.

Secondly, This Bowing to, and towards the Altar, was never prescribed by our Statutes, Articles, Homilies, Common-Prayer-Book, Injunctions, Canons, never practised by any till of late, but some few Popish Court-Doctors. and Cathedralists; never used by his Predecessor, or his Chaplains; introduced only by Papists at the first, in honour and adoration of their Brethren God upon the Altar; and enjoined only by the *Roman-Missal*, *Ceremonial* and popish Canonists, as we have largely manifested; therefore not to be justified or excused.

Thirdly, The Book of Common-Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church of England (the only Directory what Vestments, Ceremonies are to be used, confirmed by our Laws) prescribes not any of those; warrants not, but excludes the use of Copes upon any occasion: where upon our Homilies and best Writers condemn Copes as Jewish, Popish, Paganish, enjoined only by the *Roman Ceremonial*, and *Pontifical*, as we have proved, Injunctions deeming them Popish: yea, the third part of the Homily against the Peril of Idolatry, hath this memorable passage concerning them, Page 72. And because the whole Pageant must thoroughly be played, it is not enough thus to deck Images and Idols (with Gold, Silver, Rich, Wanton and Proud Apparel, tempting their Paramours to wantonness) but at last come in the Priests themselves, likewise decked with Gold and Pearls, that they may be meet servants for such Lords and Ladies, and fit worshipers of such Gods and Goddesses; and with a solemn pace they pass forth before the Golden Puppets, and fall down to the ground on their Marrow-bones before the honourable Idols, (and their gorgeous Altars too) therefore certainly it is impudency for him thus to introduce and justify them against these Authorities. Now whereas the arch-Bishop pleads the twenty-fourth Canon, made in the year 1603, to warrant the use of Copes in his Chappel; We answer, first, That the Canon extends only to Collegiat and Cathedral Churches, not Parochial, much less to Chappels: therefore it can no way warrant, but condemns this use of Copes in his Chappel.

Secondly, it enjoins only the chief Minister to use a decent Cope, not a gaudy one with Images, and rich embroidering upon it, such as th Copes were.

Thirdly, This Canon was never binding to any, but meerly void in Law, being never confirmed by Parliament, and crossing both the Common-Prayer Book and Homilies ratified by Parliament; therefore all these his Answers in justification of these Innovations display his impudence to the World in justifying such Popish Reliques as these.

Our Reader may easily see in what time, by their Style, these Objections and Replies were made; and may as easily answer them, by the observation made upon the neglect of the former Governors of the Church; and for that the Objectors

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1634. Objectors acknowledg the use of the Garments, Pictures, &c. in the Chappel Royal and Cathedrals of this Kingdom, 'tis to be hoped that our Princes and Bishops will not by them in those Primitive Times of the Reformation be said to have been Popish, or at the least to have conniv'd at any truly Popish Ceremony; and so these Ceremonies may still remain, except they will say what one saith by way of Droll:

*Sure our Religion was intended,
For nothing else but to be mended.*

And in regard notice is taken by some that Letters of grace were now granted by his Majesty to several Recusants for stopping proceedings against the Papists upon Penal Statutes, which as if it had been a thing unusual, is taken notice of by the Collector: I think it may not be amiss to acquaint our Reader, that the same was done by Queen Elizabeth to the Lord Montague of Suffolk and to others, particularly to that Noble Lord, for that he at Tilbury Camp came to the Queen, accompanied with an hundred and twenty Gentlemen, all well appointed for the War, with a Profession of his Faith and Allegiance to his Sovereign (to use the Stile of the late times) to live and dye in her Majesties Service, against whomsoever should invade her Dominions, yea though he came armed with the Popes Authority, and yet more particularly against the present King of Spain in his Attempts; though this Nobleman was then, and afterwards continued to his dying day a Zealous Romanist: But he seems moreover to wonder His Majesty should have any Privy Counsellors, as the Lord Treasurer Weston, the Lord Cottington, and others of that Perswasion, whereas certainly he very well knew the same thing was done in the best of times, particularly in Queen Elizabeth's and King James's, so that he had no reason to make such a wonderment at a matter which was always practised, but somewhat must be said however to inodiate and asperse that Good King, whose Privy Counsellors the foregoing Lords were.

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1635. We gave our Reader before to understand, that His Majesty had by Proclamation according to the usage of former times, and more particularly of Queen Elizabeth and King James both of happy Memory, straitly charged and commanded, That persons of Livelihood and Means should not abide or sojourn in, or about London, or other Towns, for that hereby His Majesty wanted your Service in the Countreys where their Estates lay, whereby, and by your Housekeeping in those parts the Realm was defended, the meaner sort of His Majesties People were guided, directed, and relieved, whereas on the contrary by your Residency in London and other great Towns, they have no employment, but live without doing your King or Countrey any service, whereby a great part of your Estate and Money is drawn out of the Countreys where it ariseth, and is spent in foreign and excessive Apparel, to the enriching of other Nations, and the impoverishing of your own Countreys, even to the wasting of your Estates, and by that occasion great numbers of loose and idle people follow you; and that disorders hence were great, so great as that by the number of the Delinquents, the Magistrates could not so easily govern them as in former times; and that the said Cities were not only at excessive charge, in relieving a great number of those idle and loose people

that grew to beggery, and became diseased and infirm, but also were made more subject to contagion and infection; and the Prices of all kind of Victuals both in the said Cities, and in divers other Places, from whence those Cities were served, were exceedingly increased, and the several Countreys undefended; the poorer sort of Your Majesties People were unrelieved, and not guided or governed as they might be in case those Persons of Quality and Respect resided among them. His Majesty finding these inconveniences to arise from thence, and foreseeing that more would ensue if timely remedy were not provided, did farther, in and by his said Proclamation, declare his Highness's resolution for the common Good of his People, and to use all good ways for preventing of those great evils; and observing that his Noble Progenitors, Kings of this Realm, have used, when for the common profit of the Realm that it was necessary, to command the People as well of the Clergy, as of all sorts of the Laity, to keep residence at their Dwellings in the several parts of the Realm, where, for defence and good safety thereof, was most necessary, add to restrain their departure, or changing their Habitation from thence under divers pains, upon the contempters of those Commands, His Majesty did therefore, in and by his said Proclamation, straitly charge and command the Lords both Spiritual and Temporal, his Lieutenants, and Deputy-Lieutenants of Counties, and Majesties Justices assigned for conservation of the Peace, Baronets, Knights, Esquires, Gentlemen, and all Clerks having Benefices with Cure, or Prebends, or Dignities in Cathedral, or Collegiate Churches, and all other His Majesties Subjects of the several Parts of the Realm, that had Mansion-Houses, and Places of Residence in other Parts, and were not of His Majesties Council, or bound to daily attendance on His Highness, His dearest Consort the Queen, or his Children, that before the end of forty days, next after the publishing of the said Proclamation, within His City of London, they with their Families should depart from the Cities of London and Westminster, the Suburbs and Liberties thereof, and places adjoining, and resort to their several Counties, where they usually reside, and there keep their Habitations and Hospitality, attend their Services, and be ready for the defence and guidance of those Parts, as their Callings, Degrees, and abilities should extend, upon such pains as were to be inflicted upon those that should neglect the publick Service and Defence of the Realm, in contempt of his Majesties Command; and that those as well thereby commanded to return to their several Countries, as those which were already there, should upon the same pain continue the Residency of themselves and their Families there, and do their Duties and Services as aforesaid. Notwithstanding which Proclamation and Monition aforesaid, several, both of the Nobility and Commons did stay in London, contrary to the said Proclamation: Hereupon His Majesty commanded the Attorney General to exhibit an Information in the Star-Chamber, which he did accordingly against these persons following; The Right Honourable John Earl of Clare, Henry Viscount Newark, William Viscount Mounson, John Lord Mohun, Thomas Viscount Fitz-Williams, Lord Tunbridge, and Henry Lord Strafford, who hold, and long have holden, Places of Employment under Your Majesty in several Counties of this Realm; and Sir Thomas Stiles Knight and Baronet, Sir Thomas Staples Knight and Baronet,

ronet, Sir John Symonds, Sir James Stonchouse, Sir John Ayres, Sir Anthony Briggs, Sir Peregrine Bartye, Sir Edmond Lenthall, Sir Ralph Gore, Sir Henry Hart, Sir Thomas Littleton, Sir Thomas Thynne Knights, Sir Humphry Foster Baronet, Sir Ralph Maddison Knight, Sir Gregory Norton Knight and Baronet, Sir Edward Payton, Sir Robert Harlowe, Sir John Telbye, Sir George Vane, Sir William Playter, Sir William Hewett, Sir John Savage, Sir William Mounson, Sir George Windham, Sir Francis Godolphin, Sir Walter Devoreux, Sir Henry Bowser, Sir Francis Winsen, Sir Henry Appleton, Sir Thomas Pope, Sir John Suckling, Sir John Everett, Sir Matthew Mince, Sir Walter Smith, Sir Francis Thornehill, Sir Michael Sands, Sir Edward Bullock, Sir Thomas Fanshawe, Sir Thomas Cannon, Sir Henry Compton, Sir Basil Brooke, Sir John Ogle, Sir Robert Napper, alias Tundye, Sir Henry Aikin, Sir David Roberts, Sir Thomas Walsingham, Sir Thomas Harlowe, Sir Henry Gifford, Sir Theobald Gorge, Sir Lenthropp Franke, Sir Fomke Grivell, Sir Thomas Gardner, Sir Peter Osborne, Sir Robert Needham Knights, John Brownlowe, Thomas Pitts, Thomas Luson, Richard Moyle, Edmond Pye, Richard Griffith, George Lassells, and about an hundred Esquiers more, and divers Countesses, and Ladies of Quality, as the Countess of Oxford, Dame Lambert, Dame Ellenor Terret, &c. John Board, Edmond Bradshawe, George Mustion, Simon Everye, William Tyrwell, Thomas Sandye, John Denmye, Thomas Witheringe, Richard Bellamy, John Fortescue, Valentine Castilian, Richard Price, John Pymme, William Atkinson, James Joffee, Thomas Waller, James Greene, William Quarkins, Thomas Vachill, Thomas Wroughton, John Cowper, Thomas Mathewe, Edmond Nicholson, John George, James Wetherbone, John Hambleton, Charles Care, Edward Bennet, Hugh Fulwood, John Light, Francis Cawe, Thomas Blake, Thomas Gifford, Geoffrey Brown, Richard Brent, Robert Giste, Daniel Roper, William Motore, George Therley, Richard Foster, Thomas Winchfield, Robert Hutton, Richard Vane, Thomas Arrundel, James Belfore, William Mathews, Thomas Gotts, Sturley Bowes, Nicholas Stonehouse, Robert Lovell, John Borudell, Edward Edwards, Roger North, John Nevill, Richard Butler, Robert Brewster, Giles Foster, John Glover, Henry Johnson, John Carrell, Edward Eldringou, Thomas Ellis, Humphry Oaker, John Webb, Peter Honywood, Robert Jason, Edward Rookewood, James Barker, John Chamberlyn, John Pepes, John Keeling, Charles Cockaine, George Bowes, Henry Oxford, George Courtopp, Prosper Raynsford, Abraham Blackleish, Hugh Awdley, John Griffith, Edmond Cotton, Robert Cuts, John Adye, Richard White, John Pinchback, who serve in several Offices and Places in sundry Counties of this Your Realm, and ought not to desert their Countreys or Places where their Revenue ariseth, and are fit and able to do Your Majesty and the Realm several Services in their Countreys: And against the Countess of Oxon, Dame Jane Lambert, Dame Ellenor Terret, Dame Ursula Barty, Dame Christian Maveu, Dame Deborah Mowdey, Dame Alice Butler, the Lady Lucie, the Lady Kinsmel, the Lady Egerton, Dame Anne Everett, Dame Ursula Bartye, Dame Jane Hannagh, Dame Frances Marwood, the Lady Wilford, the Lady Gardiner, Dame Mary Offley, the Lady Mountrague, the Lady Winter, Anne Cotton Widdow, Grace Denner, Philippa Gill Widdow, Margaret Cooke, Elizabeth Murrey, and divers others, who still secretly remain'd and abode within the said Cities of London and Westminster, and the Suburbs thereof: And none of them being of his Ma-

jesties Council or Servants, or Servants to Your Dearest Consort, the Queen, or Your Children.

Car. I.

All which said Persons before-mentioned have divers Mannors, Lands, Tenements, and Hereditaments in sundry Counties of this Realm of England; and albeit the said Parties are able at their pleasure to provide for themselves meet places of habitation in other places, than the City of London and places adjacent, and other Cities and Corporate Towns, and be able to keep House, and relieve and comfort poor and needy People in several parts; yet have all of them, being more led and guided by their own Wills, than any ways affected to yield obedience to His Majesties Proclamation; and contrary to the Tenor of His Majesties said Proclamation, and in contempt thereof, did severally and respectively stay, reside, and inhabit in the said Cities of London and Westminster, and in the Suburbs and Places near thereunto adjoining, with their Families, for the space of many months after the publishing of the said Proclamation, and after the forty days therein mentioned were expired, though they had Houses and places of Residence in several Counties of this Realm of England, as aforesaid, with Lands of good value, and were able in other places to provide Places of habitation where they might, and ought to reside for Service of His Majesty, according to their Rank, and to guide, direct, and relieve the meaner sort of Your Majesties People, and to serve in the several Places and Offices, wherein they were trusted, (as by the said Proclamation they were enjoyned to have done) and having made shew of leaving the said Cities and Places adjacent, and resorted into Cities and Corporate Towns abroad, and there made small stay, returned again to the said Cities and Places adjoining: and by means of such their staying and residing in and about the said Cities of London and Westminster, and Suburbs thereof, those places have been disordered and disturbed, and the Service of His Majesty and People in the several Countreys have been neglected and undone.

It is very well known how much it is the interest of England to have a more particular regard to the Dominion and rule of the Narrow Seas, upon several accounts, as to the encouragement and protection of our own Navigation, as to the Fishery now almost usurped by our Neighbour the Hollander, and more particularly for our situation, being an Island; and for many other important reasons: Hence was it that his Majesty (finding also an over-balance in the Affairs of Europe, especially as to Maritime Affairs, by the late League the Hollander had made with France against the Spaniard, now grown very weak) resolved upon the Equipping a very good Fleet this Summer, which he did under the Command of the Earls of Lindsey and Essex, whereby the Seas and our own Commerce were secured, the Merchandize of near and remote parts, but more especially the Spanish Bullion in our English Bottoms came home with ease and profit to our own doors, the effects of which Bullion were our own Manufactures bartered in Spain, and returned into Flanders for cloathing the Spanish Souldiery; if this way of Commerce and return had been but impeded, yea but for a few years, the consequences hereof must certainly, and that not without great reason, have been great matter for our complaint, as well as matter of grievance; and it is very probable those very persons,

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1635. sons, who afterwards were the most forward to complain of that *most intollerable Imposition of Ship-money*, would then have loudly told the World, that *Salus Reipublica periclitabatur*, which yet upon occasion of the execution of the Writs for Ship-money they refractorily denied. But *Anglica gens semper querula*: To prevent the foregoing inconveniences, it was that his Majesty was moved to issue out the Ship-money Writs for the furnishing out a formidable Fleet for the next year; and so it was judged equitable as well as convenient, to lay the charge thereof equally on all Countries, as well Inland as Maritime; and upon that account the Lord had Command from his Majesty to direct the Justices of Assize in their respective Circuits to promote the execution of those Writs which were to issue out for the next year, which accordingly he did, at the usual Assembly of the Judges in the *Star-Chamber*, after the ending of *Trinity Term*, the seventeenth of *June*, as followeth.

Thomas Lord Coventry, Lord Keeper of the Great Seal of England, his Speech at the delivery of his Charge, as he received it from his Majesty, to all the Judges of England, Judges of Assize in the Star-Chamber, June 17. 1635.

My Lords the Judges,

June 17.
1635.
The Lord
Keeper
Coventry's
Speech
to the
Judges
in the
Star-
Chamber.

THE Term being ended, and the Assizes approaching, you are to divide your selves for your several Circuits. Circuits are for the service of the King, and the good of the People. They are the execution of the Kings Laws, and the administration of Justice. In the Term the people follow and seek after Justice, in the Circuit Justice followeth and seeketh after the People. So gracious is the Frame and Constitution of the Kings Government, that twice a year, at the least, Justice followeth the Subjects home to their own Doors, which as it is a great ease of the trouble, charge and travel of the Country; so it giveth the people a better knowledge of Justice, and the ends of it, that they may bless God and the King for the same. It hath been the custom, that before your Circuit you should receive such directions as the King or his Council think seasonable to impart unto you for the service of the King, and Weal of the people; in the declaring whereof, I shall say but little of the Just Acts you are to do between Party and Party, only that you do equal Right between Poor and Rich, the particulars are left unto your selves, as they happen in your Circuits: but since you are sent by the King to hear the Causes of the people, it is his Majesties pleasure that you so hear and order, that they may have no cause to complain to his Majesty, either for denial, or for delay of Justice. Of the tryal of Capital Offenders I shall say as little; that part of Justice moveth in a frame, and if all Officers under you did their parts, you should walk in so straight a path, that you would find it very hard to tread awry; therefore you had need to heed them narrowly, lest they prevent Justice.

Look to the corruptions of the Sheriffs, and their Deputies, the partiality of Jurors, the

bearing and siding with men of Countenance and Power in their Country; when you meet with such, your proceedings ought to be severe and exemplary against them, otherwise Justice shall be over-born, howsoever you in your own Persons bear your selves with never so much uprightness. And because the time of Assizes is very short, and expireth in a few days, it is necessary that you afford as much time as may be unto those busineses that are most general, and most concern the Publick. The Tryal of *Nisi prius*, and particular Causes, they are in the number of those things that are not to be left undone; but those things that concern the general and publick good, you are to account them as the weightier matters of the Law, and therefore you are to take them into prime and chief care and cogitation. Now among those I shall commend unto you, in the first place, the presenting and convicting of Recusants: for as it concerneth Religion, so it hath Relation to his Majesties profits, which are two great Motives. To which you may add a third, because the King hath many years since assigned those Forfeitures to the publick defence.

2. In the next place, I do require you, that you make a strict enquiry after Depopulations and Inclosures; a Crime of a crying nature, that barreth God of his Honour, and the King of his Subjects; Churches and Houses go down together. His Majesty knoweth, and taketh notice, that according to former directions given to you in this place, you have given it in charge unto the Grand Inquests to enquire, but to little effect; and without doubt, the Freeholders of England do hate and detest them. Depopulation is an oppression of a high nature, and commonly done by the greatest Persons, that keep the Juries under, and in awe; and that is the cause there are no more presented and brought in question: but howsoever your Charge and Inquiry, touching this point, hath not taken effect worthy his Majesties care, and your pains; yet his Majesty willeth, that you do not cease, but inquire on still; for it is his resolution against all opposition to make all men see, that he hath a care of this over-spreading evil, and of the means of his people; to have Churches and Towns demolished, and his people eaten up like Bread, to satisfy the greedy desires of a few, who do waste as profusely, as they do gather together unconscionably, and bring unto their Posterity that woe which is pronounced to those that lay House to House, and Field to Field, to dwell alone in the midst of the Earth.

3. The next thing that I shall mention to you is, the rectifying and reforming of Ale-houses and Tipling-houses; and those I account one of the greatest Pests of the Kingdom. First, Therefore let none be enabled, either to set up, or continue without License. There are a kind of people that do take upon them Licenses, Recognizances, or Laws, or what you will, who have been a great deal the worse, because they see a great multitude tolerated that have no License. And for the Licensed Ale-houses, let them be but a few, and in fit places; if they be in private Corners, and ill places, they are become the Dens of Thieves; they are the publick Stages of Drunkards and disorder. In Market-Towns, or in great places or Roads where Travellers come, they are necessary.

Next

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1635. Next unto this, let those that be Licensed be held strictly according to the Law. It hath been observed, and very truly, that in the Taverns, Inns, and Ale-houses in England, by the falshood of their measure, and unjust prices, they have drawn more from the Guest, than out of the sizes of Ale and Beer is exacted by the States in Holland. A strange thing! that people for a publick work, for any thing that is good, should be loth to part with any thing; and yet with open eyes to see themselves deceived by such base and lewd people.

Next unto this, let care be taken in the choice of Alehouse-keepers, that it be not appointed to be the Livelihood of a great Family; one or two is enough to draw Drink, and serve the people in an Alehouse; but if six, eight, ten or twelve must be maintained by Alehouse-keeping, it cannot chuse but be an exceeding disorder, and the Family by this means is unfit for any other good works, or employments. I have not skill enough to understand all the inconveniences that come from this one ill Fountain, and my memory will not contain what I have so many times observed of them my self; but your Lordships have a knowledge and experience of them, therefore I will leave them unto you: Only this, because in many places these swarm by the default of the Justices of Peace that set up too many; and there are none (except your selves at the Assizes) all the year long can meet with this evil, but the Justices of the Peace: and if the Justices of Peace will not obey their charge herein, certifie their default and Names, and I assure you they shall be discharged. I once did discharge two Justices for setting up one Alehouse, and shall be glad to do the like upon the like occasion.

4. In the next place, I will commend unto you the punishment of Vagabonds and Wanderers; to rid the Alehouses of such unruly Guests; it would make some way of amendment to those Alehouses: and it cannot be denied but the Law hath appointed hands enough to do this work; the Constable, Headborough, Tythingmen, and the rest of the inferiour Officers, and Watch-men, who may do all with a particular Warrant from the Justices of the Peace; and the Justices of the Peace are bound to call them to an account, and punish them for their neglect. If this were done, and other Officers chosen as they ought to be (not people of little wealth, and as little understanding) but that they were elected out of the better sort of Yeomanry, and the Watches kept by able men; I am assured these loose people that wander up and down would quickly be gone: therefore you may do well to let it be known in the Country, that the Lords of Leets, and those that have the Election of Constable and Officers, they are by the Law answerable for their choice. There have been Precedents, that where an insufficient Coroner hath been chosen by a County, the whole County hath been answerable to the King for the Coroners fault; and if the Lords of Leets, and their Homagers, and those that make choice of the Constable and their Officers, were sometimes awakened by some seizing of their Leets, or Fines, or *Quo Warranto*, I make no doubt but the Countries would be better served many years after for some such service done: Therefore I could wish that this were made known to the Country, that the Lords, and those that

chuse them, were answerable for their default.

5. Now for the bringing of loose people in order, the House of Correction had need to be looked unto, and be put in readiness, that those that are idle may not want work; *Ducere Volentes, Trahere Nolentes*. And for the Houses of Correction (as it is in some Countries) it were convenient they were placed near the Goal, that not only idle persons, but that the Prisoners of the Gaol might be made to eat the labour of their own hands. This, as it hath been formerly, so it is now commended by his Majesty to see it effected as soon as may be.

6. The binding of Apprentices is a thing fit to be pressed throughout all the Circuits: Opposition hath been made against it by some, though without any ground or Law. Sometimes the Parents are not willing to leave their Children, though they have not Meat to feed them at home; sometimes the Parishioners not willing to give them Cloaths, and sometimes the Masters refuse them, and those that bind them are negligent: but all these must be overruled, and made to smart for their opposition. In a word, you are to call upon all to whom it belongeth, but especially the Justices of Peace to see his Majesties printed Orders be put in execution. You are to satisfie your selves what Justices of the Peace are diligent in it, and who neglect it, and so to certifie to the Lords of the Council.

7. I have but one thing more to give you in charge, and it is a thing of great weight and importance. It concerneth the Honour of his Majesty, and the Kingdom, and the safety of both. Christendom is full of Wars, and there is nothing but rumors of Wars. What hath been done of late years abroad by Fire and Sword, it were a pity and grief to think of; yet we have had the goodness of God, and his Majesties Providence all this while, and have enjoyed a most happy peace and plenty. As it is a good Precept in Divinity, so it holdeth in Polity too — *Jam Proximus Ardet*; which if we observed to defend our selves, it would be a warning to all Nations, and we should be the more assured to enjoy our Peace, if the Wars abroad do make us stand upon our Guard at home. Therefore no question it hath ever been accounted the greatest wisdom for a Nation to Arm, that they may not be inforced to fight; which is better than not to Arm, and be sure to fight: The one is Providence, the other is Necessity. Therefore his Majesty in these doubtful times hath not only commanded, that all the Land-Forces of the Kingdom should be set in order and readiness, but to set to Sea a Royal Fleet at his Majesties great charge, but with the assistance of the Maritain places of this Kingdom. The causes, occasions and times of War, with the preparation and ordering of them, is proper to the King; and dutiful obedience in such things doth best become the Subject; and yet his Majesty hath vouchsafed, even by his Writs, to declare enough to satisfie all well-minded men, and to express the clearness of his Princely Heart, in aiming at the general good of his Kingdom. The Dominion of the Sea, as it is an ancient and undoubted Right of the Crown of England, so it is the best security of the Land; for it is impregnable, so long as the Sea is well guarded: therefore, out of all question, it is a thing of absolute necessity, that the

Anno
1635. the guard of the Sea be exactly looked unto ; and those Subjects, whose minds are most fixed upon the Honour of the King and Country, will with no patience endure to think of it ; that this Dominion of the Sea, which is so great an Honour, should be either lost or diminished : besides, for safeties sake, the Dominion of the Sea is to be kept, and the Sea guarded.

The *Wooden Walls* are the best Walls of this Kingdom ; and if the Riches and Wealth of the Kingdom be respected, for that cause the Dominion of the Sea ought to be respected ; for else what would become of our *Wooll*, *Lead*, and the like, the prices whereof would fall to nothing, if others should be Masters of the Sea. There is a case in the Book of *Assize*, 43. which putteth me in mind of certain men that went down into the Country, and carried a report, that no *Wooll* should pass over the Sea that year ; upon this they all fell to so low prices, that the men that carried the report were questioned and fin'd. Now if a report alone, and that a false one too, wrought such an effect upon the *Wools* of *England*, think what would be wrought by a real loss of the Dominion of the Sea in all our Commodities, if our Trade should be at the Command of other Princes and States. Therefore as his Majesty out of his great wisdom hath found it expedient to set to Sea that Fleet that is now upon the Sea ; so his Majesty being engaged, both in his Honour, and the Honour of the Kingdom, he findeth it to be of absolute necessity to strengthen this with a greater strength, and more Shipping the next year. Therefore upon advice he hath resolved, that he will forthwith send forth new Writs for the preparation of a greater Fleet the next year ; and that not only to the Maritime Towns, but to all the Kingdom besides : for since that all the Kingdom is interested both in the honour, safety and profit, it is just and reasonable, that they should all put to their helping hands.

Now that which his Majesty requireth from you, and doth command is, that in your Charges at the *Assizes*, and in all places else, where opportunity is offered, you take an occasion to let the people know how careful and zealous his Majesty is to preserve his own Honour, this Kingdom, and the Dominion of the Sea, and to secure both Sea and Land by a powerful Fleet, that Forreign Nations may see, that *England* is both able and ready to keep it self, and all its Rights. And you are to let them know how just it is, that his Majesty should require this for your defence, and with what alacrity and chearfulness they ought, and are bound in duty to contribute unto it ; that Forreign Nations may observe the power and readiness of this Kingdom, which will make them slow to contend with us either by Sea or Land ; and that will be the best way to confirm unto us a firm and sure Peace. This is the substance of all that which I received in Commandment from his Majesty. There are many things else that concern the Publick ; but your Judgments are well known in them, These are the particulars I had Command to mention unto you ; so I will trouble you no farther, but leave them to your Grave Considerations.

One great benefit the Kingdom received by the expedition of our Fleet this Summer was, that

it did exceedingly repress the power and insolency of the *Hollander* ; For (as one saith very well) it hath ever been held a Maxim among our States-men of *England*, to hold the Balance betwixt the two great contending Monarchies of *France* and *Spain*, as well as to conserve the Sovereignty of the Narrow Seas, and our Propriety of the Fishery there. This later had been much (as before we intimated) incroached upon by the *Dutch* ; and upon this account not to endure an o're-bias of our Neighbour *France* and *Spain*, and to assert our Right and Sovereignty to the Narrow Seas, it was that his Majesty had made these preparations ; and it was high time for us, as for our first Interest with the *Netherlands* kept their Enemy aloof ; so now themselves (forgetting their first Friends) had contracted Confederacy with *France* ; the one to infest *Dunkirk*, and other parts of *Flanders* by Land, and the *Hollanders* by Sea, thereby to bring him under, who indeed was already bare enough, not able to bring ten thousand men into the Field. And so with other practices of the *Dutch* with the discontented Natives, the *French* prevailed at *Dieff* and *Tillemont*, until the monstrous insolencies that Army *French* and *Dutch* together, inflamed the very Natives so far to resent their own sufferings, as to beat their Souldiers out of the Country. And to boot the *English* Fleet removed the *Hollanders* from before *Dunkirk*, that neither of the Confederates, nor thus combined, could do other harm than to ravage the Country, but left no Hold behind them.

And moreover, the effects of our Fleet, and resolution concerning the Sea besides, made the *Hollander* tack about to caress the *English* with the Ceremony of an *Embassy*, sent outwardly only to Congratulate the Queens happy delivery of a second Princess : But to work the more into favour, he came not empty-handed, and meant to get more by the loss of a *Present*, being a massie piece of *Amber-greece*, two fair and almost transparent *China Basons*, a rare Clock of excellent Art, and four very admirable pieces of *Painting*, the Originals of *Timonet* and *Titian*, those admired ancient Artizans.

His Majesty being desirous to do all the Offices of a Good King and Bountiful, and not intending to enrich his own Coffers by taking any advantage of Concealments or defective Titles, did emit his Royal Proclamation, declaring his Princely Grace and Favour, to confirm to all his loving Subjects their Estates in Title defective, and hereupon was pleased to renew and enlarge His former Commission for that purpose, as followeth ;

August 22.
The King declares
Whereas for the good of the Subjects the his Royal
Kings Majesty is graciously pleased to Grace &
renew and enlarge his former Commission of Pleasure
Grace, and hath thereby Authorized the Lords, to confirm
and others of His Privy Council, and some of to his Sub-
the Judges and Learned Council to Sell, Grant, Defective
and Confirm to the People their Defective E- Estates, in
states, Possessions and Titles, being void by in- Lands &
sufficient Grants, or By-Patents of Conceal- Possessi-
ments : and notwithstanding the Subjects slack- ous, by his
ness in taking hold of that Favour, yet the King, Commis-
out of a desire to settle His Subjects in their E- sion lately
states and Possessions, is once more pleased, to renewed
make known these His Royal Intentions of Fa- and en-
vour to such as shall timely embrace the same, that pur-
upon pose.

1635. upon moderate Compositions, and that they repair to the Kings Commissioners in Fleetstreet, before Hilary Term next; and such as do neglect, the course of Law shall be taken against them, to reduce those Lands to the Crown again.

And forasmuch as the sinful and prophane use of Oaths in common discourse by wicked and debauch'd persons began to be very common, and therefore scandalous to the Government as well as our Religion it self, His Majesty, to prevent so great and so horrid a sin, was pleased to enforce the Act of Parliament made in the 21st Year of His Majesty King James's Reign of Famous Memory, by his Royal Proclamation to the purport following;

July 16. For the suppressing of Prophane Swearing. **W**Hereas at a Parliament held at Westminster the 9th of February, in the 21st year of King James, it was Enacted, That no Person, or Persons, should from thenceforth prophanely Swear or Curse, under the penalties therein contained: We taking into Our Princely Consideration the great increase of those sins, which are more audaciously practised and frequently committed by loose and wicked persons; have therefore for the better suppressing those odious sins, by Letters-Patents, dated the 21st of July last past, erected an Office for the receiving of the Forfeitures incurred by such Prophane Swearers and Cursers: and have thereby appointed Robert Lesley Esquire, one of the Gentlemen of the Kings Privy-Chamber, by himself and his Assigns, that he shall in every Parish within this Kingdom attend that Service and Office, for a certain number of years therein contained; and shall and may receive the penalties appointed by the said Statute, from all person and persons offending against the Tenure of the said Act; and that the Monies arising thereby shall be paid to the Bishops of the Diocesses, to be distributed among the poor of the several Parishes. And all persons employed herein shall be exempted and freed from bearing any other Office, or Charge in the Parishes where he and the rest shall dwell.

In these times our English Gentry had a gadding humour of travelling beyond Seas, some for their pleasures and accomplishments (so they said) others to see the Wars, Camps, Fights, &c. and what not, and this for the publick Good also; His Majesty to stop their carier herein, emits His Proclamation, requiring them to attend their Service for their own Prince and Native Countrey when thereunto required; and in his Princely Wisdom foreseeing what danger might ensue to this State, if people might at their pleasure pass or depart out of this Realm into Foreign parts: For prevention whereof, the King did Command and forbid all his Subjects, that they, nor any of them, other than Souldiers, Mariners, Merchants and their Factors, and Apprentices, shall at any time, without the King's License, or of six of the Privy-Council, depart out of this Kingdom, or any the King's Dominions into the Kingdom, or Countrey of any Foreign Prince, State, or Potentate.

And becaule a great abuse was now committed by common Informers, who by unjust and vexatious prosecutions troubled several of His Majesties Subjects and Liege People to their great grief and damage, His Majesty was graciously pleased

for the ease and benefit of his good Subjects, straitly to charge and command, That several Limitations and Directions upon pain of His Majesties Displeasure, should be observed for the curbing of Informers, and preventing of Abuses in their Informations and Prosecutions upon the Laws and Statutes of this Realm.

His Majesty was now pleased to remove the Commissioners of the Treasury, and to bestow the White Staff on Bishop Juxon; no Bishop had enjoyed this great place since the Reign of Henry the 7th; and if Envy it self could have found fault with his Administration of the Kings, the Parliament which after ensued had done it; but he was found faithful and exact, to the great disappointment of those who would have rejoiced in any of his failures or miscarriages.

Now also came over into England the Prince Elector Palatine and his Brother Prince Rupert; the Elector had been quite tired out with the long expectation of the Result which his Majesties and the Confederate Princes Mediations would produce from the hands of the Emperor, which at last proved insignificant, for the Duke of Bavaria had publicly declared, that what he had gained by his Sword and expence of his Treasure, he would not now part with by Treaty. On Christmas day he received the Communion with His Majesty at Whitehall, and during his stay was lodged in the Prince's Lodgings in the Court.

This Winter it was that the Earl of Arundel brought an Old Man named Parr out of Shropshire, who was presented to His Majesty by him at Court for a person of 152 years of age.

In pursuance of several Proclamations made by King James His now Majesties Father of ever happy memory, and likewise of several made by His now Majesty since his access to the Crown, for the restraint of Excessive Carriages, tending to the destruction of the Kings Highways, whereby Commerce was hindred, and the ways became irreparable without very great charge to the Countrey, The Kings Majesty did now by the Advice of the Lords, and others of the Privy-Council Command, that no common Carriers or other persons, do upon the common High-way, go, or travel with any Wagon, Cart, &c. whereon is, or shall be laid at once above two thousand weight, nor to use above five Horses, or above four Oxen and two Horses, or above six Oxen without Horses at any one time; and because such extraordinary Carriages, have herefore, by the Opinion of the Judges, been held to be general Nuisances, the King doth Command all Judges and Justices diligently to inquire after these Offences.

Daily Attempts were made by several of the Presbyterian strain in several parts of this Kingdom against the Church and the Discipline and Order thereof, yea the very Pulpits themselves were the places where they openly declaimed against her Orders and Constitutions; and now more particularly one Mr. Ward a Minister of Ipswich in Suffolk preached against lawful Recreations upon the Lords Day, and the Kings proclamation allowing the same: He said further, That our Church was going to change her Religion, and that Religion stood on tiptoe ready to depart hence for America [I suppose he meant New-England, &c.] For his extravagancy herein he was censured in the High Commission Court, and suspended till he made his Recantation, which he refused to do (for men of his persuasion do seldom change their Opinion) he was Imprisoned, and

and there continued some space of time.
Anno Somewhat of the same nature happened at *Bec-*
1635. *kington* in *Somersetshire*, where the Churchwardens being commanded to rail in the Communion-Table in the East-part of the Chancel, refused their Bishops command, and appealed to the Dean of the Arches; alleadging, That the Communion-Table had stood in the same place where it now stood for near threescore years, and that it was encompassed with a Bordure of Wainscot, &c. Their Appeal being rejected, they petitioned His Majesty, but all in vain, and they continued still obstinate: and refusing to obey the Ordinaries command, were excommunicated and imprisoned, and at last upon their submission and pennance, were by the Bishop of *Bath and Wells*, the Ordinary, released.

Much about this time happened a Suit of great moment, which ministred matter of much discourse, betwixt Sir *Anthony Pell* Keeper of His late Majesties Hawks, Plaintiff, and Sir *James Bagg* Secretary to the late Lord Treasurer *Weston*, Defendant; it was commenced in the Court of Star-Chamber; the charge upon the Defendant for a Fraud and Cosenage of the Plaintiff of a great Sum of Money, in which deceit the Defendant had made use of the Lord Treasurers Name; the Court was divided in their Votes, and there was an equality of the Judges, so that the Cause should have gone for the Defendant, but that the Lord Keeper having the casting Voice, gave his Judgment for Sir *Anthony Pell* the Plaintiff; but before the Decretal Order was drawn, His Majesty took the matter into His own Hands: however that the World may see (though it was said that the Court favoured the Defendant, and that Her Majesty was present as was supposed in favour of *Bagg*) the Integrity of the Judges, the Division was as followeth;

| | |
|--------------------------------|-----------|
| 1. Lord Cottington, | pro Bagg. |
| 2. Chief Justice Finch, | pro Pell. |
| 3. Chief Justice Brampton, | pro Pell. |
| 4. Secretary Windebank, | pro Bagg. |
| 5. Secretary Cook, | pro Pell. |
| 6. Sir Henry Vane, | pro Pell. |
| 7. Bishop of London, | pro Bagg. |
| 8. Lord Barret, | pro Pell. |
| 9. Lord of Holland, | pro Pell. |
| 10. Lord of Carlisle, | pro Bagg. |
| 11. Lord of Dorset, | pro Bagg. |
| 12. Lord Marshall, | pro Bagg. |
| 13. Lord of Lindsey, | pro Pell. |
| 14. Duke of Lenox, | pro Bagg. |
| 15. Lord Privy-Seal, | pro Bagg. |
| 16. Arch-Bishop of York, | pro Bagg. |
| 17. Arch-Bishop of Canterbury, | pro Pell. |
| 18. Lord Keeper, | pro Pell. |

A Proclamation also was now issued forth for the suppressing of *Hackney Coaches*, being a great disturbance to the Streets by stoppage and otherways, they were commanded not to stand in the Streets; and were in the first of his now Majesties Reign but one and twenty in *London* and *Westminster*: and if any person had occasion for a Coach, he sent to the Stable of the Coachman for it; so that only those who kept their Coaches were permitted then to go ordinarily in the streets in Coaches: the Judges of the Land then rode to *Westminster* to hear Causes in all weathers on Horse-back.

What great care this most pious Prince took of

the Church, both here and in *Scotland*; as to the latter, we have a fair Instance in his constant Pains and Endeavour to recover Church-Lands, alienated in Lay Hands, back to the Church again, by the Ensluing Letter of his Grace of *Canterbury*, to the Archbishop of *St. Andrews*, which followeth.

The Bishop of *Canterburys* Letter to the Archbishop of *St. Andrews* in *Scotland*.

My very good Lord,

FOR the Particulars entrusted by the Church to the Lord Bishop of Brechen, and namely about the Abbacie of Lindores, you must expect them from the Lord Bishop himself, and from such relations as you will receive by my Lord and the Earl of Traquair. Now at this time you shall receive nothing, but that which is commanded by the King, and must be my part to act in the present and future business for the Church of *Scotland*.

My Lord, For the present the King is resolved, upon some great reasons of State, which have prevailed with him, not to meddle with the Abbacy of Lindores, or any other of that nature, as yet, but to leave them in that state in which they now are, till such time as he may consider the Decrees, and the Act or Acts of Parliament which concerns them, and till he can find a way to order them better, both for his own profit, and the contentment of His people there: assuring you in the mean time, that both in this and all other business, he will be very careful both of the credit, and of the maintenance of the Church; whereof if your self or any other Bishop or Clergy-man, shall make doubt, I am commanded to tell you, that therein you will not only do His Majesty wrong, but hurt your selves and the Church, which you seek to benefit. And in this very particular, you are to know, and make known to others that it is not the dislike of any person or persons, or of the thing it self, that causes this present stay, but reason of state only, and the care which the King hath that all proceedings may go on according to Law. As for the Bishoprick His Majesty will take their wants into as Provident care as he can, and hath settled Arbroth upon the Bishoprick of Brechen, but in what form I am not able to tell you, as not being so well acquainted with the Customs and Constitutions of that Kingdom, and therefore lest I should mistake in any circumstance, I leave that wholly to the Bishops own Relation.

For all the business of that Church in future, which must come to the Exchequer or any other publick Audience, or any other business that may respect upon the Church, or any thing that belongs to the Kings service, in which Church-men are trusted, you are immutably to hold this Rule, and that by his Majesties strict and most special Command, namely that your self, or the Lord Ross, or both of you together, do privately acquaint the Earl of Traquair with it, before it be proposed in publick, either at the Council-Table, or the Exchequer, or elsewhere: and the Earl hath assured the King in my presence that he will strictly observe and hold the same correspondency and course with you; and further, that he will readily and faithfully do all good Offices for the Church, that come within his power, according to all such commands as he shall receive, either immediately from the King, or otherwise by direction of his Majesty from my self. And if at any time your

Lordships

Lordships, and my Lord Traquair shall upon any of the forementioned businesses so differ in Judgment, that you cannot accord it among your selves, let it rest, and write up either to His Majesty, or to my self, to move His Majesty for further direction, which once received, you are all to obey, that so this little unhappy difference, which lately arose about Lindores, may be laid asleep; and that no other may hereafter rise up in the place of it, to disturb either the King or the Churches service, or disorder any of your selves, who are known to be such careful and direct Servants to both. And to the end this may go on with better success, His Majesty precisely commands, that this mutual Relation between the Earl of Traquair and you, be kept very secret, and made known to no other Person, either Clergy or Laity, for the divulging of these things cannot but breed Jealousies amongst men, and Disservices in regard of the things themselves; and therefore the King bids me tell you, that he shall take it very ill at his hand, whoever he be, that shall not straightly observe these his Directions. This is all which I had in command to deliver to you, and I shall not mingle with it any Particulars of my own; therefore wishing you all Health and Happiness, and good speed in your great Affairs, I leave you to God's Blessed Protection, and rest,

Nov. 10. 1635.

Your Graces very Loving

Friend and Brother,

W. Canterbury.

An Account of Foreign Affairs take in short, as followeth; A Peace was concluded in May this year at Prague, and the Protestants were restored to their Lands, Estates, Possessions and Religion, as it was settled in the Year 1627. and the Church-Lands in their possession confirmed to them for 40 years; but herewith was neither the Jesuit nor fiery Protestant on either hand well pleased with Cardinal Richlieu; siding, as occasion served, endeavours to bring all back again: which the Emperour wisely considering, endeavours to make the Peace firm, and procures all the Catholick Princes by fair or foul means, to render up their Forces to the Emperour their Head. The Dukes of Mecklenbergh were in the mean time re-instated in the Dukedom; but the Swedes were displeased with the Peace which they had purchased so dear with their great King's Blood, and Death of so many of their own; which to appease, the Elector of Saxony proffers them a hundred thousand Rixdollers from the Protector for their Reward; which they refuse, and might, having so many good Towns and Provinces, that the whole Empire was not able to beat them out of Pomerania; and so in fine they resolved to stand to it. And the Chancellor Oxenstiern (until business might be quite flected) puts all which the Swedes held about Plesisvergh, into the hands of the French, for a huge Sum of Money, and retires into Sweden, to give counsel from thence, having sent before his Train, and a hundred and fifty brave Hories for Breed into Pomerania, all which fell into his Enemies hands: and some Spoils sunk in the Sea; a Vessel laden with invaluable Sacrilege of the Church, Copes, Organs, Images, Chalice, the twelve Apostles of Wittenbergh, all shut up in the Belly of the Ship, which was delivered without a Midwife, within a League of the Coast of Sweden, and all lost.

The Spoils of the Church produce Misfortune.

But the Swedes are reproached for their Avarice, having been well paid with Wages and Booty; their Recompences freed the Protestant Princes from ungratefulness, and their Pretences were but Illusions, and so were to be answered; which made them turn to treat with the French. Cardinal Richlieu, the Instrument of all Bloody Scenes in Christendom, was already watching so near as Lorain for any Mutations of Fortune, and in a fury would needs besiege Colen; whom the Hollanders refuse to second, and so be fain to desist; but he exercises his fury at home on the very Branches of the House of Lorain, persecutes the Duke of Guise to the Death, and so to destroy the Family; which forced Lorain his Manifesto, That not able to contest with his powerful Enemy, he transfers all his Rights upon his Brother Francis; and so retires to be General of the Catholick Army in Germany.

Richlieu assured that this mad Deed of Guise was but pro tempore, till that this Dukes Brother had sent to Rome for a Dispensation to marry his Cousin German, and to render his Cap to the Hands of his Holiness, seizes him and his new Bride at Paris Prisoners to the Bastile, out of which they escape disguised, through Savon, Florence and Venice (so far about) ere they got safe to Vien.

Thus malicious was Richlieu to attempt the extinction of this most Illustrious and most Ancient Family, issued from Charlemain, and other Kings, sacred for their Services to Christendom; nay, to France her self in the Battel of Crecy, and all the Wars of the English. And that Story (of truth) that John of Orleans of this Family, like a second Judith, saved France from the oppression of Strangers. And so the Cardinal having deprived the lawfull Prince, called in the Gothick Nation to ruin it; and therefore they that accuse this Duke of having so often falsified his faith, silence the cause thereof, either through malice or ignorance.

This year by a Floud near Glucstat in Holstein there were drowned six thousand persons, and above fifty thousand Cattel. And by the plague, which beginning in the North, passed through Holland, there died about 20000 persons in the Town of Leyden only, without reckoning those which were consumed in Amsterdam and other Towns. This Contagion was fomented by the Famine in Germany: not the Living able to bury the Dead.

The French were totally beaten out of Germany, and so we may observe Catholicks against Catholicks, Lutherans against Catholicks, and now follows Lutherans against Lutherans, and then the Reformers against the Reformers, the most extravagant War since the World began, wherein the most unbridled Passions of man had the Helm. Vengeance produced Licentiousness, and that also such barbarous Cruelties as can be imagined. And after their miserable Effects, we in Great Britain felt the like Misfortunes, none escaping, where God's Hand of Justice prosecutes sinful Creatures.

Archbishop Abbot, whether through Discontent, or otherwise (I say not) had omitted his Metropolitanical Visitations, whereby several Irregularities were committed in the Church, the Reformation whereof brought a great Odium upon his Successor Archbishop Laud; the Puritan Party

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Party (so they loved to be call'd) endeavouring by their clamorous Impertinencies, to perswade the People that the Archbishop, who endeavoured nothing more than to bring Matters to the same pass they were at in the beginning of Queen Elizabeths time, and those of King Edward the Sixth, ran the Risque of the Peoples Rage and Fury; which afterwards, in those evil succeeding times, ended in the Ruine and Death of that most Reverend, worthy and Learned Prelate, who was by them vogued for a Papist, and what not? though by his Book against Fisher the Jesuit, which he wrote much about this time, Popery had received a most deadly Blow, of which perhaps it shall never recover: And more particularly to make it appear what great need there was of inspection into Church-Affairs, it may even hence appear, that in the University of Cambridge there were no fewer than three Chappels wherein Divine Service was daily celebrated, which yet were never Consecrated; which Matter was justified by some of the Heads of that University, which brought a Metropolitan Visitation upon both the Universities of Oxon and Cambridge: But before we give our Reader an Account of that Cause which was heard before the King (*viz.*) Whether the Archbishop had power to Visit the Universities? It will not be amiss to give him to understand that the University of Oxon (as some Members thereof think) have wrong done; for (saith one) in a Letter hereupon wrote.

'In the late Collections of Mr. Rushworth, p. 324. there is a great and foul Mistake; indeed a notable Fallhood, about the Preface before the Statutes for the University of Oxford; as if the Author of the said Preface had vilified the times of Edw. 6th. and mightily commended those of Queen Mary, and great use is made of the very same Preface by the Author of *Patronus bone Fidei*, against Bishop Laud, whom he supposes to be the writer of the said Preface, thence to prove him to have been a favourer of Popery, and a hater of the Reformed Religion. Now the truth is, that the writer of that Preface, was Dr. Peter Turner, of Merton-College, a Doctor of the Civil Law. There he gives an Account of the University-Statutes; That before this late Book of Statutes then set out by the Authority of Archbishop Laud, Chancellor of Oxford, the Students hardly knew what Statutes they were to be governed by; That the University had lain many and many years under the Inconvenience of that Uncertainty; therefore it had been often attempted to reform that Abuse under several Kings Reigns; under H. 8. and Edw. 6. in whose time, there was a Design to have both Universities governed by the same Statutes; which was very pleasing and acceptable, because of the Newness of the Project; but the King died before it took place, and the Design died with him. Then in Queen Mary's time, the same Work of Reforming and Compiling a Bopy of Statutes for the University, was again taken in hand, by the direction of Cardinal Poole, but to as little purpose. And this is all the Preface says of those Transactions in King Edw. 6. and Queen Maryes Reigns: After which, it adds, That notwithstanding the said Inconvenience of uncertain Statutes, the University did flourish and abound in men of Learning, and good Studies; the invred Candor of the Students supplying the defect of these wanton Statutes;

which the Collector takes as said only of Queen Mary's Times; whereas it appears that it relates to all former Times, as well as hers, during which the said uncertainty lasted, and put the University to an Inconvenience.

This great Matter was debated in the King's presence at Hampton-Court, June 1. the Archbishop, Chancellor of the University of Oxon, standing on the right hand of his Majesty, and the Earl of Holland on his left, the Archbishop said,

'That by Letters he had acquainted the Two Universities, that he conceived he had power to Visit them, as being within his Province, and Metropolitan Jurisdiction.

'To this a Civil Answer was returned, both from Oxford and Cambridge, That to yield to such a Proposition by their own power, without a Command from his Majesty, were a wrong to the Universities. Thereupon he delivered a Petition to his Majesty, and desired a Gracious Hearing; and now he humbly besought his Majesty to do him the favour to hear his Cause; for (that he humbly conceived) the Church of England should never be able to settle things right without some Power over the Universities, and Learned men therein.

'Then the Earl of Holland spake, and said, That he hoped his Majesty would not suffer the University of Cambridge to lose its Ancient Priviledge; it being never wont to be Visited, save by his Majesty, and those by Commission from him, and ever exempted from the Visitation of any Bishop or Archbishop.

'Then the Attorney General argued, as followeth:

'The Question in short is, Whether the Archbishop of Canterbury, as Metropolitan, ought to Visit the Universities of Oxford and Cambridge, as being within his Province? which thing I hope will plainly appear by two Acts of Parliament, which I hope will put an end to this Matter. This doth no way intrench upon your Majesty; for it must be acknowledged, that your Majesty is the Supreme Ordinary, and hath Supreme Jurisdiction, and may Visit both Universities by your Commission, notwithstanding you may do it by your Lord Archbishop; this is an undoubted Right. My Lord Archbishop hath a double capacity; the one as Archbishop, the other as Chancellor of Oxford. He desires to do equal Justice, and offer no otherwise to that Honourable Person, the Chancellor of Cambridge, than to himself. Bishopricks and Arch-Bishopricks are all of them of your Majesties, and your Royal Progenitors Foundation, originally Donative, long before the Conquest, and before time of memory: And as ancient as the Archbishop is, so ancient is the Jurisdiction. The Visitation of the Arch-Bishop is of Common Right, and not of special Persons, but of the Clergy, and the People in all Causes that be ecclesiastical, and in all Places within his province, without any manner of exception. By the Statute of 21 H. 8. it doth appear, that all Houses of Religion, all Colledges, &c. are within the Visitation of the Arch-Bishop of the Province. And by another Statute express provision is made, that in all Places, as well exempt, as not exempt, the Arch-Bishop shall have power to Reform, & punish those that do ought against the orders of the Church, Common-Prayer, &c. 13 Eliz. a Statute which confirmeth the 39 Articles, entrusteth the

Anno 1636. the Lord Archbishop to see the Doctrine of the Church maintained. It will appear, that in the time of *Edw. 1. Rich. 2. Edw. 4.* the Archbishop visited the University in his own Metropolitall Right, and not by any Bull from the Pope; and there is as urgent necessity in these Times. Many things may be omitted by the Chancellors, that are commonly great Men, and many things to be Reformed concerning the Administration of the Sacraments, and the Orders of the Church. In *Cambridge* there may be Chappels that were never yet Consecrated. In the review of all Ecclesiastical Laws appointed by Act of Parliament in the Times of *H. 8.* and *Edw. 6.* which shew the Opinion of the Times; it appeareth expressly, there should be no exemption of Colleges from the Archbishops Visitation, which I hope may determine this Affair.

Mr. Gardiner (as Mr. Rushworth informs us) being Recorder of London, spake on the behalf of Cambridge.

The Recorder of London on the behalf of the University of Cambridge. In stating this Question, it's thus far agreed, That your Majesty hath power of Visitation; but the Question is, Whether your Majesty hath the sole Power, or my Lord's Grace a Power concurrent with your Majesty. No, saith his Majesty, The Question is, Whether he hath not Power to Visit there as within his Province.

The Recorder thus proceeded; I shall tell your Majesty what I conceive of Metropolitall Visitations, and then of the manner of Government, and Rule of the University; and then how the Rule of the one will stand with the other. And lastly, I shall offer what we have for Exemption.

In England there be Arch-Bishops, Bishops, and Arch-Deacons. The Bishop hath his Visitation every Three Years; my Lord's Grace hath his Visitation once in his time; and he Visiteth those of the Province, to the end they may be subordinate; and in all their Causes and Sentences they Appeal to him as Superior.

Here the Archbishop interposed, saying, I may Visit as oft as I will.

Mr. Gardiner went on, For the Government of the University there is a Chancellor, Vice-Chancellor, Proctors, &c. They may proceed by way of Excommunication; they may imprison and banish; which is more Power than appertains to any Metropolitall Visitation. Only one Bishop of Ely did Excommunicate one of this University; but the Bishop was afterwards Excommunicated; and the Cause being heard before Cardinal Wolsey, he was made to submit himself. Further than this we find no Precedent, that either the Ordinary of the Diocess, Arch-Deacon, &c. did ever meddle.

5 R. 2. In the Petition to the Parliament, We are stil'd an University founded by Your Majesties Progenitors: wherefore the Power of Visitation doth of right belong to Your Majesty, and this is an Exemption from any ordinary Jurisdiction. For other Exemptions, we have Bulls from the Pope, and Charters: about the beginning of King Richard the Second's Time, most of the Charters were burnt

by an Insurrection in the Town; but many of them were Confirmed to the Time of Henry Car. 12. the Sixth, upon a Suit made to the Pope, to give some Confirmation to their Privileges, in regard their Charters were burn'd. Whereupon the Pope granted a Commission, and Witnesses were examined; which Examination was a means to produce two ancient Bulls, exempting them from Metropolitall Visitation; the one bearing Date Anno 624. the other 699.

The Archbishop said, These Exceptions were not to be found in any Priories, or Nunneries at the first Foundation; but as soon as they got any Money, they sent presently to Rome, to get an Exemption; and by that means the Bishops lost their Reputation, and Jurisdiction, even the Council of Trent and Spanish Bishops have all plaid their part herein. And this is the Complaint of whole Christendom against the Council of Trent; of which, next to Purgatory, the Pope of Rome hath made his great Advantage.

Unto this, the King said, I dare say the Pope doth as much to beat down Bishops, as any Puritan doth in England.

In the Close the Archbishop proceeded thus; There are Three Chappels in Cambridge not Consecrated. I demanded why they were not? Dr. Chadderton made Answer, He hoped they were Consecrated by Faith and good Conscience. They come into the Chappel without Surplices, and other Dangers growing, and the University will be past remedy before any Complaint be made.

The Earl of Holland answered, All this may be Reformed in the way that we desire. If you will Visit, you may do it by Commission; the King can grant it. The Bishop replied; I desire to have my own Power.

Upon the Hearing of the whole Cause, it was declared by the King, with the Advice of the Privy Council, That it was granted on all hands, that the King had an undoubted Right to Visit the Universities; and that the Archbishop, in the Right of his Metropolitall Church of Canterbury, had Power to Visit the whole Province, in which the Universities were situated, and were under the same Power, unless they could shew Privilege and Exemption.

That the Exceptions then alledged, were not such as could give satisfaction. That they could be Exempted by no Papal Bull; and that they were Exempted by none of their Charters. That the long omission of the Archbishops to Visit, could be no prescription to bar the Right of the Metropolitall Sec. That it appeared, that both Universities had been Visited by Three Archbishops, his Predecessors *Jure Metropolitico*, and not by a Legative Power. That this coming in question, upon the resistance of the University of Oxford, it was, upon full hearing of both Parties, adjudged for the Archbishop by King Richard the Second, and afterward, upon the like Hearing and Re-Examination by King Henry the Fourth, and both of their Judgments established by Act of Parliament 13 Hen. 4. And the Archbishop produced before his Majesty the Original Renunciation of all Privileges from any Pope, made by the University of Cambridge, under the Hands of the Heads of Houses.

Anno 1636. So the King and Council adjudg'd the Right of Visiting Universities, and Chancellors Scholars, and all persons enjoying the Priviledges thereof, to belong to the Arch-Bishop, and Metropolitan Church of *Canterbury* by themselves or their Commissaries.

Whereupon the Arch-Bishop made this motion to the King: First, for himselfe that His Majesty would be Graciously pleased, that he might have the sentence drawn by the Advice of His Majesties Learned Council, and put under the Broad Seal, to settle all differences that hereafter might arise. Then on behalf of both the Universities, that they should remain free and exempt from the Visitation, and Jurisdiction of the Bishop of the Diocels, or Arch-deacon.

Also, seeing it was declar'd to be his Right to Visit Metropolitically, and it was not limited by Law how often: therefore not withstanding the last Custom of Visitation *semel in vita tantum*, that he might Visit the Universities by himselfe, or his Commissary, as often as any great emergent cause should move him: provided that neither he, nor any of his Successors, should, after the first Visitation, Visit upon such emergent Causes unless it be first made known to His Majesty and His Successors. All which was granted by the King, and so settled.

Lastly, Whereas it was alledged, that the Chancellors of either University were, and are like to be Persons of great Honour and Eminencie; and therefore it might be inconvenient, that they should be call'd to such Visitation: It was declar'd by His Majesty, that in the course of Law the Chancellor would be allowed to appear by his Proxie.

Serjeant Thin desired leave of His Majesty to speak in behalf of the University of Oxford, which he did to the effect following.

Serjeant Thin. That it was an ancient University, and had as ancient Priviledges, and, by Bulls from the Pope; was very exempt from the Visitation of any Arch-Bishop as in his Metropolitically Right; for as none can Found an University but Your Majesty, and Your progenitors, so none have power but Your Majesty to Visit there. But that which concerneth us is, that it was a foundation long before the Conquest; from the time of the very Foundation of this University unto this day, we conceive there was never any Visitation made by any Arch-Bishop, as being within his Province.

King. Never any, (saith the King:) As the University is ancient, so likewise Our Custom is as ancient, which for many Hundred Years we may prescribe; (the King answered) *but a bare Prescription in this Case will not prevail for that positive Law and Acts of Parliament are cited to the contrary.*

Thin. We have no records so old, yet this We have divers Recitals in *E. 3d's* time, which sheweth, that they had some original Grant of Exemption. Pope *Boniface 8.* did grant to the University of *Oxford* a particular Exemption from all Archiepiscopal Jurisdiction; but I know well that there will be an Objection made that the Pope

did grant a Jurisdiction there. This Difference came before the King and the King then did declare, That the Visitation did belong to the Arch-Bishop of Right.

King. What is that? Did the King declare that it did of right belong to the Arch-Bishop to Visit there? that's very hard for you to answer.

Thin. I Object thus against my selfe (to shorten the Case, for if I do not, they will.) This was in King *Rich. 2d's* time. The occasion was upon the Question touching *Wicliffe* his Case grounded upon a mistaking of the Law. Before that time there was never so much as a challenge to visit this University Metropolitically.

King. I will not grant that (*Mr. Serjeant*) that my Predecessor did mistake the Law, perhaps he was mis-informed of the Law.

Thin. Pardon me for the Phrase; the King was mis-informed as we conceive of the ancient usage and manner there.

King. You must suppose the King did know it.

Thin. The Arch-Bishop was then a potent man in those days.

King. My Lord Arch-Bishop doth not intend to Visit the Statutes of the university, nor of any particular Colledge.

Arch-Bishop. I do intend to Visit Metropolitically. I am to Visit, as I conceive, the Body of the University, and every scholar which is in it, for his obedience to the Doctrine and Discipline of the Church of England; and this is the extent I intend, and not to meddle with the Statutes of Colledges or University, or particular Visitors of any Colledge.

King. I do not understand why you do not meddle with that, because it is my foundation.

Thin. There was never since the first foundation of this University any Visitation made by any Arch-Bishop; several have been made by the Kings themselves, but never by the Arch-Bishop.

King. As I remember you did confess he did Visit once.

Thin. No, only an attempt to Visit was made by Arch-Bishop *Arundel*, who was resisted by the University. I will give up the Cause if he can ever find any Appeal of any Cause to the Arch-Bishop of *Canterbury* from that University. I find it in *Fitz. N. Bre.* that the Chancellor of *Oxford* may certifie an excommunication. From whom had the Chancellor that Jurisdiction, but from the King? then those Acts are not to be Visited by any Power but by the King.

King. That is no good inference, for every Bishop hath power to Visit.

Thin. Since *de facto* the Arch-Bishop did never Visit *Oxford*, but was ever Visited by Your Majesty, or by Commission from Your Majesty, and withal, their Ancient Charters they have lost, which might (if they had them) shew their Priviledge; and since there is so memorable a Prescription in this Case for so many Hundred Years, wee humbly desire (with Your Majesties Favour) to be still Visited by Your Majesty.

Arch-Bishop. These Exemptions were not to be found in any Nunneries or Priories at the first Foundation; but as soon as ever they got any Money, they presently sent to *Rome* to get an Exemption, and then by that means the Bishops lost their Reputations, and so brought down the Jurisdiction of the Bishops, even at the Council of *Trent*; and

and Spanish Bishops have all plaid their parts herein. And this is the complaint of whole Christendom against the Council of Trent, of which, next to Purgatory, the Pope of Rome hath made his greatest advantage.

King. I dare say the Pope doth as much to beat down Bishops as any Puritan, I have in England, doth.

Arch-Bishop. King H. 8. by Statute thrust out all, and whatsoever power the Pope had given in England by Bull, &c. all is gone at one blow by that Statute? Now I will shew you a Bond from the University of 1000 l. that if they oppose my Jurisdiction then to be forfeit, I speak it upon my Reputation and Duty to Your Majesty. Ann. 1506. Christs Colledge was subject to the Bishops Visitation: I am able to shew the very Original Deed in H. 8's time, where the University of Cambridge have submitted themselves to the Arch-Bishop, and here is the Original-Deed (which was read and shewed to His Majesty) being a submission of the University to the Arch-Bishop, and to disclaim any right by Bull or the like. If I should have put them to have submitted upon this evidence, they would have said either for fear, or one respect or other, they had submitted to your Arch-Bishop without any hearing. Therefore not to put this upon either University, I got Your Majesty to hear it, if you have any thing to shew for it, God forbid I should desire it if you have better evidence; If not, then I hope His Majesty will give me leave to carry it.

King. Read the Date of the Deed my Lord stands for upon; (which being read was dated 27 H. 8.)

Arch-Bishop. So Your Majesty may see before the Common-Law did take that away, they did submit themselves a year before. I will make it appear that the Arch-Bishop did visit Cambridge as in Metropolitcal right three whole years together, and that it is so expressed in the Act.

King. They say that the Bishop was then a powerful man, and the times were troublesome.

Bishop. They tell you indeed 20 R. 2. was a troublesome time, but of 12. H. 6. they do not tell you what a troublesome time that was.

King. But was Cambridge visited three whole years?

Recorder. It is true, we did continue it for three whole years. I did in the opening of it mention as much, that he did visit Ann. 1401. and did continue it till 1404. and that in the story of that time, he did it by a Metropolitcal right (as it is so mentioned) but how dangerous those times were, we have opened, and since that time never any such offer was made.

Kings Attorney-General, Sir John Banks, May it please your Majesty, their main objections consist of Bulls. Now concerning any Bull or Exemption from the Pope, they are of no force, and though they here plead it verbally, yet they will not do it upon Record; for that Statute which bringeth them in a power, that Statute doth make all void: It is true, there is a saving of some that are confirmed under the Great-Seal, but they make no shew of them, so as clearly they are out of the exception of that Act of Parliament of 28 H. 8. Then they object, that the University is of the foundation of the King, and there the Bishop hath no Metropolitcal Visitation. 1 E. 6. The Deanry of Wells was dissolved, upon that a new Foundation, and E. 6. the Founder, and to him was the Donation of the Deanry, yet in that case it is expressly adjudged, that the Arch-Bishop in his Metropolitcal Vi-

tation may visit the Deanry: It is true, he may not visit their Lands and local Statutes. It was further objected, there was no Visitation within these 200 years, and therefore a Prescription for it. But as to that no Civilian will allow, that any Prescription lieth against a Metropolitcal Visitation. I have looked upon the Statute, and I do find no particular exemption from any Jurisdiction that is Metropolitcal. They say further, that the Visitation made by Peckham, was by virtue of the Legantine Power, and the other Visitations are de jure Metropolitco.

King. They say that Peckham did visit as Legatus Natus.

Attorney. That is plain to be distinguished by the Records.

Arch-Bishop. In Cardinal Pools Case, he doth visit by Legantine Power (if he will use the stile of greater dignity than Arch-Bishop) Shall therefore that which he doth by the name of dignity lose his Power as Arch-Bishop?

Attorney-General. Divers Lord Treasurers, some have been Bishops of Oxford, some of Lincoln, shall they lose their Power as Arch-Bishops? The Bishoprick of London hath not been visited these 200 years till now.

Dr. Duck. Legatus Natus hath only power to grant a Visitation but to Visit, I do think they can never find that he ever had Power but Metropolitcally.

King. The Question is whether Legatus Natus can visit as Legatee, and not as Arch-Bishop?

Recorder. I think he cannot; but only by virtue of his Legantine Power he might visit.

Bishop. Legatus Natus, and Legatus a Latere. The one Legate can visit, the other Legate cannot.

Recorder. We appeal to this Bishop Arundel as Legatus Natus.

Arch-Bishop. I thank you for that Evidence, Cambridge did not oppose Arrundel, but Oxford did it. What if he were banished the Realm, he was banished for bringing in a Bull. In E. 1, & E. 3 time it was common to send forth Proclamations against any that brought Bulls from the Pope.

Recorder. When this Question was between Oxford and Arrundel, there was an Order in Chancery for search for Bulls: and declared that this was against the Crown, and like to be the destruction of the University.

Arch-Bishop. What was done in R. 2's time, which they say was so troublesome a time. Yet H. 4. did declare the very same Judgment his Predecessor had done, and confirmed it by Act of Parliament, that it doth belong unto the See of Canterbury, as of right to visit the Universities, upon penalty of 1000 l. upon every time that he should disobey, and a forfeiture of all their Priviledges, if they did disobey it. And I shewed a Deed under the Great-Seal, which the Council for the University did confess.

King. What can you say against this?

Recorder. I shall submit the Cause unto your Majesties Judgment, for that which hath been urged of King H. 4. It is true, and they do declare that de jure, he ought to visit; it is true, it is so declared by Parliament, but this is only for Oxford and not for Cambridge. Cambridge is not so much as mentioned: My Answer is but this, It doth appear in the very Record it self, that the University of Oxford had got an exorbitant Bull from the Pope, to exclude all manner of People that countenanced Hereticks.

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1636.

King. No, that cannot be.
Recorder. The Record it self saith it was gotten to countenance Hereticks, and other Malefactors; they did oppose the Arch-Bishop *manu forti*. The State taking offence at this, thereupon there was a submission to the Judgment of R. 2. And thereupon he did declare, and H. 4. grounded his Judgment upon that the Bishop of right should visit, and H. 4. doth disanul the Bull as being against Law.

Lord Privy-Seal. There comes a Grant of later Kings, and takes notice of those Privileges and Exemptions, and confirms and ratifies all such Priviledges as they do claim by any Charter or colour of any Bull.

Recorder. He doth confirm all Liberties or Grants. If my Lords Grace may visit the University, then he may visit the Chancellor; and of late time they have been persons of great Honour attending upon your Majesty, and so may be called away from Your Majesty upon a Visitation to attend there.

Arch-Bishop. He may appear by Substitute.

Holland. If your Grace will visit, you may do it by Commillion; the King can grant it.

Bishop. No, I desire to have my own Power.

And so the King adjudged it for the Arch-Bishop against himself; and permitted the Kings Attorney-General to plead for the Arch-Bishop against the King.

A disorder was much about this time somewhat of the nature of the foregoing, which was complain'd of at the Council-board: The Town of Yarmouth had lately set up a Lecturer, one Mr. Brinsley a Nonconformist, in opposition to Mr. Brooks, who was the Legal Minister of that Town, presented by the Dean and Chapter of Norwich; Brinsley officiates in a Warehouse called the Chappel, a place formerly used by the *Dutch* to assemble in for their Service, which yet was never consecrated: Hither resorts the People in crouds to hear Brinsley in opposition to Mr. Brooks, who having an Inhibition to serve upon the forementioned Brinsley, serves him therewith in the Meeting-Place; whereupon the Town-Authority commits Mr. Brooks; and the Sequel you may hear at the derision of this affair at the Council-board, where it was ordered;

That the Matters of the Church at Yarmouth had been factiously carried by the refractory Spirits of some Persons in chief places of Power there, whereby the busie humours of those whose Ears itch after Novelty have been nourished and encouraged. And therefore His Majesty being sensible and careful in the countenancing and maintenance, as well of Ecclesiastical Authority and Discipline, as of civil Order and Government, doth Order.

That Mr. Brooks and the Dean and Chapter shall be satisfied all their Charges in this Suit by their Adversaries.

That Ezekias Harris, Thomas Green, Miles Corbet, and Henry Davy, who subscribed the Mitimus for Mr. Brooks's Imprisonment, and for the wrong done to his Person, and the indignity offered to his Place and Function, shall be committed to Prison during His Majesties Pleasure, and they to make further acknowledgment of their Offence, as shall be hereafter Ordered.

That Mr. Brinsley shall be removed from that Town (only) yet shall not Officiate any where, unless confor-

ming to the Canons of the Church.

That the said pretended Chappel be converted to the first use, a Ware-House.

25 March, 1632.

His Majesty being very careful to preserve his Regality over the Narrow Seas, and knowing that of late years the *Dutch* and other Aliens had Fished there, and had not His Permission or Grant, in the Month of May he thought fit to declare His Pleasure by Proclamation for the Restraint of Aliens Fishing upon His Majesties Seas and Coasts, without leave first obtained, which he did as followeth:

Whereas King James did, in the Seventh Year of His Reign of Great Britain, set forth a Proclamation touching Fishing, whereby, for the many important Reasons therein expressed, all persons of what Nation or Quality soever, (being not His Natural-born Subjects) were restrained from Fishing upon any the Coasts and Seas of Great Britain, Ireland, and the rest of the Isles adjacent, where most usually heretofore Fishing had been, until they had orderly demanded and obtained Licenses from the said King, or his Commissioners in that behalf, upon pain of such chastisement as should be inflicted upon such wilful Offenders: Since which time, albeit neither the said King, nor His Majesty have made any considerable execution of the said Proclamation, but have with much patience expected a voluntary conformity of His Neighbours and Allies to so just and reasonable Prohibitions and Directions, as are contained in the same.

And now finding by experience, that all the inconveniences which occasioned that Proclamation, are rather increased than abated: His Majesty being very sensible of the Premises, and well knowing how far he is obliged in Honour to maintain the Rights of His Crown, especially of so great consequence, has thought it necessary, by the Advice of His Privy-Council, to renew the aforesaid Restraint of Fishing, upon His aforesaid Coasts and Seas, without License first obtained from Him; and by these Presents do make publick Declaration, That His Resolution is, (at times convenient) to keep such a competent strength of Shipping upon His Seas, as may (by Gods blessing) be sufficient both to hinder such further encroachments upon His Regalities, and assist and protect those His good Friends and Allies, who shall henceforth, by virtue of our Licencies, (to be first obtained) endeavour to take the benefit of Fishing upon His Coasts and Seas in the Places accustomed.

In vindication of the *Dutch*, a brave and learned Champion arose, the ever famous Hugo Grotius, who endeavoured to prove the Liberty of Fishing to be general to all People and Nations, in his Book called *Mare Liberum*; which Book was answered by His Majesties Command, by that great Antiquary Mr. Selden of the Inner-Temple: The Opinion which His Majesty had of that Book, may appear by an Order of Council following.

His Majesty this day in Council taking into Consideration a Book lately Published by John Selden Esq; Intituled *Mare Clausum, seu de Dominio Maris*, written by the Kings Command, which he had done with great Industry, Learning

and Judgment, and hath asserted the Right of the Crown of England to the Dominion of the British Seas. The King requires one of the said Books to be kept in the Council-Chest, another in the Court of Exchequer, and a third in the Court of Admiralty, as faithful and strong Evidence to the Dominion of the British Seas.

His Majesty now appeared with a very formidable Fleet in the Narrow Seas, to assert his Right to the Sovereignty thereof, under the Command of the Earl of Northumberland, who sailed from the Downs to the North with sixty gallant Ships, and falling amongst the Herring Buses belonging to the Dutch, he commanded them to leave off their fishing until they had obtain'd permission from his Majesty of Great Britain, which they seeming not willing and ready to do, he fired amongst them, sunk some, and seized others, until they were forced to fly into his Majesties Harbours, and desired the Lord Admiral to mediate to his Majesty for his leave for this Summer, and they would pay unto his Majesties Treasury therefore the sum of 30000 l. which they did accordingly, and professed their readines to become Suppliants to his Majesty for a Grant, under the condition of a yearly payment therefore for the future.

So good effects had this Fleets expedition, that one would imagine the English Subjects would never have complain'd of that small and inconsiderable Tax of Ship-money, being but the sum of 202240 l. 2 s. and 3 d. as Mr. Rushworth informs was the total of Ship-money for the year 1636. in respect of those which were most illegally sessed upon the Subject for the maintenance of the Parliaments War against his Majesty in the evil times which succeeded; but complaints however there were, and one Chambers of London, a great Stickler, sued Sir Edward Bromfield, Lord Mayor of that City, upon a Suit of Treasons and false imprisonment of him the said Chambers, for refusing to pay the said duty.

At this time the Plague had broken out in the Cities of London and Westminster, and began to spread it self not without great danger of infection of the whole: hereupon his Majesty by Proclamation, with the advice of the Council, adjourns part of Trinity Term, and after Michaelmas Term also, to prevent the further spreading thereof, and likewise prohibited the Fairs of S. Bartholomew, and our Ladies Southwark, for this year, upon the same account.

This year put a period to the days of Ferdinand Emperour of Germany, exercised in many and mighty Wars: He died at Ratisbon, in the time of his holding the Diet there for the Election of his Son to the Empire, who was already King of Hungary; which he effected to the no little regret of the French Minister Richelieu, who underhand endeavour'd to promote the Duke of Bavaria to the Imperial Throne, but all in vain, for he was now Elected King of the Romans; and his Father dying in February, he succeeded by the Name of Ferdinand the Third; of his Father one gives us this Character, 'That by his Lieutenants he had in Wars maintained his Scepter in and out, sometimes several, sometimes against all the World almost; for no sooner Crowned King of Bohemia, then that people revolted, and chose another; when he became Emperour, the Seditions of the Hungarians, and of his own Subjects in Austria, Mansfelt and Halderstadt never left worrying him whilest they lived. The Danes felt the force and smart of

his Army, the English, Scots and Hollanders combined against him: The Swedes, and the whole Protestant Body of the Princes; nay, the French also by profusion of Blood and Treasure. His Peasants excited against him, and to corrupt the Faith of his great Ministers; no sooner got out of one War, but springs up another, like Hydra's, to torment him. His best weapons were his own daily pious prayers, which the late King Gustave seemed more to dread than he did his Armies. He Attacked the Arms of the Turk, Catholics, Lutherans, and Reformates, and over all Triumphant. He lived to see his Son Crowned King of the Romans in spite of all his Enemies, the Swedes to be shut up in Pomerania, and the French beaten out of Germany, and the Armies of Austria almost at the Gates of Paris. He hearkened Religiously to the Jesuits, the reason of the Reformates to revolt, and to call in a Stranger the Swede to gnaw out their own Entrails, which they soon repented.

To this Diet it was that his Majesty dispatch'd the Earl of Arundel, Earl-Marshal of England, as his Embassadour, once more to importune the Emperour Ferdinand the Third for the restitution of the Palgrave; but the Answer given our Embassadour was in short no other than this, that in time the Elector Palatine might be considered as to his enjoyment of the Lower Palatinate, but as to the Upper Palatinate, now in possession of the Duke of Bavaria, that Duke must be consulted in that Affair: Hereupon Commissioners were appointed by the Emperour and Bavarian to Treat with the Embassadour, who found the Commissioners of the Emperour favourable enough to the Palgraves Interest, but the Bavarian spake high as a Souldier, and said, That what he had won with so much hazard of his Person, and expence of his Treasure by his Sword, in defence of the Empire against a declared Enemy thereof, he would endeavour to preserve to himself by the same means, and would not depart from what he was in possession of. The Embassadour in much disdain at his Answer departs from the Emperours Court, and that Diet, without so much as taking his leave; nor could the Emperours two Friends, the Spanish and Polish Embassadours, sent after him on purpose to moderate his passion, have any effect upon him, as to his return, and home he came, where he found his Majesty under a great regret of this affront to his Embassadour: To mitigate the matter, an Imperial Agent was sent hither, but all in vain, for he was dismiss'd, though he seemingly brought some Propositions from the Emperour for the Palgraves restitution: This breach of Amity was much encreased by the Proposal of a Marriage of the King of Poland with the Lady Elizabeth, Sister to the Prince Elector; for the dispatch of which, Prince Radzivil was dispatched hither for Treaty, and the matter it self was consented to by the Peers and people of Poland, but the Clergy (much Jesuited) opposed it, and at last carried it for Cecilia, Arch-Duchess of Austria, second Sister to the Emperour, and the Match was concluded, much to the disadvantage of the Palgraves Affairs.

Great care was taken by his Majesty for the encrease of his people; and hereupon the Statutes made against depopulation were ordered to be put in execution, and a Warrant was directed on the ninth of July to the Clerk of the Crown, or his Deputy in his Majesties Name, commanding him to prepare several Commissions according to the

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1636. the form delivered unto him, to enquire touching Depopulations and Conversions of Lands to Pasture since the tenth year of Queen Elizabeth, in the Counties of Oxford, Cambridge, Warwick, and Nottingham, directed to Edward Savage, and Edmond Windham, two of the Gentlemen of his Majesties Privy Chamber, and to Gilbert Boon of Lincoln-Inn Esquire, or any two of them.

By vertue of which Commission, and the terror of the Fine imposed in the Star-Chamber on Sir Anthony Roper for committing Depopulations, there was brought into the Exchequer 30000 l. and upwards. The like Commissions were granted into other Counties.

Now likewise the City of London Petition'd his Majesty in Council for mitigation of the number of Ships imposed upon the City, desiring an abatement thereof; and his Majesty ordered Mr. Secretary Cook to give them for answer, that his Command was necessary, for that the preservation of the State did require it, that the charge was not immoderate, exceeding not the proportion of many of your private Estates; that his Majesty would receive no excuses hereupon, but did expect their obedience, and a short account thereof; that the Presidents they alledged of former times were obedience, and not direction to their Prince and Sovereign.

The Pestilence encreasing in the Cities of London and Westminster, and in divers other parts of the Kingdom, his Majesty issued out his Royal Proclamation for the observing of a Weekly Fast throughout the Realm of England, in such manner as is directed in that Proclamation.

Our Reader was formerly acquainted, how that his Majesty had issued out the Writs for Ship-money the last year, and how that in some places they did not find that acceptance and entertainment with the Subject that was expected; in Yorkshire and Lancashire, and many other Shires, the payments were readily made, and the Moneys brought in by the respective Sheriffs, but not so in other Countries; for many (but more particularly one Hampden of Buckinghamshire) being assisted by the Sheriffs, made default of payment: This person was a man well known not to be over-well affected to the Government, and being encouraged hereto by the factious assistance of some others of his own persuasion, denies the payment, craves Oyer of the Kings Writ, and resolvedly stands Tryal with the King, demurs in Law, and demands the Judges Opinion of those Writs; his Majesty had already commanded the Lord Keeper to summon the Judges together according to their Oaths, to give their Opinions therein impartially, without fear or favour; and accordingly, Thomas Lord Coventry, Lord Keeper of the Great Seal of England, commands the Judges attendance in the Court of Star-Chamber, the 14th day of February, Anno Regni Regis Caroli 12. Annoque Domini 1636. and delivered what he had hereupon in charge from his Majesty, as followeth.

My Lords the Judges,

The Term being now at an end, and the Assize at hand, his Majesty hath commanded, that according to the Custom in former times, so now you should in this place receive some directions for the execution of Justice in all parts of the Kingdom whereto you resort; this (as it may justly be) is a great comfort to his Majesties Subjects to see his Majesties care

herein; which as it is a testimony of their own happiness, in receiving Justice from the King himself, the Fountain of Justice, so it may as justly add strength and encouragement to you when you go your Circuits, not only to be armed with your own Authority by Commission, but with your Princes Instruction. In the doing of Justice, you will find things of several natures and degrees: In some Pleas before you, Communicative Justice beareth sway; as in that which is *meum & tuum*: In others distributive Justice, as in *premium & penam*: Some concern one, and a few others concern the multitude, others concern the King, and all the Kings People: In some Pleas things are drawn afore you that are *ad nocumentum* of this and that particular Town; some *ad nocumentum totius Regni*, some things are drawn afore you that are *contra pacem Regis*, and others *contra Coronam & Dignitatem Regis*; and in this variety of business, that as there are many of a lesser and lower degree, yet not to be omitted, so you have *graviora Legis* upon which you are to pitch your mark, *hac oportet fieri illa non omittere*. In that Justice which you are to do between party and party, his Majesty doth require you, as in all his Courts here, so in your Circuits you administer impartial Justice, and repress vexations and wrangling Suits, not worthy the dignity of your own Persons, and the Court where you sit; for those actions, as they empty the Spleen on the one side, so they never fail to empty the Purse on both sides. But besides the doing of Justice between man and man, there is much more expected from your Lordships: for the Publick business of the Country is of much more importance than the Tryal of a *Nisi Prius*, and fitting you should esteem them so; and therefore it is his Majesties Command, that those services which concern himself, and the Publick, be timely thought of, not posted off to the end of the Assize. Now afore all other things, the advancement of Religion and Piety towards God, the Peace of the Church, and the execution of those Laws that tend to those ends ought to have the first place. As oft as I have had occasion to speak to you here, I have seldom spared to give you a charge of the Laws against Recusants; and I must reiterate it now, for if you convict them not in the Country, there is like to be little Reformation or profit to his Majesty; and whosoever they be that will not be found in the Church, it becometh you to take order that they be found in the Exchequer. Next place, that you proceed roundly against Capital and Felonious Offenders, especially Robbers in the High-way, who now march in Troops after a high hand. As a good Judge ought in Court to shew severity to those in the Gaol, so the ablest and activest men in the Shire ought to do their utmost endeavours for the apprehending of those Offenders as are abroad, that when you are there, or here at the Term, the service may proceed in a good way, and you be made a Terror to Malefactors, as some of your Predecessors have been; for if your care be not great, Malefactors will abound; therefore you must shew a severe and constant way of Justice when they are found, and it will soon abate their pride wherewith they now bear up themselves, and fit it is with an unanimous consent you all agree of one course, for if there be a remissness in any one Circuit, this leaveth a way to Malefactors

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 'ctors to overthrow all Reformation, and Justice is thereby discouraged: Next, care must be had of those Laws which concern luxury and idleness, the suppressing and punishing of Vagabonds, the ordering and employing of Houses of Correction, the repressing of Alehouses and Tipling-houses, binding of Apprentices; if this were well and constantly observed, they would save many able bodies which die miserably at the Gallows, and cut off a multitude of enormities that pester the Commonwealth, and lessen the number of Thieves and Robbers; and therefore your Lordships should do well to have a special care of the execution of those Laws; and this giveth me occasion to put you in mind of those Printed Orders published by his Majesty in the year 1630. wherein at first there was a direction given for an account to be made by the Sheriff and Justices of Peace; this same was orderly kept in divers places, in others not so well: It was afterwards advised by your selves, that the way of account should be changed, and that you should receive it at the Assize, and present it to the Council-Board; yet it is my part to tell you it hath not so appeared by the account that is come to the Council-Table, and it is expected a better be given by you at the next Term. Now in respect the Publick Service dependeth much upon the Justices of Peace in the County, it will be necessary that you cast your eye upon them, that they give due attendance at the Assize; it is their duty to do it, and yours to enforce it upon them: An Assize lasteth but a few days, but the instructions which they may receive from you in that short time, may be of great use for the County for the whole year: Also that you examine whether they give due attendance at the Quarter-Sessions, although there is an express Article in their Oath that they should give it; therefore it is a thing very fitting, and well worthy your labour, that in the beginning of every Assize, you trust not to the Clerk of the Peace his Information, but that your selves do cast an eye upon his Book, and command him to return the Names of such Justices of Peace as you find by his Book were absent at the Quarter-Sessions; for it will be that you let them know, that to prefer a Riding, or Bowling, or Hunting-Match, before their attendance at the Quarter-Sessions, is little less than Perjury; and if your admonition will not serve the turn, a remedy shall be taken. Third place, it is necessary for you to enquire how they attend the Monthly Meetings, or other times of Publick Service; for this I am sure, they are all within one Commission, and have the same Oath, and the same attendance is imposed upon all, and why the greatest number exempt themselves, and leave the Publick Service upon a few; I know not, but if I may know the particular men (of which I hope I shall henceforwards by your Lordships) I shall rid them out of the Commission, and put others in their places.
 'My Lords, I have but one particular more, and that of great importance, whereof by special direction and Commandment from his Majesty I am to speak unto you at this time; all of you are the Witnesses of his Majesties proceedings, though the candour and clearness of his own heart exceedeth your Testimony, and your Testimony is not only fit to be declared in this place, but in all the places of this Realm; his Majesty hath now the third time sent forth

Writs to require the aid of his Subjects for the Guard of the Dominion of the Sea, and safety of the Kingdom: This his Majesty did upon great deliberation and advice, and upon important and weighty reasons. In the first year, when the Writs were directed to the Ports and Maritime places, they received little or no opposition; but in the second year, when they went generally throughout the Kingdome (though by most well obeyed) have been refused by some, not only in some Inland Shires, but in some of the Maritime places, and Actions have been brought against some that have been employed in the execution of those Writs: I suppose that no man will suspect that (*Arcana Regni*) the private Reasons of a Prince should either upon this or other occasions be made publick; but so many Reasons as were fit to be opened, were formerly declared by me, in this place; to you the Judges of this Realm. The first was, that the whole Kingdom is concerned, in point of safety; for admitting there were no other Council or attempt against us, but only to interrupt us in the Dominion of the Sea, our most secure and safe defence, better than either Castle or Forts, which if it be commanded by others, it lays us open to much peril and danger. Secondly, the whole Kingdom is concerned in point of Honour, for it is one of the most ancient and Honourable Rights of the Crown of *England*, even the Dominion of the Sea; and all Records do shew, how the Kings and People of *England* have ever been careful that this Honour should never perish; and certainly the whole Kingdom is concerned in point of Trade and profit, for the Traffick doth not only enrich the Maritime places, but the In-land Towns; and if Trading fail, the In-land places will find it in the fall of the prizes of Wooll, Lead, and staple Commodities. This experience sheweth daily, when upon every stop of the Vent of Cloth, there cometh such out-cries by the Weaver, Fuller, Spinner, and Wooll-growers themselves, and the Authority of the Law shews the same in the Book of Assize, which your Lordships know better than I: It appeareth that certain men went into the Country, and cast out a fame, that for that year no Wooll should be transported beyond the Seas; presently upon this the price of Wools fell, and those men were called into question, and were adjudged in a Fine for it. Now if a Rumour did so much abate the Trade in the Heart of the Kingdom, what would the loss of the Dominion of the Sea do, which exposeth us and all our Trade to the mercy of our Neighbours? Therefore since the Realm and the whole Kingdom is concerned in point of honour, safety, and profit, what reason if all should contribute to the maintenance of it? This, or to this effect, I did formerly declare to you the Judges by his Majesties Commandment, and his Majesty received satisfaction, in that you made a full Declaration thereof in your Circuits; and this I may say, for the most part, the Subjects have shewed themselves most dutiful and obedient in this service of his Majesty, and this year the sum imposed upon the County of *York*, being 12000 *l.* is brought in already by the Sheriff, and so is most part of *Lancashire*, and other Shires; but when his Majesty heard of some refusals, though he had cause to be sensible of it, yet was far from being transported with Passion, but thought

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thought good to resort to the advice of you his Judges, who are sworn to give him faithful and true Counsel in that which pertaineth to the Law; and this his Majesty, as well for the direction of his own course, as for the satisfaction of his Subjects, requiring you to deliver your Opinions herein, to which you returned an answer under your own hands: And because the Commandment which you received of the King is expressed in a Princely Letter under his own Signature, I shall not take upon me to repeat it, you shall hear it read; which being delivered by my Lord Keeper to one of the Clerks in Court, was read, to this or the like effect.

Carolus Rex.

TRuffy and Well-beloved, we greet you well; Taking into our Princely consideration, that the honour and safety of this our Realm of England, the preservation whereof is only intrusted in our own care, was and is now more nearly concerned than in former times, as well by divers Councils and attempts to take from us the Dominion of the Sea, of which we are sole Lords and rightful Owners, the loss whereof would be of greatest danger and peril to this Kingdom, and other our Dominions, We for the avoiding of these and the like dangers, well weighing with our selves, that where the good and safety of the Kingdom in general is concerned, and the whole Kingdom in danger, there the charge and defence ought to be born by all the Realm in general, did for prevention of so publick a mischief resolve with our selves to have a Royal Navy provided, that might be of force and power, with Almighty Gods blessing and assistance, to protect and defend this our Realm, and our Subjects therein, from all such perils and dangers; and for that purpose we issued forth Writs under our Great Seal of England, and directed to all our Sheriffs of all our several Counties of England and Wales, commanding thereby all our said Subjects in every City, Town and Village, to provide such a number of Ships well furnished, as might serve for this our Royal purpose, and which might be done with the greatest equality that could be. In Performance whereof, though generally throughout all the Counties of this our Realm we have found in our Subjects great cheerfulness and alacrity, which we graciously interpret as a testimony, as well of their dutiful affections to us, and to our service, as of the respect they have to the Publick, which well becometh every good Subject: Nevertheless finding that some few, happily out of ignorance, what the Laws and Customs of this our Realm are, or out of a desire to be eased and freed in their particulars (how general soever the charge ought to be) have not yet paid and contributed the several Rates and Assessments that were set upon them; and foreseeing in our Princely Wisdom, that from hence divers Suits and Actions are not unlikely to be commenced and prosecuted in our several Courts at Westminster, we desirous to avoid such inconveniences, and out of our Princely love and affection to all our People, being willing to prevent such Errours as any of our loving Subjects may happen to run into, have thought fit, in a case of this nature, to advise with you our Judges, who, we doubt not, are all well studied and informed in the Rights of our Sovereignty. And because the Tryals in our several Courts, by the forma-

lity in Pleading, will require a long protraction, We have thought expedient by this our Letter directed to you all, to require your Judgments in the Case, as it is set down in the inclosed Paper, which will not only gain time, but also be of more Authority to over-rule any Prejudicate Opinions of others in the point.

Given under our Signet at our Court at White-Hall, the second day of February, in the twelfth year of our Reign, A. D. 1636.

This being thus read, the Lord Keeper commanded the Case inclosed to be read, being as followeth.

Carolus Rex.

WHen the good and safety of the Kingdom in general is concerned, and the whole Kingdom in danger, whether may not the King by Writ under the Great Seal of England, command all the Subjects of this Kingdom, at their charge, to provide and furnish such number of Ships with Men, Victuals, and Munition, and for such time as he shall think fit, for the defence and safeguard of the Kingdom from such danger and peril, and by Law compel the doing thereof, in case of refusal or refractoriness? And whether in such a case is not the King the sole Judge, both of the danger, and when, and how the same is to be prevented and avoided?

May it please your Most Excellent Majesty,
WE have according to your Majesties Command, every man by himself, and all of us together, taken into consideration the Case and Question signed by your Majesty, and inclosed in your Royal Letter: And we are of Opinion, that when the good and safety of the Kingdom in general is concerned, and the whole Kingdom in danger, your Majesty may by Writ under the Great Seal of England, command all the Subjects of this your Kingdom, at their charge, to provide and furnish such number of Ships with Men, Munition, and Victuals, and for such time as your Majesty shall think fit, for the defence and safeguard of the Kingdom from such danger and peril; and that by Law your Majesty may compel the doing thereof, in case of refusal or refractoriness: And we are also of Opinion, that in such a Case your Majesty is the sole Judge, both of the danger, and when, and how the same is to be prevented and avoided.

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|------------------|---|-----------------|
| Jo. Bramston, | } | * George Croke, |
| Jo. Finch, | | Thom. Treavor, |
| Hump. Davenport, | | Geo. Vernon, |
| Jo. Denham, | | Fra. Crawley, |
| * Rich. Hutton, | | Robert Berkley, |
| William Jones, | } | Fra. Weston. |

The said Case, with the Judges Opinion thereunto (formerly in private delivered to his Majesty) being thus publickly made known by my Lord Keeper, who withall caused their several names to be read, as they were in order subscribed (all the Judges being present save Judge Croke) my Lord Keeper spoke as followeth,

My Lords,

This being the Uniform Resolution of all the Judges of England with one voice, and set under their own hands; I say, this being foretold, as they do here express upon every mans particular studying the Case, and upon a general

Anno 1636. ral Conference among themselves, it is of very great Authority, for the very Lives and Lands of the Kings Subjects are to be determined by these Reverend Judges, much more a Charge of this nature, which God knows cannot be burdensome to any, but is of singular use and consequence, and for the safety of the whole Kingdom; the Command from his Majesty is, that I should publish this your Opinion in this place, and give order that it should be entred in this Court, in the High Court of Chancery, in the Courts of Kings-Bench, Common Pleas, and Exchequer, for this is a thing not fit to be kept in a corner: And his further Command is, that you the Judges do declare and publish this general Resolution of all the Judges of England throughout all parts of the Kingdom, that all men may take notice thereof, and that those his Subjects which have been in any error may inform themselves, or be reformed; you have great cause to declare it with joy, and you can hardly do it with honour enough to the King, that in so high a point of his Sovereignty, he hath been pleased to descend, and to communicate with you his Judges, which sheweth, that Justice and Sovereignty in his Majesty doth kiss each other; his pleasure further being, that you let all know, that it is not his purpose by this Resolution to stop or check the Actions or Suits which any have brought, or shall bring, concerning this; for it is his Majesties Command, that all such as proceed in an Action about the same have equal and meet Justice, and they be suffered to proceed in course of Law, so as you call the Kings Learned Council unto their proceedings, that they may not be surprised. Now, my Lords, I have little more to say but this, I am sure of that, if any contrary Opinion shall yet remain amongst men, it must proceed from those which are Sons of the Law, *salices essent artes*, &c.) And you the Judges of the Realm, you are and ever have been accounted the Fathers of the Law; then in good Faith it will ill become the Son to dispute against the Father. Having thus delivered unto you what I received in Commandment from his Majesty, and as his Majesty doth, so do I leave it to your Judgments.

The Judges having subscribed the Legality of the Shipwrights, His Majesty commanded the said Attestation to be enrolled in all the Courts of Westminster-Hall; which was Warrant enough for His Majesty to proceed against any Defaulters: one more signal and notorious than others; Mr. Hampden of Buckinghamshire appeared upon Process and required Oyer of those Writs, which being granted him according to Law, he demurr'd in Law thereto, and demands the Judges Opinions upon the Legality of those Writs, which was argued in the Exchequer-Chamber; all the Judges of the Land and Barons of the Exchequer (except Crooke and Hutton) were of opinion for the Writs, and therefore the Barons of the Exchequer gave Sentence for the King against Hampden accordingly, as will hereafter by their Opinions appear.

Upon the seventeenth of March Her Majesty was safely delivered of the Lady Ann Her third Daughter.

Anno 1637. The Prince Elector Palatine and his Brother Prince Rupert departed from the Court in the beginning of this year: hopes they had of atchieving

Car. 13. somewhat in order to the Restitution to their Antient Patrimony, and accordingly getting together a small Army in Holland, with the Assistance of their Uncle His Majesty of Great Britains Money, the Prince of Orange and States also of the United Netherlands contributing (but in private) thereto, they the Year ensuing advanced into Westphalia, and besieged Lemgea, to the Succour whereof advanced Harsfield the Imperial General: and battel being joyned thereupon, the Victory fell to the Imperialists, who kill'd two thousand on the place, and took Prisoners Prince Rupert and the Lord Craven, the Elector escaping into Holland.

In Midsummer Term this year there happened two notable Trials in the Court of Star-Chamber, the one Dr. Williams Bishop of Lincoln sometimes Lord Keeper of the Great Seal of England, and of three other notorious Persons, Prynne, Burton, and Bastwicke, a Lawyer, a Divine, and a Physitian, as if all perfections had engaged in the Puritans Quarrel against the Party: The Bishop was charged with Subornation of two of his Countrymen, Owen and Powel, to procure the suppression of an Order of the Publick Sessions of Lincoln, which charged one Pridgeon his Servant with begetting a Bastard upon the Body of one Elizabeth Hodgson, and accordingly adjudged the said Pridgeon to keep the Child; the two suborned persons Depositions lay it upon one Boone, and acquits the other: This tampering cost the Bishop a round sum of Money, and for this he was fined 10000 l. to His Majesty, and suspended *ab officio & beneficio*; the Regret of which Procedure (tis doubted) had some influence upon this Prelate in the late ensuing evil times, when like a Souldier he raised and lead a Troop of Horse against His Sovereign for the Parliament in the ensuing Commotions.

The other Tryal (as we said) was of Mr. Prynne a Barrister of Lincolns-Inn, whose Trial and Sentence in the Star-Chamber you have heard before, and of Mr. Burton, who had been Clerk of the Princes Chappel, and was said by some to be discontented, for that Preferment had not been given him according (as he thought) to his Demerits, he wrote two Pamphlets against Episcopacy full of animosity, faction, and rancor; but these two (if it was possible) were quite outdone by Dr. Bastwicke the Physitian, who had some three years before wrote a reproachful Apology against all the Prelates of England, more particularly naming Arch-Bishop Laud and Bishop Juxon, whom he styles the Magnificus Rector of His Majesties Treasury by way of scoff and jeer; this reverend Prelate together with Father William his Holiness of Canterbury and the Whore of Babylon, are invited very solemnly to be Witnesses to the Baptism of the Child and Offspring of the Doctors Brain his Book. These are his words. And when he comes to answer in the Star-Chamber, he is no less extravagant, where he fills six Skins of Parchment, which he afterwards Printed and Dedicated to His Majesty, offering Proof of all: A little farther to shew him and the temper of that Party, see his Answer, which he entitleth,

The Answer of John Bastwick Doctor of Physick to the Information of Sir John Banks Knight, Attorney General: in which there is a sufficient demonstration, That the Prelates are Invaders of the Kings Prerogative Royal, contemners and despisers of the Holy Scriptures, Advancers of Popery, Superstition, Idolatry,

Idolatri, and Prophanes. Also, that they abuse the Kings Authority to the oppression of his Loyalest Subjects; and therein exercise great Cruelty, Tyranny, and Injustice; and in the execution of these impious performances, they shew neither wit, honesty, nor temperance: Nor are they either Servants of God, or of the King (as they are not indeed) but of the Devil, being Enemies of God and the King, as of every living thing that is good. All which the said Dr. Bastwick is ready to maintain, &c.

Their Punishments were, Mr. Prynne was fined five thousand pounds to the King, to loose the remainder of his Ears in the Pillory, to be stigmatized on both Cheeks with an S. for Schismatick, and perpetual imprisonment in Carnarvan Castle in Wales. Bastwick and Burton each five thousand pounds fine to the King, to loose their Ears in the Pillory and to be imprisoned; the first in Lancaster Castle in Cornwal, and the other in Lancafter Castle.

And now we shall come to the Tryal in the Case of Ship-Money; it was argued before all the Judges in the Exchequer Chamber, John Hampden Esq; being Defendant, in behalf of whom argued Oliver St. John of Lincoln-Inn Barrister, the 6th. of November 1637, as followeth.

Mr. St. John's First days Argument in the Case of Hampden.

May it please your Lordships,

Pasch. 13. Car. **A** *Scir. fac.* issued to the Sheriff of Bucks. reciting, That whereas several Sums of Money mentioned in a Schedule to that Writ annexed, by a Writ under the Great Seal of England, dated 4. Augusti 11 Caroli sessed upon several persons for providing of a Ship of War were not paid, and that upon a *Certiorari* dated 9. Martii 13 Caroli, those Sums, and the several Persons upon whom they were assessed, were certified into the Chancery; And from thence by *Mittimus* dated 5. May last, were sent into the Exchequer, that Proceſs might be issued against these Defaulters.

Thereupon the Sheriff is commanded *quod scire fecerit* to those several Persons to appear in the Exchequer Octob. Trinit. 13 Caroli, to shew cause why they should not pay those Sums of Money assessed upon them. The Sheriff returns *quod scire fecit John Hampden, Esq;* who was assessed at 20 s. and he hath not paid it: Mr. Hampden hath appeared and demanded Oyer of the *scir. fac.* of the Schedule, the Writ dated 4. Augusti, the *Certiorari*, and the *Mittimus*, and of their several Returns; and hath thereupon demurred in Law. The Writ dated 4. Aug. 11 Caroli, because it is the ground of the issuing forth the *scire fac.* and so by necessary consequence, as that which first occasioned any Proceſs against him, it will be the Subject from whence will be fetched all that shall be said either for or against my Clyent, I will endeavour by breaking it into parts more clearly to present it to your Lordships view.

The thing commanded is, that this County should provide a Ship of War of 450 Tun, with 180 Men, Guns, Gunpowder, double Tackling, Victuals, and all other things necessary, and to bring her to Portsmouth by the first of March following, and from that time to provide her of Victuals, Mariners Wages, and all other necessities for 26 weeks; for the effecting this, there is

power given to assess each person within the County *Secundum Statum & Facultates*, and to bring these Sesses by distress, & *quos rebelles invenerint*, to imprison their persons.

My Lords, If the Writ had stayed here and gone no further, the Command, though full in words, yet had been void in Law, because as yet it appears not for what end this Ship was to be provided: 42. *Ass. Plow.* A Commission to Sess mens goods notoriously suspected of Felonies before Conviction adjudged void, because therefore the Command without Cause shewn, and that sufficient in Law too, would be void. In the second place therefore they are set down to be these *pro defensione Regni, tuitione Maris, securitate Subditorum, & salva conductione Navium*, both outward and inward, the Sea being infested with Pyrats, and more Shipping being daily prepared *ad Regnum gravandum*; these are the Ends.

In the third place, the Legality of it, that every man *secundum statum & facultates*, should be hereto sessed, is thus enforced.

First, From custom and continued use, in these words, That the Sea *per gentem Anglicanam ab olim defendi consuevit*. And secondly, this use proved to be from a common ground of Equity, in these words, *onus defensionis, quod omnes tangit, per omnes debet supportari*: And the Rule of Equity backt by the Common Law, in these words, *promt per legem & consuetudinem Regni Anglicanam fieri consuevit*; the Argument stands thus: All have benefit by defence of the Realm, and therefore by the Law the charge ought to be born by all.

Thence it is further enforced, that every man, even by his Allegiance, is bound to contribute to this Charge, the Command being *in fide & legiancia quibus nobis tenemini*: of these parts the Writ consists, which all, being put together in brief, declare the Scope and End of the issuing forth thereof, to be the Defence and Safety of the Kingdom; a thing so necessary that it must needs be Legal, for it is too near and too narrow a conceit of the Wisdom and Policy of the Law, to think that whilst the care thereof should be confined only to the preservation of the general Members of the Body Politick, from the wrongs and pressures that might be offered from others to the Fellow-Members, that in the mean time it will leave the whole to the Violence and Will of Enemies; so that whilst each Subject considered as a part of the whole, hath a known and sure Estate in Lands, and a real property in his Goods, not to be impeached by any whatsoever within the Realm; yet considered altogether as they make up the *unum compositum*, they should have in them only *precariam possessionem* or Tenancy at Will in regard of Forreiners.

My Lords, This cannot be, for the Law is so careful herein, that even afar off it foresees and prevents all dangers in this kind, and that is the reason that an Alien, though a Friend, hath not capacity to purchase any land in the Realm. And if the Law be so quick-sighted, as that to prevent but possibility of danger, it keeps such Strangers from having any Land within the Realm, which desire to come by it peaceably, and for valuable consideration: By this we may easily see the great care it hath to prevent apparent dangers, which usually proceed from open force and violence; which further appears by the greatness of the Punishment which the Law inflicts upon Offenders in this kind, which is High Treason, of all other the greatest, 13. *El. Dyer.* 298. Story conspired beyond Sea with a Foreign State to invade

Anno 1637. vade the Realm, and though nothing was attempted, yet it was adjudged High Treason. And 21. E. 3. fo. 23, & 45. E. 3. 25. A man killed a Captain that was going with 20 Men at Arms to the King in his Wars, and adjudged to be High Treason: And so, by some Opinions in print, is to burn or sink any of the Kings Ships. By the greatness of the punishment for breach of the Negative part of the Law, we might understand the peremptoriness and force of the Affirmative part; so that my Lords, in this Case the question is not *de Re*, for by the Law the safety of the Realm is to be provided, for *Salus populi suprema Lex*. Neither is the question *de Personis*, either in respect of the persons who are to bear the Charge of it, or of the persons whom the Law hath intrusted with the care and power of this Common Defence. For the first, that is, the Persons that are to bear this Charge that is in the Writ, *quod omnes tangit per omnes debet supportari*, the reasons of the Writ are weighty and agreeable to the Rule both of the Civil and Common-Law: *Qui sentit commodum sentire debet & onus*; so that I conceive the burthen lies upon all in respect of our *bona natura*: our lives and persons are equally as dear to one as to another, in respect of our *bona fortuna*; so *secundum statum & facultates*, because the greater the state and means of livelihood, the greater the Benefice by the Defence. The Law in this case of defence against the Invasions of living Enemies, being the same with that against our Soyl and Ground, by the Inundations and Outrages of the Sea and fresh Water: For by the Law, as appears by the Commission of Sewers, as well before the Statute 28. H. 8. as since, to the repairing of a Bank, or Cawsey, River; or other Sewer, all are chargeable that have thereby *defensionem, commodum vel salvationem qualitercumq;* all that have defence must be Selled. The Asses must be equally distributed, and therefore laid upon every man within the level, *pro rata portionis tenura sua, seu pro quantitate communis pastarum vel piscariae*, the more Land; Common, or Benefit each man hath, according to the proportion the Asses must be set: So that, my Lords, in the second place the question will not be, Whether my Clyent by Law be exempted from the Charge of the Defence of the Realm, for with other His Majesties Subjects he ought to bear the common burthen, and more or less may be thereof laid upon him proportionably to his Estate and means of Livelyhood.

Neither thirdly, is there any question to be made, but the Law hath intrusted the Person of His Royal Majesty with the care of this Defence: The Defence and Protection which we have in our Bodies, Lands, and Goods against any within the Realm, we know it is from Him; for all Jurisdiction legal, both Ecclesiastical and Civil which defends us in them, is wholly in His Majesty; The same it is in case of Forein Defence, even by the *Jus Gentium*, as appears in the Text by the Peoples desiring that they might be like all other Nations, by having one that might judge them, and go out before them and fight their Battels, That the King (and that legally) calleth the Kingdom *Regnum nostrum*; And every City and great Town *Civitatem & villam nostram quoad proprietatem*, it cannot be, because that it is the several Landowners. It must be so therefore principally in this respect, *quoad protectionem & defensionem*. Neither hath the Law invested the Crown with this height of Sovereignty, only as an *Honorarium* for the greater Splendor of it, but likewise as

a Duty of the Crown, or *pars Ministerii*, for the good and safety of the Realm, which in many of the antient Commissions of the Sewers before the Statute 28. H. 8. is thus expressed, That the King, *ratione Regie Dignitatis & per Juramentum, est asscriptus ad providendum Salvationi Regni circumquaque*; So that both in Honour, and by his Oath, he is bound to provide for the safety of the Realm, and that *circumquaque*.

My Lords, by the Law the King is *Pater-Familias*, who by the Law of *Oeconomicks* is not only to keep peace at home, but to protect his Wife and Children, and whole Family from Injuries from abroad.

It is his vigilancy and watchfulness that discovers who are our Friends and Foes, and that after such discovery first warns us of them, for he only hath power to make War and Peace.

Neither hath the Law only intrusted the care of the Defence to His Majesty, but it hath likewise, secondly, put the *Armatam potestatem* and means of defence wholly into His Hands; for when the Enemy is by Him discovered, and declared, it is not in the power of the Subject to order the way and means of Defence, either by Sea or by Land, according as they shall think fit; for no Man, without Commission or special License from His Majesty, can set forth any Ships to Sea for that purpose; neither can any man without such Commission or License, unless upon sudden coming of Enemies, erect a Fort, Castle, or Bulwark, though upon his own Ground; neither, but upon some such emergent cause, it is lawful for any Subject, without special Commission to Arm or draw together any Troops or Companies of Souldiers, or to make any general Collections of Money of any of His Majesties Subjects, though with their consent.

Neither in the third place is His Majesty armed only with His Primitive Prerogative of *Generalissimo*, & Commander in Chief, that none can advance towards the Enemy until He gives the Signal, nor in other manner according to His Direction: but likewise with all other Powers requisite for the full execution of all things incident to so high a Place; as well in times of eminent Danger, as of actual War.

The Sheriff of each County, who is but His Majesties Minister, he hath the *Posse Comitatus*, and therefore it must needs follow that the *Posse Regni* is in Himself.

My Lords, not to burn day-light longer, it must needs be granted, that in this business of defence the *Suprema potestas* is inherent in His Majesty, as part of His Crown and Kingly Dignity.

So that as the care and provision of the Law of England extends in the first place to Forein Defence, and secondly, lays the burthen upon all, & for ought I have to say against it, it maketh the quantity of each mans Estate the Rule whereby this burthen is to be equally apportioned upon each person: So likewise hath it in the third place made His Majesty the sole Judge of dangers from Foreiners, and when and how the same are to be prevented; and to come nearer, hath given him power by Writ under the Great Seal of England, to command the Inhabitants of each County to provide Shipping for the defence of the Kingdom, and may by Law compel the doing thereof.

So that, my Lords, as I still conceive the question will not be *de persona*, in whom the *Suprema potestas* of giving the Authorities or Powers to the Sheriff, which are mentioned in this Writ, doth ly, for that it is in the King; but the question is

only *de modo*, by what *Medium* or Method, this Supreme Power which is in his Majesty, doth infuse and let out it self into this particular; and whether or no in this particular, such of them have been used as have rightly accommodated and applied this Power unto this Writ in the intended way of Defence; for the Law of England, for the applying of that Supreme Power which it hath settled in his Majesty to the particular Causes and Occasions, hath set down a Method and known Rules, which are necessarily to be observed.

In his Majesty there is a twofold Power, *Voluntas*, or *Potestas Interna*, or *Naturalis*; *Externa* or *Legalis*: which by all the Judges of England, 2 Ric. 3. fol. 11. is expressed *per voluntatem Regis in Camera*, and *voluntatem Regis per Legem*.

My Lords, The Forms and Rules of Law are not observed in this Case; this Supreme Power not working *per media*, it remains still in himself, as *Voluntas Regis interna*, and operates not to the Good and Relief of the Subject, that standeth in need.

To instance;

His Majesty is the Fountain of Bounty; but a Grant of Lands without Letters Patents, transfers no Estate out of the King to the Patentee, nor by Letters Patents, but by such words as the Law hath prescribed. His Majesty is the Fountain of Justice; and though all Justice which is done within the Realm, flows from this Fountain, yet it must run in certain and known Channels. An Assize in the Kings Bench, or an Appeal of Death in the Common Pleas, are *coram non Iudice*, though the Writ be his Majesties Command; and so of the several Jurisdictions of every Court. The Justice whereby all Felons and Traytors are put to death, proceeds from his Majesty; but if a Writ of execution of a Traytor or Felon be awarded by his Majesty without Appeal, or Indictment preceding, an Appeal of Death will lie by the Heir against the Executioner, if the Process be legal, and in a right Court; yet I conceive that his Majesty alone, without assistance of the Judges of the Court, cannot give Judgment: I know that King John, H. 3. and other Kings, have sitten in the King's Bench, and in the Exchequer; but for ought appears, they were assisted by their Judges. This I ground upon the Book-Case of 2 R. 3. fol. 10, & 11. where the Party is to make Fine and Ransom at the King's Will and Pleasure. This Fine, by the Opinion of the Judges of England, must be set by the Judges before whom the Party was convicted, and cannot be set by the King: The Words of the Book are thus, *In terminis, & non per Legem, per se in Camera sua, nec aliter coram se nisi per Iudiciarios suos, & hoc est voluntas Regis, scilicet per Iudiciarios suos, & per Legem suam* to do it.

And as without the Assistance of his Judges, who are his settled Council at Law, his Majesty applies not his Laws and Justice in many Cases unto his Subjects: so likewise in other Cases; neither is this sufficient to do it without assistance of his great Council in Parliament. If an erroneous Judgment was given before the Statute of 27 Eliz. in the King's Bench, the King could not relieve his grieved Subjects any way but by Writ of Error in Parliament: Neither can he out of Parliament alter the old Laws, or make new; or make any Naturalizations or Legitimations, nor do some other things; and yet is the Parliament

his Majesties Court too, as well as other his Courts of Justice: It is his Majesty that gives Life and Being to it; for he only summons, continues, and dissolves it; and he by his *le vent* enlivens all the Actions in it, and after the dissolution of it, by supporting his Courts of Justice, he keeps them still alive by putting them in execution. And although in the Writ of *Wast*, and some other Writs, it is called *Commune Concilium Regni*, in respect that the whole Kingdom is representatively there. And 2ly, that the whole Kingdom have access thither in all things that concern them; other Courts affording Relief but in special Causes. And thirdly, in respect that the whole Kingdom is interested in, and receive benefit by the Laws and Things there passed; yet it is *Concilium Regni*, no otherwise than the Common Law is *Lex Terra*, that is, *per Mandatum Regis*, whose it is, if I may so term it, in a great part, even in point of Interest, as he is the Head of the Commonwealth, and whose it is, wholly in trust for the good of the whole Body of the Realm; for he alone is trusted with the execution of it. The Parliament is the King's Court, and therefore in the Summons, the King calls it *Parliamentum nostrum*: so the Returns of the Knights and Burgeses, *Quod sint ad Parliamentum Domini Regis*, *Fleta lib. 2. cap. 2. Habet Rex Curiam suam in Concilio suo in Parliamentis suis*. And therefore the Pleadings there anciently were usually to begin for the most part *Queritur Domino Regi*, Petitions by private persons, *Supplicavit Domino Regi*, though for relief against others; Inquisitions and *Venire fac'* returnable there sometimes, *coram Domino Rege & Concilio suo*, as appears by infinite Precedents in the Parliament-Pleas of E. 1. E. 2. times, both in the Tower, and many Cases Adjourned into the King's Bench.

The Patents past by Authority of Parliament, and likewise the Acts of Parliament, had anciently so much of the King's Name and Style in them, that as it appears in the Princes Case in the 8th. Report, it was a hard matter, otherwise than by Circumstances, to know whether they had any thing of the Parliament in them or not; and from those times even until now the Alteration is nothing in substance, for the Acts most part are thus; It is Enacted for our Sovereign Lord the King, with the Assent of the Lords Spiritual and Temporal, and Commons; the King both then and still is *Pars agens*, the rest are but *Consensientes*. My Lords, to apply all to the Case in question by the Cases before-cited, it appears, that what was done in Parliament by the Law-phrase and Dialect is said to be done by the King; for as the *Civilians* say of the Senate, that it is *pars Corporis Regis*; the Maxim of *Justinian*, *Quod Principi placet Legis vim habet*, is agreed by *Bracton* and all the *Civilians*: and both he and many of them say, that both must pass the Senate, though done in the Senate, yet they be *Placita Principis*. So is it, although when we speak *ut Vulgus*, we say Fines are said to be set, and other things to be done by the King's Court; yet the Law when it saith that they be done and set by the King, by the same reason therefore, though when we speak *ut vulgus*, we say such a thing is done by the Parliament, yet in the Loyal account these are done by the King, the *Medium* or way of doing of them with the assistance or consent of his great Council in Parliament.

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The second thing which I observe, is this; by the Cases before cited it appears, that, without the Assistance in Parliament, his Majesty cannot in many Cases communicate either His Justice or power unto his Subjects.

Hence Thirdly, it necessarily followes, as I conceive, that the Kingly Dignity doth most operate and manifest it self there, which was the opinion of all the Judges of *England*, declared in a Parliament 34 *H. 8.* as appears by *Crompton Jurisd. fol. 10.* who by the Kings Commandment meeting together about Point of Priviledge of Parliament, the King afterwards in declaring their opinion doth it in part of the Case in these words; 'Further we be informed by Our Judges, that we at no time stand so highly in Our Estate-Royal, as in time of Parliament, wherein we as Head, and you as Members, are conjoynd and knit together in one Body Politick; which his Declaration of it shews likewise that it was the Kings own Opinion, That he at no time stood so Highly in his Estate, as in time of Parliament: It appears not by the Record that this Writ which giveth power to sell and alter the property of the Defendants Goods, issued from his Majesty Sitting in his Estate-Royal in Parliament, and therefore cannot be intended by your Lordship and the Court so to doe; If therefore it hath issued from his Majesty in the *Chancery*, or otherwise then in Parliament, where he stands in that height of Sovereignty and perfection, that he hath not so much as a *posse nocere*, the question is whether it be erroneously issued yea or no? My Lords, I have now put the case, which although in this Particular case it concerns the defendant only, yet in consequence as it appears it concerns both his Majesty and the whole State, and that in matters of the highest nature possible. His Majesty is concerned in the way and manner of execution of the highest and greatest trust which the Law hath reposed in him, the safety and preservation of the kingdom; the Subject is concerned in that wherein he is most tender in the property of what he hath.

My Lords, the greatness and height of the case puts me in this *Dilemma*, not to argue it were to deny that full submission of the command of some of your Lordships that is sitting; neither should I doe any Clyent that service which he expects; If I proceed the cause is to weighty and too great for me to Argue, but I know the safest way is obedience, and that the Court cannot expect much from me. I having therefore already put the case I will go on in the next place to State it, and afterwards to argue it; the Question being concerning the validity of the Command in the writs, which extends so far, as to the altering of the property of the Subjects goods without their consent, and yet this being for a thing so necessary as the defence of the Kingdom, both at Land, and Sea, for the ends of the issuing forth of the writ, as by it appears, are *pro Defensione Regni, Tutione Maris, Securitate Subditorum, salva Conductione Navium*, both outward and inward. In the stating of this great Question, I will in the first place endeavour to present your Lordships with these known and undoubted ways and means, whereby the Law hath provided for the defence of the Realm both at Land and Sea without the way in the Writ; the first whereof is by Tenures of Land; The Services which grow hereby due are of two sorts:

Services in kind, which tend immediately to Action in times of War; some whereof are for Land-Service, and some for Sea-Service: The

second, such as supply his Majesty with Money for that purpose.

The second Way is, Those many Prerogatives which the Law hath settled in the Crown, and made peculiar unto it, for the defence of the Kingdom in general.

The third is, The particular Supplies of Money for the Defence of the Sea alone in time of Danger, both ordinary and extraordinary, the thing principally intended in the Writ.

These, My Lords, will be Materials whereupon afterwards I shall state the Question.

In that of Tenures, I shall begin with the Services in kind, and those which tend immediately to Action in time of War.

The King's of this Realm, as they are the Heads of the Commonwealth in general, so are they the Head and Root from whence all Tenures spring; for as our Books agree, all the Land within the Realm is held *mediately or immediately of the Crown*: As therefore the Law hath appropriated the Defence of the Kingdom to the Kings thereof: so hath it, as one of the principal ways for the effecting thereof, trusted them with the reservation of such Services as might serve for that purpose.

Amongst which, intending first to speak of Land-Service, I will begin with the Tenures by Knights-Service: Every man that holds by this Service from a whole Knight's-Fee, to any part of it, ought to find a man competently Armed for the Wars: neither doth the finding of Arms satisfie this Tenure; for he that holds by a whole Knights-Fee, ought to be forty days in the Service, and he that holds by the Moyety of a Knights-Fee, twenty days, and so in proportion.

By the Books of the Knights-Fee of *H. 2. E. 1.* and *H. 6th's.* time, in the Exchequer, it appears, that there were many Thousand Knights-Fees held of the Crown: And in the *Red Book* it is said, That it was *in ore omnium*; That in the Conqueror's time, there were 30000 held of him; some since have computed them to 60000; which perhaps may be with addition of those that are held of common persons; upon which I shall insist.

But it may be Objected, That in respect that these Services are reserved by the King, that therefore they were not instituted only for the Defence of the Realm, but may be exacted for Foreign Wars, or other-where, for his Majesties peculiar Service, as he shall think fit, which may be enforced both from the Name which our old Books and Deeds style this Service by, when due to the Crown, that is *Forinsecum Servitium*; and secondly, from the use thereof; it having been performed in *Normandy, Gascoigne, Thoulouse and Ireland*, as appears by the *Red Book*, and many Cases put together in the *Institutes* in the Chapter of *Escuage*.

To the first objection of the Name, the answer is clear; for anciently when those that held immediately of the Crown by this service, did enfeof others of the Land so held, desiring to free themselves of the burthen of this service, besides the services which they reserved to themselves; they likewise commonly in the conveyance made provision for their own acquittal against the King, and the Feoffee took the whole burthen thereof upon himself: And therefore in the Book of Knights Fees of *H. 2.* time, in so many hundred Certificates of those that held immediately of the King, *William London of Wiltshire,*

Car. 13.

shire certifies thus; *Quod nullum Militem habeo Anno feoffatum, sed debeo defendere Feodum meum per 1637. servitium Corporis mei*; of this nature are three or four others: All the rest after certifies by how many Knights Fees he holds, then likewise he certifies that *defendit, &c.* against the King, by such and such *Milites Feoffatos*: and in these Deeds of Feoffment, after the reservation to the Feoffer, was this Clause, & *faciend' inde*, sometimes *forinsecum servitium*, sometimes *Regale servitium*, *Bract. lib. 2. fo. 36, 37.* and *Fleta, lib. 3. cap. 14.* saith, that it is called *Regale servitium*, quia est *servitium Dom. Regis*; and by them *Regale servitium*, and *servitium Domini Regis*, are all but one and the same thing; to that therefore I shall need give no further answer.

By the same Authors it is called *Forinsecum servitium*, quia *capitur foris, sive extra servitium, quod fit Domino Capitali*; and that is the meaning of the word: and that it is called *Forinsecum*, in regard the service is to be done *foris*, that is, out of the Kingdom, is cleared to your Lordships by these Cases, *P. 49. H. 3. Com' 31 E. 1. Ro. 32. Dor. Com' Hill' 33 E. 1. Ro. 52. Dorset. Cornage*, which we know is to wind a Horn within the Realm; in all those three Cases is called *Servitium Forinsecum Domini Regis Cornagii*; and *Castle-guard* in the County of Northumberland, at the Castle of *Bamburgh*, called *Forinsecum Domini Regis*.

To the second part of this Objection, that this service hath been often performed beyond Sea.

For the present, I shall give answer thereunto but in part, by telling your Lordships, without making proof of it as yet; that *Escuage*, which is all the Penalty that lies upon the Tenant for his default, cannot be assessed but in Parliament; which if it be so proved that the King cannot command this service otherwise, then for the good and defence of the Realm, in regard that if it be otherwise, no *Escuage* can be assessed without consent in Parliament, which likewise by indentment, according to the good of the Kingdom, is likely to receive by the service, will proportionably lessen or increase the *Escuage*.

My Lords, that this service was instituted for the defence of the Realm, appears by the care which the Law hath always taken for the increase and preservation of these services: So that if the Lord purchase part of the Land, yet the whole service remains; which being entire, and to be done by the body of a man, in that of being a Steward, or Bayliff, or other private services, makes an extinguishment of the whole.

The Authorities in point are many in this; the Statute of *Mortmain*, 7 E. 1. The mischief by conveying Land to Houses of Religion is there expressed to be *quod servitia que ex hujusmodi feodis debentur & qua ad defensionem Regni ab initio provisum fuerunt indebite subtrahuntur*: And besides the Declaration, that they are for defence of the Realm, that Statute likewise provides for increase of them; for if the Lord enter not within the year and day after the Feoffment, the King is to enter; and as the words of the Statute are, *Alios inde Feoffavimus pro certa servitia nobis inde ad defensionem Regni nostri facienda*; the words are observable, *pro servitia nobis inde facienda*: for though the service be to be done to the King, yet it must be so done to the King, as it be *ad defensionem Regni*.

This explains the Charter of *H. 1.* enrolled in the Red Book in the *Exchequer*, and cited in

Mat. Paris, in the first leaf of *H. 1.* Reign, where the King frees Knights service Land from all Gelds and Taxes, that being eased of this burthen, & *parati sint ad servitium meum & ad defensionem Regni mei*. In the Black Book in the *Exchequer*, fo. 3. *Scutage* defined *ut imminente in Regnum hostium machinatione*, it is then due. So *Bracton* in his second Book, fo. 36, 37. that they are so *propter exercitum & Patria tuitionem*, and to be performed *certis temporibus, cum casus & necessitas evenierit*: *Britton*, fol. 162. *Les Fees de Chartre fuerunt purvus at defence de nostre Realme*. The Books are express, 35 H. 6. H. 8. R. fo. 105. *Talbot's Case*, 6 Report fo. 2. *Bruerton's Case*, Inst. p. 103. Co. Preface to the ninth Report.

For the further clearing of what is said already, and what I am to add, it is observable, that these services are not created *ex provisione hominis*, but *ex provisione Legis*; for as it is in 33 H. 6, 7. and 6 Report, fo. 7. *Wheeler's Case*, and in the ninth Report, fo. 123. *Laws Case*. If the King grants Lands without reserving any service at all, or *absque aliquo inde reddendo*, the Patentee shall hold the Land by Knights service in Capite. The Books of 24 E. 3. 65. *Stamford Prerog.* fo. 10. *Inst. Pl.* said, that the first Kings of this Realm had all the Lands of it in their own hands, which appears likewise by this, that all the Land within the Kingdom is held mediately or immediately of the Crown, in the transferring of these Lands to the several Inhabitants: We see by the Cases before-cited, that the care and provision of the Law was, that all should by Tenure of the Crown be made liable to the defence of the Kingdom: I shall shew briefly therefore, how the Kings of this Realm have executed the Trust, for the defence both of Land and Sea.

And first a little further to prosecute the Land-service, because the Tenures by Knights-service ties the Tenant only to forty days service, and that for the defence of the Realm, only in the general they therefore reserved divers other Tenures for particular and certain services, as Grand Serjeancies, some whereof, as in the *Institutes*, fo. 106. is observed, were for service of Honour in time of peace, and some for Military service; of which last sort, as appears in the Books of Serjeancies in the Chequer, and many Rolls of them in the Tally-Office, were very many, some whereof were to carry the Kings Banner, some to summon the Tenants *ad exercitum*, some to be of the *Vanguard*, some of the *Reer*, some to serve in *Wales*, some in *Scotland*, some *infra quatuor maria*, some *infra 5. Portus Anglia*, of these are services of all sorts necessary for an Army; and in respect of the multitude of these Military Serjeancies over the others, as forgetting them, *Brit. fo. 164.* in his definition of *Grand Serjeancy* saith, that they are *per defence del' Realme, & Fleta, lib. 3. cap. 16. Magna Serjeantia Regem tantum respiciunt & Patria defensionem*: Besides the Grand Serjeancies of this nature likewise are the Tenures by *Cornage*, to give warning of the Enemies coming into the Kingdom, and the Tenures by *Castle-guard*; these by *Litt.* were 111. to defend the Castles when the Enemy enters the Realm; within ancient times were Forts and Bulwarks of the Realm, whereof as *Mr. Camden*, p. 815. observes, there were 1115 in *H. 2.* time, whereof a great part, and especially such as were upon the Sea-Coasts and Frontiers of *Scotland* and *Wales*, the places of greatest danger were the Kings.

And

And besides those Grand Serjeancies which were to be performed by the bodies of men, there are Petty Serjeancies for the finding of Armour of all sorts for the Wars.

My Lords, that the former Kings did execute this power of Tenures for the defence of the Realm, according to the trust by the Law reposed in them, appears further in this, that in the places of greatest danger, there were ever most of them.

All along the Sea-Coasts of *Kent* and *Sussex*, nearest of all others to *France*, are the *Cinque-Ports*, who besides their Sea-service, have all Jurisdiction within themselves; that the Inhabitants for weakning these Ports, might not be compelled to travel out of them for any matters of Justice, and divers other Priviledges, both to invite the people to live there, and to encourage them to the defence of those places: And *Dover Castle*, the Key of the Kingdom, as of greatest consequence, so hath it two hundred Tenures by *Castle-guard*, wanting very few, besides divers Tenures for the repairing of the Castle, which appears by the Record called the *Quire of Dover*, remaining in the *Chequer*; which that it is of Record, and determines the services of the *Cinque-Ports*, as *Dooms-day* doth the Tenures of Ancient Demeasne, appears in *Com. 27 E. 1. Ro. 35.* and by another Record added to that of *Dover*, 20 E. 4. It likewise appears, that in times of War the King is to maintain in that Castle 1000 Foot, and 100 Horse for the defence of it.

Next, to come to the Borders of *Scotland*, there we find the Franchise of the *Bishoprick of Durham* instituted likewise for the defence of those parts, which *William the Conqueror*, as *Malmf. fo. 157.* observes, first made a County Palatine, and *Walter Bishop* thereof *Ducem pariter & Episcopum & refrenaret Rebellionem gentis gladio & reformaret mores eloquio.*

And besides all this, in all the Counties of *Cumberland*, *Northumberland*, and *Westmerland*, are more Tenures for the defence of the Realm, than in any of the In-land Counties, and those likewise most proper for bodies *Com. Pa. 31 E. 1. Ro. 32. Dor.* Its therefore found by Inquisition returned into the *Chequer* out of Parliament, that every Lord of a Town within the County of *Northumberland*, held by *Cornage*, when the *Scots* entred the Realm. *Mr. Camden* in his *Brittania*, pag. 794. & 799. mentioning the great number of Petty Baronies and Castles all along those Marches which *Britt. fo. 87.* and *Institutes fo. 73.* say were instituted for the defence of the Realm, observes herein likewise the policy of the Law, and likewise in the many Serjeancies, therein advancing of the Kings Army to be of the Vantguard, and in the retreat in the Reer, those people best knowing the ways and passages of the Country.

Whence, my Lords, when we come to the Marches of *Wales*, there we find another County Palatine, I mean that of *Chester*, and the care of *Chester* and his Barons to oppose the *Welch* Invasions. Upon those Marches, besides the like services, as upon the borders of *Scotland*, there were likewise many Lord Marchers of several Baronies, who had administration of all Justice within themselves, *secundum legem Marchie*; and for their services to be done against the *Welch*, they had two special priviledges, that is the third peny of all the spoils in War, as was adjudged in Parliament, 20 E. 3. *B. R. Rol. 123.* in that great Case between the Earls of *Glocester* and *Hereford*, and in the Parl. Book 20 E. 1.

And secondly, all the Prisoners that they took in the Wars, *per consuetudinem Marchie*, belonged to the takers of them.

Tr. 25 E. 1. Roll. 28. Cor. Roger de Knewell in partibus Montgomery in Guerra Wallia 23 E. 1. had taken three *Welch* Prisoners; and because by the Kings Command they were released of their imprisonment, it is there adjudged that the King should pay him 40 l. in recompence; and so it was adjudged *Com. Hill. 25 E. 1. Ro. 11. Dor.*

My Lords, his Majesty is in the actual possession of these Military services, by taking the profits of Wards, Marriages, Reliefs, Licenses and Forfeitures for alienation, and *Primer Seisin*, as fruits of them.

That the profits of Wards and Marriages are to be spent in Wars for the defence of the Realm, as well as for bringing up the Ward; the Books are 35 H. 6. 41. *Britt. 162.*

That the Lords receive the profits, because he is not able to do the service: If the Kings Ward was within Age when the Tenants were summoned *ad exercitum*, he paid no *Escuage*, as is adjudged, *M. 20. E. 4. Ro. 9. & 20. Com. and M. 28. E. 1. Bra. irrott.* So it is for reliefs and Licenses, and forfeitures of Alienation of the Kings Tenant without his consent might not be altered, and for *Primer Seisin* the King was to receive the profits, till the Tenant by his homage had assured the King of his service, the Summons always commanding him to be at the place of Rendezvous *in fide & homagio quibus nobis tenemini*: All these things being but fruits that fall from these Military services.

My Lords, now to come to Sea-service, the care of the execution of this trust by Tenures was extended likewise to the defence of the Sea.

The Town of *Lewes* in *Sussex* holds by this service, *Quod si Rex ad Mare Custodiend. suos mittere voluisset*, they paid so much money; *Et hos habebant qui in Navibus Arma Custodiebant*, This, my Lord, is in *Dooms-day*: in *Colchester*, every house to pay 6 d. per annum, *ad victum Soldatorum Regis ad expeditionem terra vel Maris Warwickia si Rex per mare contra hostes suos ibat.* The Town was to find four Boatswains, *Salisbury* then to pay so much money *ad Pascendum Buflecorlos Domini Regis*, which as *Florentius* explains the word, be *Ministros Nauticos*: *Glocester* and others such a weight of *Iton*, and *Claves Navium Regis*, others to find Horses to carry Armour and weapons, to the Ships: My Lords, of this nature are many in that Book, which particularly to mention, to gain time, I will omit.

That the Tenures of this kind after the Conquerours time continued in use, and were well known, appears by the Register fo. 2. which amongst other services is this of Shipping also instanced in these words, *Quod clamat tenere de nobis per liberum servitium inveniendi nobis 5. Navis pro ann' servitiis.* In the *Iter Roll of Essex*, 13 E. 1. Ro. 7. Its presented that the Town of *Maulden* tenet per Serjeanciam inveniendi unam Navem, quandocunque Rex necesse habuerit personaliter ire vel mittere propter negotia Regni. And from the time they came to the place of the Rendezvous, to stay in the Town forty days, *sumptibus propriis*; and being there presented, that they made default at the *Welch* War; they plead, they had no Summons.

So, my Lords, in the Books of Serjeancies of E. 1. time in *Kent*, the Town of *Killingborne* is to find one Ship; and in the County of *Berk*, *Fulk Candry* holds the Mannour of *Padworth* per Serjean-

Serjeantiam inveniendi servientem, to perform Sea-service, Bxa. 8. E. 2. Rot. 40. Will. Dyer in the County of *Sussex* to find a certain proportion of Cordage.

Anno 1637.

Iter Kantia 21 E. 1. Rot. 46. Solomon de Campis holds *per Serjeantiam tenendi Caput Dom. Regis* when he is at Sea, *sive necesse fuerit*, and so Rot. 30. another in the same *Iter Roll*.

The *Cinque-Ports* and their Members are to find fifty seven Ships, and twenty men in each Ship, and a Master, *Armatus & bene ariatos*; from the time that they come to the *Randezvous*, they are to continue in the service fifteen days at their own charge, and afterwards as long as the King pleaseth; but after the fifteen days, the King is to pay the Master and Constable 6 *d.* a day, and the rest 3 *d.* a day for their wages: This service appears by the Record of the Quire of *Dover* before-mentioned, and the Patent-Roll 7 H. 7. *pars.* Both which Records imply, that this service of theirs cannot be exacted otherways than for the defence of the Sea; for it cannot be demanded above once in a year, nor then neither, *nisi necesse fuerit*, *Parl. Pet.* 1 E. 3. Rot. 4. The Barons of the Ports in consideration of this Sea-service, pray a Confirmation of their Liberties *pro Salvatione dicti Navigii & Regni*; and commonly when the Land-service was summoned, these likewise were summoned to the same service at Sea, as appears in the close Rolls, 28 E. 1. M. 15. 31 E. 1. and 34 E. 1. M. 15, 16. In all which years the Land-service was summoned for *Scotland*, and the Summons both for the one and the other run in the same words, commanding them to be at the place *cum toto servitio vestro quod nobis debetis*, which shews it to be a service by Tenure.

That these services of theirs are for the defence of the Realm, and likewise that there are many of the like nature besides these, which by a superficial reading of two or three *Iter-Rolls*, I have cited, appears by the Parliament Roll 13 E. 3. *pars* 1. *num.* 11. where is declared in these words, that the *Cinque-Ports*, and other great Towns and Havens, are franchised *pur estre guard & mure inter nous & aliens*; if it fall out that they shall endeavour *nostre terr' inter, & assay terr', & sunt tenus a ceo faire*. My Lords, a fuller Declaration than this there cannot be, that both the Ports, and Havens, and Sea-Towns, are bound to the service of Shipping for the extraordinary defence of the Realm, as well as the ordinary.

I have now done with the services in kind; and because these which immediately tend to action alone were not sufficient to defend the Realm, and this in the frame and first constitution of the Common-wealth being foreseen, and that the Land, or *fundus Regni*, the most visible and constant supplier of our wants, was best able to supply this likewise; therefore besides them, there were divers other Tenures created for that purpose: Those which next I am to speak of, are such as supply his Majesty with money for that purpose.

In the *Black Book* in the *Chequer*, lib. 1. cap. 7. its said, that in *Primitivo Regni statu ad stipendia & donativa Militum, & alia necessaria ex Castellis*, and other Lands, *in quibus Agricultura non exercebatur, pecunia numerata succedebat*; it might from hence be colourably inferred, that in respect *ex provisione Legis* upon the Kings passing of Lands, a Tenure for Knights-service for the defence of the Realm was to be reserved, that in case upon

such Grants Rents only without any such Tenure were reserved, that yet this money should be employed for Souldiers wages, and other necessary affairs of the Commonwealth, *ad stipendia Militum, & alia necessaria*: But not to press this further;

Its plain, that all men within the Kingdom were not equally inheritably, either to the freedom of body, or propriety of Lands or Goods, but that there are degrees and ranks each differing from other in all these. 1. Villains. 2. Freeholders, either by Knights service, or free Socage. 3. Tenants of ancient Demesne, and that held by Burgage within Cities and Borough-Towns.

First for the Villain, we know, that as to his Lord he had freedom in neither, in respect of his body he could not *ire quo voluit*, but the Lord at his will might imprison him, in respect of his Land and Goods he might tax him *de haught & de basso*.

The Free-holders, the greatest part of the Realm, always had an absolute freedom in both.

The third, and that is the Tenants in ancient Demesne, and Burgers, they had an absolute freedom in their persons, but qualified in the other of propriety; not taxable at will as Villains, but for the defence, and other necessary affairs of the Realm, they might be taxed without consent in Parliament.

My Lords, that these had a divided Estate from other free Tenants is clear; and first for Tenants in ancient Demesne; if it be questioned whether such Land be ancient Demesne yea or no, the issue is in these words, whether it be ancient Demesne, or frank-free: By this it appeareth, that they have not a frank and free Estate as the others have, as all our Books agree; they have no Vote in Parliament, for they have no voice in Election of Knights, nor pay to the expences of the Knights that serve in Parliament, nor Subsidies granted in Parliament, *Nat. Br.* 79. & 14. is often disputed in our Books, whether Acts of Parliament extend to them, unless they be especially named; neither can they sue at Common Law for any thing that concerns the Free-hold, but only by a Writ of Right close within themselves; and therefore *Bracton* fo. 209. calls them *Villanos Privilegiatos*.

The same it is of Burgesses within Cities and Boroughs; and therefore the Statute of *Merton* makes it a disparagement for the Lord to marry his *Warde, Villanis, & aliis sicut Burghensibus*, *N. B.* 1. and other books, no Assizes will lye for such lands, but they are impleadable without Original Writ by a Bill of fresh force; and as a Chattel they may devise their land: by the Statute 1 E. 2. *de militibus* for such land, and for ancient Demesne, no man is compellable to take the order of Knighthood: much more might be brought in proof of this, which I omit.

My Lords, all our Books agree, the Tenants in ancient Demesne were to plough and manure the Kings Lands, being his Demesnes. In a Manuscript that I have seen, the Author saith, that he hath an ancient Manuscript which saith, that the Corn and other Victuals rising hereby was to store the Kings Garrisons and Castles; and considering the number of those Mannours, there being above a thousand of them in the Kings hand at the Conquest, as it appears by *Doomsday*, and that those Mannours for the most part are great, and that the greatest part of the Socage

cage Tenures till H. 2's time, as appears by the *Black Book*, lib. 1. cap. 23. were to find Victuals of all sorts in kind for the provision of the Kings House, and were in his time turned into Rents; although this may seem probable, yet because I have not seen the Manuscript, I will insist no more upon it.

That for which these, and the Tenures of Burgage in the Kings Cities and Boroughs, were mentioned in the raising of money for the necessary affairs of the State, that these were anciently talliable without their consent in Parliament, is so plain and frequent in the Chequer Rolls, and the Patent Rolls, as that I intend to cite nothing in proof thereof; it will be admitted by them that argue on the other side: That which I shall endeavour to prove is, that these were not talliable at the Kings will and pleasure, but only for the defence and other necessities of State, *Nat. Bre. fo. 15. 49 E. 3. 22.* They be not talliable *de haut & Basse*, as Villains are; and therefore *Bracton*, fo. 209. calls them, *Villanos Privilegiatos lib. Parl. fo. 112. Talliare & rationabile auxilium dare pro necessitate*, *N. B. 14. E.* Talliable *pro grand Cause*, *Rot. Parl. 6 E. 3.* Commissions to tax Cities and Boroughs, and Ancient Demesne upon Petitions of the Commons revoked, and Writs in due form to be set, and for the time to come the King shall not assess *forso*, in such a manner, *come ad estre fait en temps de ses Anceturs*, & *come il deveu par raison*.

The occasion not requiring it, I shall say nothing of it when these Talliages are refused.

My Lords, I have now done with the Tenures, the first way whereby the Law hath provided for the safety of this Realm, which of themselves not inabling the Kings intrusted therewithall sufficiently to do it: the Law therefore, besides the Honours, Castles, Mannours, and other constant Revenues of the Crown, for the supportation of the ordinary charges thereof, hath appointed unto it divers Prerogatives for the extraordinary, and for this of the defence of the Realm, as one of the chiefest of them. These Prerogatives then have an influence into the Estates of all the Subjects in the Realm, and are so many, that to gain time, I will omit to mention any of them; that which I shall insist upon, will be to prove, that the Kings coming to the Crown by this Prerogative way, are to be employed for the defence, and other publick affairs of the Realm. In his Majesty there is a double capacity, Natural and Politick; all his Prerogatives are *Jure Coronæ*, and of all such things he is seized *Jure Coronæ*; and therefore, as in other Corporations, such things are *Patrimonia & bona publica*, to be employed for the common good; so likewise by the same reason here, the reason why the King hath Treasure-trove, and Gold and Silver Mines in the Earth, in the Case of Mines is declared to be, because the King is hereby to defend the Kingdom; and in *Institutes* in the Title of Soccage, fo. 28. 131. the reason of many of the rest, *Quia Thesaurus Regis est fundamentum Belli, & firmamentum pacis*. This I conceive to be the reason, that by the Statute 14 E. 3. ca. 1. Escheats, Wardships, Customs and Profits arising of the Realm of England, should be declared to be spent for the safeguard of the Realm, more than the profits of the Kings Mannours and Lands, and of the difference made in the *Com. M. 3. R. 2. London*, between *Rectas provisiones Regni*, which by the advice of the Lords of the Council, were to be spent in the House-

hold, and the other profits of the Crown to be spent *circa saluationem & defensionem Regni*, in the *Parliament Roll of 6 R. 2. N. 42.* The Commons Petition, that the King will live of his own Revenues, and that Wards, Marriages, Reliefs, Escheats, Forfeitures, and other profits of the Crown, may be kept to be spent upon the Wars, for defence of the Kingdom; which sheweth, that there was always a difference made between the profits arising of the Kings Mannours and Lands, and that which rose by the Pretogative, in casual and accidental ways.

My Lords, I have now done with these.

The third way whereby the Law hath provided for the defence of the Kingdom, is particular supplies of money for the defence of the Sea alone in times of danger, both ordinary and extraordinary; for besides the supply of money before-mentioned, which are to be employed for the good and defence of the Realm in general, as in the other Cases where the Law putteth the King to any particular charge for the protection of the Subject, it always enables him thereto, yields him particular supplies of money for the maintenance of the charge: So here the Courts of Justice, for the preservation of us in our Rights, are supported at his charge; and that is the reason why he hath all Fines and Amerciaments, the Goods of Outlawed men in Personal Actions, *Bract. lib. 3. cap. 15. fo. 129.* and Fines for purchasing Original Writs, & *pro licentiis concordandi*, which in supposition of Law are paid, for not proceeding, and for troubling without cause the Kings Justices, who are maintained in their places at the Kings charge; these they are the *Vestigal Justiciariorum*.

The defence of the Realm extends it self to many particulars of the Church, and of Religion; and therefore in the Summons of Parliament, the cause of the calling of the Parliament is always declared to be *pro defensione Ecclesie Anglia* in particulars, as well as *totius Regni*.

His Majesty therefore hath the temporalities of Bishopricks (*sede vacante*) a Prerogative, and that which Patrons have not, with an addition of the first fruits and tenths of them, and all other Ecclesiastical Promotions and Benefices in H. 8th's time, and likewise the tythes of all lands which lye not within any Parish.

2. For defence of Land alone, besides those Military services before-mentioned, the profits of Wards and Marriages, which, as I have read, no other Christian Prince hath as a fruit of them, or received for that purpose. So it is for the Sea in *Rot. Scot. 10 E. 3. m. 16.* It is said that the King and his Ancestors are *Domini Maris Anglicani & defensores contra Hostium invasiones ante hac tempora extiterunt*; for the supporting of this charge therefore, they have only had the grand Customs of the Mark and Demi-Mark upon the Wooll, Wooll-fells, and Leather, and the Prifage; that is, one Tun of Wine before the Mast, and another behind of every Ship, which were even due by the Common Law, as appears by the Book of my Lord Dyer, 1 El. 165. and Sir John Davis's Reports, fo. 8, 9. and implied by *Magna Charta*, cap. 30. that Merchants may Trade *per rectas & antiquas Consuetudines*; but likewise divers other things were afterwards granted by Act of Parliament in addition to them. As first, the Petty Custom began 31 E. 1. and made perpetual by the Statute 27 E. 3. cap. 26. and likewise divers Aids and Subsidies, which are an increase of Custom upon the Staple Commodities of Wooll, Wooll-

Anno 1637. Wooll-fells, and Leather, and Tunnage, and increase upon Wines and Poundage, and increase upon all other things imported or exported either by Denizens or Aliens.

That which in this kind was taken by his Majesty 11th of his Reign, when this Writ was 300000*l.* and upwards. The Aids and Subsidies, and likewise the Tunnage and Poundage, anciently granted upon particular occasions only, and afterwards to the late Kings and Queens for their lives by Act of Parliament, and being now granted to his Majesty; and likewise the new Imposition, which altogether make up the aforementioned sum of 300000*l.* Of the legality hereof I intend not to speak; for in case his Majesty may impose upon Merchandize what himself pleaseth, there will be the less cause to tax the Inland Counties; and in case he cannot do so, it will be strongly presumed, that he can much less tax them. The proving of these two things herein will serve my turn.

That his Majesty *de facto* takes them, and that this judicially appears to your Lordships and the Court. And 2. That these, and the Ancient Customs, are for defence of the Sea.

For the first, it was declared by his Majesty in the last Parliament, and annexed to the Petition of Right, as part of it, that his Majesty took them, and could not be without them; whereof he likewise desired the Judges to take notice; and that they might so do, it is inrolled both in this, and other the Courts of Westminster-Hall.

For the second, that the grant of Custom is principally for protection of Merchants at Sea against the Enemies of the Realm, and Pyrates, the common Enemies of all Nations, is Sir John Davis's Reports, fo. 9. & 12. And that those, and likewise the Impositions are for that purpose, was held by many of the Judges in the Argument of *Balls* his Case, 7 Jac. in the *Chequer*, in the Case of Impositions upon Currants; and likewise by the Kings Council, when the same Case afterwards came to be debated in Parliament, and was one of the main reasons urged by them for the maintenance of that Judgment: That the Aids and Subsidies, and likewise the Tunnage and Poundage, before they were granted for life, were not only for the protection of Merchants, and the ordinary defence of the Sea, but also for the defence thereof in times of extraordinary danger, and from Invasion from Enemies, appears by the several grants of them in the Parliament Rolls.

Rot. Parl. 1. R. 2. pars 2. N. 9. & 27. the Kingdom being in point to be lost by the Enemies of Spain and France, and divers others there mentioned, who made War both at Land and Sea; a Subsidy upon the grand Customs was granted, as the words are *pur le defence & Rescous del' Kingdom*; this was for two years, and persons assigned to receive and expend the money. *Com. Mich.* 3 R. 2. London: William Walworth, and John Philpot, Citizens of London, the Treasurers of it upon their Account shew the particulars how this money was expended *circa salvationem & defensionem Regni*, and discharged.

Rot. Parl. 3 R. 2. N. 16, 17. the same Cause as 1 R. 2. continuing, Enemies intended to blot out the Name of the English from under Heaven; the Subsidy continued for a year longer.

5 R. 2. pars 2. N. 14. & 15. Tunnage and Poundage granted *issint que soit apply sur safeguard del' mere, & nul parte a il hors*, and the King, at the Petition of the Commons, appoints Receivers.

6 R. 2. pars 2. N. 13. The Commons complain, that notwithstanding the grant of Tunnage and Poundage, the Sea is not kept; and therefore persons named and assigned in Parliament to receive the money, and do it. 10 R. 2. N. 1. Tunnage and Poundage, and Subsidy for a year.

11 R. 2. N. 6. & 12. Tunnage and Poundage, and Subsidy for a year.

13 R. 2. N. 20. both for a year.

14 R. 2. N. 16. both for a year.

17 R. 2. N. 12. both for three years.

20 R. 2. N. 28. Subsidy for five years, and Tunnage and Poundage for three years.

2 H. 4. N. 9. both for two years.

6 H. 4. N. 9. & 10. both for two years, upon condition to cease, if the King before S. Hilary provide not a sufficient Army for the Sea.

8 H. 4. N. 9. & 9 H. 4. N. 26. both as 6 H.

4. 11 H. 4. both for two years, for the common Commodity and defence of the Realm.

13 H. 4. N. 10. & 11. for one year, so as the same be confessed to proceed of their own good will, and not out of duty.

5. H. 5. N. 17. for four years, and upon many conditions.

1. H. 6. N. 9. for two years.

3. H. 6. N. 17. Subsidy for three years, Tunnage and Poundage for one year.

4. H. 6. 22. 6.

H. 6. N. 11. for two years Tunnage and Poundage, viz. 6*s.* 8*d.* upon every man within a Parish Church that hath 20 Nobles, and 6*s.* 8*d.* upon every Knights Fee held immediately of the King.

8 H. 6. 15. Tunnage and Poundage to continue until the next Parliament.

9 H. 14. both, and for two years.

10 H. 6. 21.

4 H. 6. 14. for two years.

23 H. 6. 16. for four years, and double upon Aliens.

27 H. 6. 20. as 23. for five years.

37 H. 6. N. 8. and 42. Tunnage and Poundage first granted for life, and N. 41. assigned into the Subjects hands for three years, for the good of the Seas.

My Lords, either by the grant it self of them, or by the Declaration of the cause of the calling of the Parliament it appears, that these were all granted upon extraordinary occasions; and when they came to be granted for life, as appears by the Rolls, and the printed Statutes of 12 E. 4. c. 13. they were not only granted for the ordinary defence of the Realm, and principally of the Sea; but likewise that the Kings might always have in readiness a stock of money in their hands to withstand an Invasion, as is declared by the very words of those Statutes.

My Lords, his Majesty is in possession of them, and was pleased by his Proclamation printed 1626. declaring the cause of the dissolution of the last Parliament, as appears by pag. 17. to declare that they were always granted to his Progenitors for the guarding of the Seas, and the safety and defence of the Realm; and in the 18th page is graciously pleased in these words to declare, that he doth and must still pursue those ends, and undergo that charge for which it was first granted to the Crown; and pag. 44. that he receives it for the guarding of the Seas, and defence of the Realm.

My Lords, I have now done with the ways which I first propounded, whereby the Law hath provided for the defence of the Realm; I shall add this only, that by the Statute of Winchester, which

1637. which was made in 13 E. 1. every man *secundum Anno statum & facultates*; for the words of the Statute are, according to the quantity of his Lands and Goods, is to find Horse and Armour for defence of the Realm; for that Statute in this particular, extends not only to the keeping of the Sea, but likewise to the defence against Foreigners; as is declared in the Parliament Roll of 3 R. 2. N. 36. and by the Statute of 5 H. 4. in the Parliament Roll 24. not printed, *juxta quantitatem terr. & bonor.* against Invasions each man is to find Armour: And by the Statute 1 E. 3. ca. 5. These men, upon sudden coming of strange Enemies into the Realm, may be compelled to march out of their own Counties where they live, whether they may be compelled so to do without wages, I shall have occasion afterwards to speak; how far the Statutes of Winchester, and 5 H. 4. for Arms, upon the Statutes of 4 & 5. Phil. & Mar. cap. 2. & 1. Jac. c. 25. are in force, I shall not speak.

My Lords, I shall now proceed to the stating of the Question.

Bracton in the beginning of his Book says, That in *Rege necessaria sunt hac duo, Arma scilicet, & Leges, quibus utrumque tempus Bellor. & Pacis recte possit gubernare*; and Glanvil in the beginning of his Book, *Regiam Majestatem Armis cont. Gentes sibi Regnoq; insurgentes oportet esse Decoratam*: His Majesty, as he is Lord of the Sea and Land; so by that which hath been said it appears, that he is armed with power for the defence of both.

My Lords, the reasons in the Writ, as they are weighty; so from these known supplies, whereby the Law hath provided for the safety of the Realm, they will all of them be confessed, and yet thereby receive answer; and that the Law hath foreseen, and provided the supplies accordingly, without the way in the Writ. 1. The Command in the Writ being in *fide & legantia quibus nobis Tenemini*; it's thence inferred, that each Subjects Allegiance binds him to contribute to the defence of the Realm. In the old Customs of Normandy, cap. 43. Allegiance binds *ad Concilii & auxilii Adjustamentum*: This although it be principally performed by the Parliamentary, both Advices and Aids; yet besides these extraordinary, by that which hath been said, we see both by the Tenures in kind, and pecuniary supplies, that without the assistance thereof our Persons, Lands and Goods, by his Majesties Command alone, are made contributory therunto, and that in a large proportion. 2. If the Rule whereby this Contribution must be regulated, as in the Writ, *Secundum Statum & facultates*, that likewise is satisfied, and that both for Sea and Land.

1. For Land, in case either the Statutes of Winchester, or 5 H. 4. be a-foot, then in words in that of finding Arms *juxta quantitatem terrar. & bonor.* So secondly, in respect of the Tenures by Knights-service in the Wards, Marriages, and Reliefs, these I confess concern the Tenant only; but those other Tenures in *Capite* and *Grand Serjeanty*, these concern all others, in respect of the Licenses of Alienation, and of the Wardships of Land held of other Lords; and that all the Tenants Land is hereby become Wardable: And 3. In respect of the Prerogatives before-mentioned; for the greater the Subjects Estate is, the greater influence they have into it, and proportionably raise more profit out of it.

5. In respect of the Sea, this is so by reason of the Customs, Aids, Subsidies, Tunnage and Poun-

dage before-mentioned; for the charge of these is not born by the Merchants alone, but by each Subject within the Kingdom, and that *Secundum Statum & facultates*. Car. 13.

For first, in respect of the Export, the greater the Estate, the more Wooll, and Wooll-fells, and Leather, Lead, and other Staple Commodities it exports; if that be done by the owner, he bears the immediate charge; if by the Merchant, according to that proportion is his abatement in price unto the owner.

2. So it is for Goods imported, for the greater the Estate and means of livelihood, the more each person buys of those, and at a dearer rate. This is cleared by the Petition of the Commons in Parliament Roll, 22 E. 3. n. 41. that the Merchants had granted to the King 40 s. upon a Sack of Wooll *en Charge du peuple, & nemy des Merchants*; and by the Statute of 36 E. 3. cap. 11. that no Subsidy or charge be granted to the King by the Merchants upon Wools, without assent in Parliament.

3. Hence likewise that other ground of Equity in the Writ, *Quod omnes tangit per omnes debet supportari*, receives answer; for as all have benefit by the defence, so the *Compensatio publica*, we see it come from all: the fuller answer, is the Parliament Summons of 23 E. 1. provision against the French, who intended *linguam Anglicanam omnino delere*, Cloß. 23 E. 1. M. 14. Dor. *Lex justissima provida & circumspectioe sacrorum principum stabilita statuit, & quod omnes tangit ab omnibus approbatur*: The Charge, as it must be born by all, so must it be approved by all.

4. If his Majesty be entrusted with the defence of the Realm, as in the great Case between the Earls of Hereford and Gloc. it's said, that *incumbit Domino Regi salvatio populi sibi Commiss.* and that *per Jurament. est astrictus ad providendam salvationem Regni necumquaq;* because no man goeth to War at his own charge. We see by that which is already said, that the Law hath provided the *Stipendia Ministerii*; which that they do not bind his Majesty to the defence and safety of the Kingdom, not only in point of care and vigilancy, but even in point of charge too, I shall endeavour to prove to your Lordships and the Court. Allegiance, we know, is an Act of Reciprocation, for as it binds the Subjects to Tribute and Subjection, so therefore must it the King to the charge of Protection, by the expence of those; *Rex ad Tutelam Legis, Corpor. & bonor. erectus*: the supplies he hath for that purpose ties him to the supportation of the Laws, the execution of Justice, 20 E. 1. In the Case before-mentioned, between the Earls of Glouc. and Hereford, it is said, that *Dom. Rex est omnibus singulis de Regno suo Justitia debitor*; which that he is so even in point of charge, appears by his Majesties supportation of the Courts of Justice, and the Sallaries, not only to your Lordships, and other the inferiour Ministers of Justice, and anciently to the Sheriffs, but likewise many other ways, 4 H. 7. ca. 12. The King shall not let for any favour of charge, but that he shall see his Laws fully executed, Parl. 23 E. 1. Rot. 12. Exchequer. A Clerk that attended a Commission of Grievances, recovered Salary from the King, although the Commission was for the relief of that County. This I conceive to be the reason of the Declaration in the Statute of 14 E. 3. c. 1. and other Statutes; that Aids, though granted in Parliament for defence, shall not be brought into example, in that it might be conceived that the Commons were to bear that charge which principally

Anno 1637. pally belonged unto the King. *Pat. 48. H. 3. M. 8.* It is recited, That whereas in a late Parliament, in *Articulo necessitatis pro defensione Regni contra hostilem adventum Alienigenarum*, the Commons granted him a large Subsidy, *ultra quam retractis temporibus facere consueverunt*. Now the King, *eorum indemnitate prospicere vellens*, grants, that *non cedat in prejudicium, nec in posterum non trahatur in consuetudinem*, in *Wiseman's Case*. In 2 *Report*, fo. 15. It is resolved, That a Covenant to stand seised to the use of Queen *Elizab.* in consideration that she is the Head of the Commonwealth, and hath the care of repelling foreign Hostility, is not good, because (saith the Book) the King is bound to do that *ex officio*.

Com. 315. One reason why the King is to have Royal Mines (alleged by all that argue for the King) is because he is at his own Charge to provide for the Defence of the Realm; which he cannot do without Money.

In the Earl of *Devonshire's Case*, *Co. 11. 91. 6. Instit. fol. 28. & 131.* *Theaurus Regis* is called *Nervus Belli*, for the practice. The proof of the particular Charges, the several Kings have been at for Defences of all sorts, would be so tedious, that I'll omit the citing of any thing in this kind.

Sir *John Davis* reports fol. 12. many Authorities, and in the *Treatise De Regalibus*, p. 81. *Principes totam Navigationem pro vectigalibus prestare coguntur*.

But because his Majesty in the before-mentioned Proclamation, pag. 18. 44. is pleased graciously to profess, that he holds himself obliged to undergo the Charge of the Defence of the Realm, and of the Sea in particular; I spare any further proof in this.

If that in the writ, That the Sea *per gentem Anglicanam ab olim defendi consuevit*, be not answered by the *Scottish Roll* of 10 *E. 3.* before-recited, which says, That the King and his Ancestors *Muris Anglicani defensores antehac existierunt*, nor by what is now said. If it be admitted, yet that even the Charge of this Defence is born *per Gentem Anglicanam*, is before proved.

The Sixth, and one of the main Things, whereupon I shall state my Question, is this:

His Majesty is in the actual possession, not only of the Services in kind, for the defence of the Land, by taking of the benefit of the Wardships, Marriages, Reliefs, Fines and Licenses of Alienation and primer Seisin, and of the Prerogatives before mentioned; but likewise of the Service of the Cinque-Ports (unless they be released since 7 *H. 7.* for then their Service was summoned) and of the *Tunnage* and *Poundage*, and other Duties for the defence of the Sea, it appears not by any part of the Writ, nor by any thing in the Record, that either the Service of the Cinque-ports was summoned, or that any Money at all of his Majesties was expended, either for this Service, or at any other time, for the defence of the Sea.

My Lords, I desire to be understood: I do not affirm, That none was expended; only this appears not to your Lordships and the Court.

All that can be inferred from the Writ to this purpose, is, that this Ship for *Buckinghamshire*, is commanded to be at *Portsmouth* by such a day *ad proficiscend' exinde cum Navibus dicti Domini Regis, & Navibus aliorum fidelium Subditorum suorum*. By this it appears not to the Court, that though the Ships are the King's, they are to be set forth

at the King's Charge; for the Charge may be born by the Subject, for ought appears.

Neither secondly, doth it appear how many these Ships were, whereby the Charge, in case it were born by the King, might in any proportion appear to be answerable to the Supply before mentioned.

Those other Ships *aliorum fidelium Subditorum Domini Regis*, as in truth they were not those of the Cinque-ports; so neither can they be so intended, unless it had been so expressed.

The Services of the Cinque-ports, and *Tunnage* and *Poundage*, and other Duties are the ordinary, the settled and known ways, by Law appointed, for the defence of the Seas.

The way in the Writ by selling and altering the property of the Subjects Goods (without their consent) as in the Writ, must needs be granted to be a way more unusual and extraordinary against the Legality of it. I shall thus frame this Argument by way of admission. First, That in case the Services of the Ports had been summoned, and the Money by the before-mentioned ways had been expended upon the Defence, and they had not been sufficient; that though in this case the Writ had been legal, that yet, as now it is not, *Reylies Case* in the 10. *Rep. fol. 139.* and *Trin. 18. E. 2. B. R. 174.* adjudged, that so long as he that is bound by Tenure or Prescription is able to do it, the whole Level cannot be set to the reparation of a Wall or Bank.

It's a Maxim, *Lex non facit saltum*, nor that we are to run to extraordinary, where the ordinary means will serve the turn. These Rules are often put in our Books, I intend to instance but in one or two Cases.

The Common Law is the common Reliever of Persons wronged: that in *Chancery* is extraordinary; and therefore no man can sue there, when he hath remedy at the Common Law. The ordinary Trial for Life is by Indictment and a Jury; when therefore this may be done, and that the Sheriffe, with the *Posse Comitatus* is able to keep the peace, it cannot be done by Martial Law, or by Judgment of the King and Peers in Parliament without Indictment; as was adjudged in the Case of the Earl of *March*, *Tr. 28. E. 3. B. R. Rot. 21.*

My Lords, The great reason of this Maxim of Law, is, as I conceive, this; in Actions extraordinary, as *extra ordinem*, and done only in times of necessity, we are not tyed to any Rules of Law; and therefore not to be brought into example, nor have any warrant but only that of necessity; nor Rule to guide them, but what *pro hic et nunc* shall serve for the bringing of them about: The same power then that may once do them in omitting of the ordinary, may by the same Rule always do them; and so by consequence, how far such power is tyed at any time, or in any thing, to any Rules of Law, I shall humbly submit to your Lordships consideration.

My Lords, I have now done with stating the question: Those things whereupon I shall spend the rest of my time, are these.

First, Admitting that the ordinary means before mentioned had been all used, and that they had not been sufficient; whether in this case his Majesty without consent of Parliament may in this case of extraordinary defence, alter the property of the subjects goods for the doing thereof?

In the next place, I shall endeavour to answer some objections which may be made to the contrary.

1637. In the third place, for qualifying of this, I shall admit, that in some cases the property of the Subjects, for the defence of the Realm, may be altered without consent in Parliament; and shall shew what they be in particular, and compare them, and the present occasion together,

In the fourth place, Because of some presidents of the matter of fact, and likewise legal authorities, that may seem to prove a legality in this particular of Shipping for the defence of the Sea, what ever it be in the general; I shall therefore endeavour an answer to such of them as I have met withal.

From the first, That to the altering of the property of the Subjects goods, though for the defence of the Realm, that a parliamentary assistance is necessary.

In this, it must be granted, in the first place, that the Law ties no man, and much less the King, to impossibilities.

And secondly, that the Kingdom must be defended.

As therefore the law hath put this great trust upon his Majesty, so when the Supplies, which by the ways before mentioned it hath put into his hands, is spent therein; it hath provided other ways for a new supply: which is the first thing that I shall present to your Lordships, and this is the Aids and subsidies in Parliament

That amongst the *ardua Regni negotia*, for which Parliaments are called, this of the defence is not only one of them, but even the cheif, is cleared by this, that of all the rest none is named particularly in the Summons, but only this; for all the Summons of Parliament shew the cause of the calling of them to be *pro quibusdam arduis negotiis nos & defensionem Regni nostri Anglie & Ecclesie Anglicane concernentibus*. and in the conclusion, the party summoned is commanded to be there *sicut honorem nostrum, & saluationem, & defensionem Regni & Ecclesie diligis*.

And in all the Ancient Summons of Parliament, when Aid was demanded, the particular cause of Defence, and against what Enemy in special was mentioned.

My Lords, to gain time, I will instance but in one or two of each Kings Reign. *Clasf. 23 E. 1. m. 4. Dorf.* That the French King, *ad expugnationem Regni nostri classe maxima & Bellatorum copiosa multitudine Regnum jam invasis, & Linguam Anglicanam omnino delere proponit.*

Clasf. 3 E. 2. M. 3. Dor. and 7 E. 2. M. 8. Dor. That the Scots had entred, burnt, and destroyed the Marches, and put them to a tribute.

Clasf. 1 E. 3. pars 2. M. 6. and 22 E. 3. M. 32. Dorf. That the Scotch and French had invaded the Realm.

Clasf. 7 H. 4. M. 29. Dorf. That the French were with a great Fleet *quasi in ore Thamesis* to invade the Kingdom, and the King to go in Person.

After this Kings Reign the form of the Summons was as now.

That these *Ardua defensionem Regni concernentia*, are the Aids and means of Defence, and not the way and manner of doing it, as their Counsel therein, is clear.

In the Parliament Roll 6 R. 2. pars 2. N. 9.

This of the manner and way of prosecution of the War being given in charge to the Commons to advise upon; they answer, that this *ne doit nec solayt appertainez a eux mes al Roy.*

Rot. Parliament. 13 E. 3. pars prima N. 11. The same being given in Charge to the Commons, they pray *que ils ne font Charge a Councel Dover al*

choses des quel ils n'ont pas Cōmence; and so *Rot. Parliament. 21 E. 3. N. 5.* they excuse themselves, *Car. 13.* and that this belongs to the King and his Council.

And that these *Ardua circa defensionem* were the Aids, is exprest in words in some of the Summons. *Clasf. 7 E. 2. M. 8. Dorf.* The cause of the Parliament to withstand the Scots, and that *in tam arduis debitis extendere manus adjuvices opportuna auxilia facienda.*

Clasf. 31 E. 3. M. 21. Dorf. That Summons *circa necessarium defensionem Regni, quantum ad dictum negotium expediendum auxilium n. cessare habere oportet.*

Clasf. 5 R. 2. M. 2. Dorf. The King being to make a voyage *pro defensione Regni & gravamine inimicorum Regni*, which could not be done without borrowing great Sums of money, therefore the Parliament called to advise about the Assurance.

So that my Lords, it's clear that the Law hath Provided this Parliamentary way for the supplying of the Kings wants for the extraordinary defence, and hath likewise put the power of using it into His Majesties own hands; for he may call Parliaments when, and so often as he pleaseth.

My Lords, the Parliament, as it is qualified; and fitted to make this Supply for some of each Rank, and that through all the Parts of the Kingdom being there met, His Majesty having declared the danger, they best knowing the Estates of all Men within the Realm, are fittest, by comparing the danger and Mens Estates together, to proportion the Aid accordingly.

And secondly, they are fittest for the preservation of that fundamental propriety, which the Subject hath in his Lands and Goods, because each Subjects Vote is included in whatsoever is there done; so that it cannot be done otherwise, I shall endeavour to Prove to your Lordships both by Reason and Authority.

My first Reason is this, That the Parliament by the Law is appointed as the ordinary means of Supply upon extraordinary occasions, when the ordinary supplies will not do it; If this in the writ therefore may, without resorting to that, be used, the same argument will hold as before in resorting to the extraordinary, by way of the ordinary, and the same inconvenience will follow.

My Second Reason is taken from the Actions of former Kings in this of the defence.

The Aids demanded, by them and granted in Parliament, even for this purpose of the defence, and that in times of imminent danger, are so frequent, that I will spare the citing of them: It is rare in a Subject, and more in a Prince, to ask and take that of gift, which he may and ought to have of right, and that without so much as a *Salvo*, or Declaration of his right.

The second way was Loans and Benevolences demanded by them, with promise of repayment both for the ordinary and the extraordinary defence of the Realm, and that as well of all the Subjects equally by Commission, as of some few.

Part. 48 H. 3. M. 16. A commission to the Earl of Leicester, and others, *contrahendi mutuum in nomine nostro de denarijs & victualibus*, and other things in *munitionem Navium pōendis & nautarum stipendijs contra hostilem adventum alienigenarum in Regnum nostrum, ad defensionem & tuitionem ejusdem Regni*, and promiseth repayment.

Visus Compie, in the Clerk, 26 E. 1. Rot. 100. The King borrows of the Merchants 28966 l. *pro defensione Regni*, and promiseth re-payment.

H. 31 E. 1. Rot. 4, &c. and Trin. 31 E. 1. Rot.

41. Divers Sums borrowed *pro defensione*, and re-payment promised.

Anno 1637. *Bratt. irret. H. 34 E. 1. R. 82.* 10000 l. paid by the King at one time for Money borrowed; this I confels is only *pro Arduis Regni negotiis*.

Bra. M. 11 E. 2. Ro. 1. the Scots having entred the Kingdome, *diversa homicidia, incendia & depredationes perpetrantes*: The King being in Person to go against them, writes to His Council to provide Money, and they *diversas vias pro denariis providendis exquirentes*, resolveth to borrow.

P. 12 E. 2. Co. 1a. for the same cause a Loan upon all Merchant-strangers.

Ro. Scot. 1 E. 3. M. 3. The Scots having entred the Realm, taken divers Castles, and threatened a Conquest of England and *quia crescit sumptuum multitudo in tantum quod Thesauri nostrum ad sustentationem exercitus nostri nequaquam sufficit*, he borrows.

Clau. 14 E. 3. M. 8. The King had borrowed 3333 l. *pro salvatione & defensione Regni*, & vult *promptam solutionem fieri* promt decet and now assigns it to be paid out of the Customs.

Walsingham P. 179, 44 E. 3. The King *sinistro usus consilio magnas summas pecunie* of all sorts, *mutuo petijt, asserens quod in defensionem Ecclesie & Regni illas expenderet* but the people would not lend.

Clau. 5 R. 2. M. 12. Dor. The King, *pro defensione Regni*, being to make a Voyage at Sea, desires to borrow Money, and a Parliament called to give assurance.

7 H. 4. Rot. Franc. Money borrowed *pro defensione*, *volens promptam & securam solutionem fieri*.

Rot. parliament. 11. H. 6. N. 13. 10000 l. borrowed *pro defensione*, and spent, and the Parliament orders *pro securitate*.

Rot. Parliament. 15. H. 6. N. 3. 10000 l. borrowed *pro defensione*, by the King.

Stat. 11 H. 7. Cap. 10. it appears that a Benevolence had been desired by *H. 7th.* for the defence of the Realm and wherein he went in person.

The known Commission to Cardinal Wolsey for the Benevolence in *March 16 H. 8.* It was to withstand *Infestissimos Hostes* of France and Scotland, who intended to invade the Realm, and that the Kings Coffers were now empty; and therefore they have power *Communicandi & inducendi, persuadendi & praticandi cum subditis Regis super amabili pecuniarum concessione*.

Secunda pars Pat. 37. H. 8. Cum pro sustentatione ingentis oneris nostrorum operatum, quos in presenti tam per mare quam per terram conficere, & in promptu habere cogimur ad resistendum, Propellendum hostem nostrum Francorum Regem, in defensionem, tutelam & securitatem dilectorum subditorum nostrorum, quorum ille dampnum & interitum omnibus vijs & modis molitur; statui & ex consensu, & sententia Concilij nostri decrevimus aliquem opem de dictis subditis nostris petere, & eandem cum eorum benevolentia recipere, pro eorum cujuslibet facultate ministrandam, nihil dubitantes quin sponte & liberaliter quisque, pro sua partitione & facultate elargiturus sit, eoq; magis & citius, quod id totum consumat & cedit in suam ipsorum defensionem & tuitionem: and the power is given to levy it as a Benevolence only.

By the statute of *35 H. 8. Cap. 12.* it appears that for the defence *H. 8.* had borrowed divers Sums of Money.

The third way was anticipating their rents.

Tr. 29 E. 1. Ro. 58. in the Exchequer Writs to all the sheriffs of England, *pro conservatione Regni ejusque, incolaram salvatione & inimicorum depressione*: that all the profits arising out of their Counties, &

the Rents of all the Kings tenants due at *Michaelmas* be paid at *Midsummer*, and allowance promised in the next half years Rent, and that this *ad tam ardua negotia necessaria alias in consuetudinem non trahatur*.

My Lords, that not one or two, but so many Kings, and of such Power and Wisdome, as in many of them were, and that in a matter of such consequence, and in times of necessity should so far descend from their greatness, or so far prejudice their Right, as to borrow that of the Subject, who without being beholden to them they might take of right, and bind themselves to re-payment, and all without any *Salvo* of the right, your Lordships will conceive that it can hardly be imagined.

My third Reason is taken from the incertainty of the way intended in the Writ; for the Law delighting in certainty, to the end that the Subject might be sure of somewhat that he might call his own, hath made all those things which the King challengeth as peculiar to himself from the Subject, either certain in themselves, or else reducible to a certainty, either by the Judges, Jury, or Parliament, or by some other way than by his Majesty Himself, as indifferent between the King and his People.

In this I intend not such things as are common to the King with the Subject; of which nature are the Ayds for Marrying the King's Eldest Daughter, or Knighting his Eldest Son; for these are due to every common person, that is Lord as well as the King; as appears by the Statute of *Westminster*, *13 E. 1. cap. 35. N. 82.* and are not due by any special Prerogative, but by Tenure; and yet the Common Law, for avoyding excess therein, calls it *Rationabile auxilium*: and yet even this, by the Statute of *Westm. 13 E. 1. cap. 35.* is put into certainty; and the cause of the making of the Statute, as therein is expressed, was because the People were grieved by paying more than was requisite, and thereby that which was reasonable, became an unreasonable aid.

The Statute was general, and named not the King particularly; but the Statute of *25 E. 3. cap. 11.* is only in case of the King; and *Nar. Bre. 82. fo.* gives the reason of the making of that Statute, because the King before did restrain for more than was fit; and therefore by reason of the excess, was restrained to a Certainty, as well as the Subject: Neither are the Taxes and Tallages upon Cities and Burroughs, and ancient Demefnes against this.

In respect of the baseness of their Tenures before mentioned: And secondly, because the Subject that is Lord of such Burroughs and Mannors of Ancient Demefne, have them as well as the King; as appears by the Case of *New Salisbury*, *33 E. 1.* in the Parliament-Book, and in the *New Parliament-Roll*; *8 E. 2.* for the Burrough of *Cirencester*, and *Br. Tr. 33. E. 1. Ro. 22.* and *N. Br. 97.*

Those things which are peculiar to the King, either they be certain in themselves, as are *Treasure-trove*, *Deodands*, *Wrecks*, and the like; where the King is to have the thing it self; and so if it be in Money, as a *demy-Mark*, when in a Writ of Right the Tenant prayeth that the *Seisin* may be enquired; *Fines pro licentia concordandi*, it is the tenth part by the Law comprised in the Writ of Covenant, and the *Post-Fine* one half so much more; and *Fines* for purchasing original Writs *2 s. 8 d.* where the thing demanded is *40 l.* or

Anno 1637. or 10 s. where 100 l. and so in proportion.
 Or else it is reducible to a Certainty, as in all Cases, where the Party is to be amerced; though he be *in misericordia Domini Regis*, yet the Jury must affirm the amercement; and when he is to make Fine and Ransome *ad voluntatem Domini Regis*, yet this Fine must be set by the Judges, when the Tenant by Knights-service makes default in the Summons, *ad exercitum*, he is to pay *Escuage* for the default, as a Penalty: This cannot be set but in Parliament, as I shall prove hereafter.

My Lords, To apply all to the thing in question, there is a cause of raising money for the defence of the Realm, *non definitur in Lege*; what will serve the turn if his Majesty, as in the Writ, may without Parliament levy 20 s. upon the Plaintiffs goods; I shall humbly submit it, why by the same reason of Law it might not have been 20 l. and so *ad infinitum*, whereby it would come to pass, that if the Subject hath any thing at all, he is not beholden to the Law for it, but it is least entirely to the mercy and goodness of the King.

My Lords, I am now come to the second kind of proofs, and that is by Authority: The Cases which in the first place I shall insist upon, will be to prove it by Induction; for if I shall prove that his Majesty without Parliament cannot tax his people, for setting forth of Land Forces for the defence, for making and maintaining of Forts and Castles for defence, for Victuals for a defensive Army, for maintenance of Prisoners taken in a defensive War, nor Pledges and Hostages given by Forreign States for the keeping of Peace, if it be so in all these particulars, the five supports of a defensive War, I shall then offer it to your Lordships, whether it can be done at all.

Before I proceed to these particulars, I shall observe thus much, my Lords, in the general, that if those that hold by ancient Demesne and Burgage, which are but base Tenures, cannot be taxed, *nisi sur grand Cause*, and that have many Privileges in point of Jurisdiction, ease and profit in consideration thereof, as they have much less, then can the Tenants by Knights-service and Soccage that are free Tenants, and that have no privilege in support of that Charge, be taxed.

And as they are not taxable but *sur grand Cause* in the general, so neither in particular, for this of the defence, as is proved by that of *Escuage*; for if his Majesty, without consent in Parliament, cannot tax his own Tenant, nor proportion the Fine according to his pleasure, when the Tenant holds the Land *ad exercitum*, for the defence of the Kingdom, much less can he do it where there's no Tenure for that purpose.

That *Escuage* cannot be set without Parliament, is first the Statute of *Rummy Mead*, 17 Johan. in express words, *Nullum scutagium vel auxilium ponam in Regno nostro nisi per Commune Concilium Regni nostri*; which though it be not printed, yet it is of Record, and inrolled in the *Red Book* of the *Chequer*, and cited in *Matthew Paris*, p. 343. and that as well before the confirmation of it, 9 H. 3. as since, it hath been by the Judges reported to be a Statute, and in force, appears by the Book of 5 H. 3. *Mordauncester* 53. where it is pleaded, and called by the name of *Mag. Charta*, and allowed; and M. 19 E. 1. *Finient* 20. *incipiente* B. R. Rot. 56. in the Case of *Rulse de Tonney*, its pleaded by the name of *Mag. Charta. Johannis Regis de Rummy Mead*, and allowed.

In the Book of Knights-Fees of E. 1. time, there is a Writ cited which went to the Sheriffs

of Hereford, thus; *Datum est nobis intelligi, quod plures sunt qui tenent per servitium Militarium de Car. 13. nobis qui contradicunt solvere scutagia que nobis sunt concessa per commune Concilium Regni nostri*; therefore he is commanded to levy them, *Com. M. 5. E. 2. Ro. 4. Dors.* Many Processes issued for the levying of *Escuage* in E. 1. time, superseded and quite released; the reason entered in the Roll; *Quia dictum servitium non fuit communiter factum*, that is, as I conceive, that it was not done per commune Concilium Regni.

The Books are express, 13 H. 4. 5. *Barke Nat. Br. 83. C. B. Instit. sec. 97.*

My Lords, that those that hold in Soccage or Fee-farm, or not by so many Knights-Fees as they were distrained for, were always discharged, as appears by infinite Precedents; I shall make no use of it, as the manner of entering these discharges upon the Roll, is observable that he is distrained, *ac si teneret per servitium militare*, whereas he holds the Land in Soccage, *pro quibus servitium aliquod Regi exercitibus suis facere non debet*, and in some Rolls that *ratione alicujus autoritatis*, he ought not to be distrained; Therefore, *quia Dominus Rex non vult illum in hac parte injurari, prout justum est*, the distresses are released. Amongst divers Precedents for this, I shall cite but one or two, *Br. Tr. 34 E. 1. Ro. 20* the Abbot of *Abbingdon*, and *John Arden the Iler Roll of Suffex*, 7 E. 1. Ro. 107. of *Gilbert Gifford*. My Lords, if the King might have raised money, and lessed money for finding of Souldiers for their Armies, this manner of Entry, as I humbly conceive, would never have been suffered.

I am now come to the first particular that I have instanced, that is, the charging of the Subject for finding of Souldiers to go out of their Counties for the defence of the Realm. My Lords, in that, I shall in the first place admit these three things.

1. That every man after the Statute of *Winchester*, *secundum statum & facultates*, was to find all manner of Arms, as well for the defence of the Realm against Forreigners, as for the Peace; and that I have before proved by that of 3 R. 2. N. 36. and after by the Statute 5 H. 4.

2. That upon sudden coming of strange Enemies, these are compelled to travel out of their own Counties; is the Statute of 1 E. 3. c. 5. and so for the appealing of any notable Rebellion, when the King, for the doing thereof, goes in person, as appears by the Stat. 11 H. 1. c. 1. & 18.

3. I shall admit, that so long as they remain at home, and go not out of their Counties, that they are to have no Wages; and that the Maritime Shires, for Borders upon Scotland and Wales, were not to be at the Kings charge; so long as they remained at home in their own Counties for the preservation of them; but that they were in that case themselves to bear the charge against Forreign Invasion, as of making Hue and Cry, assisting the Sheriff when he took the *Posse Comitatus*, and all other things concerning the keeping of the Peace.

But that the Subject is taxable either for Wages, or for Victuals, or otherwise for sending of Souldiers out of their Counties, though for defence of the Kingdom, or that any are compelled to do it at their own charge, I shall humbly deny.

The Stat. of 1 E. 3. says, that in this case it shall be done, as usually hath been done in times past for the defence of the Realm. My Lords, I will not deny, but that before E. 3's time, Commissions have issued out of the Chancery for that purpose;

Anno 1637. purpose; against which matters of Fact, not only to balance them, but to weigh them down, its as clear, that whole Armies, some of them of 30000 at the least, over and above them that were summoned by their Tenures, have been maintained at the Kings charge, from the time they have departed out of their Counties, during the whole time of their service; and that not only with promises of payment, but that they were paid, *ex Thesauris Regis*, out of the Chequer; and many times upon fail of payment of Victuals, Wages, and other things, upon Suit for them in the Chequer, full payment hath been made, of which sort in most Kings years there are many Cases.

My Lords, this is the Answer which I give the Commissions to the Country, That *de facto*, the King was at the Charge usually for defensive War.

By the Stat. of 19 H. 8. Cap. 1. Those that have Annuities of the King must attend him when the King in Person goes for the defence of the Realm, or against Rebels: But there is a special Proviso, that they shall have Wages of the King, from the time they set out, till they come to the King, allowing 20 Miles a day, and afterwards as long as they shall remain in the Service.

Upon a Rebellion in the North, 28 H. 8. against whom the King intended to go in Person, Privy Seals were sent to most of the Gentry of the Kingdom to attend the King with the best Retinue that they could make; and likewise to bring the Bills of their Expences, and payment promised, as appears by many of those Privy Seals remaining in the Palace Treasury.

And besides the Indentures themselves, whereof I have seen many: It appears by the Stat. of 2, and 3 E. 6. Cap. 2. that the retainer of Souldiers at the Kings Charge was as well for offensive as defensive Wars. And by Stat. 3 H. 8. Cap. 5.

My Lords, in the next place I shall endeavour the proof hereof by clear Authority, the Stat. 25. E. 3. 8. is, That none shall be compelled to find but such as hold by such Service, if it be not by Grant in Parliament: That this was not *Introduktionum Nova Legis*, appears by the Petition whereupon the Statute is made, that it is *encourter le droit del' Realm*.

That the Common Law was so before the Statute, and likewise in case of a defensive War, appears by the Authorities following.

P. 26. E. 1. Rot. 35. Dor. The Scots entring the Borders, a Commission issued *Reginaldo de Gray*, to press Souldiers in Lancashire and Cheshire; he certifies by his Letter Inrolled there, *que sans deniers prest*, he could not procure them to march out of those Parts; and therefore order taken in the Chequer to send Money.

That the Scots had now invaded the Kingdom, appears by *Bra. Irrot. M. 26. E. 1. in Seacc* where Commissions are Inrolled for many thousands to be levied for this War at the Kings Wages. *Bra. Tr. 32. E. 1. Rot. 18. Co'ia de Wardens* of the Marches de Cumberland and Westmorland writ to the Barons of the Chequer; That whereas the Scots lay near the Marches with a great Army, and that the People of the County would not march out of their Counties without Wages and Victuals, that they would provide for both.

2. *Pars Pat. 10 E. 2. M. 26. and 9. E. 2. in Parliament*, a Grant to find one Souldier for 60 days, at the Charge of the Town, against an Invasion of the Scots; now the King grants *quod hujusmodi concessio non cedat in prejudicium nec trahatur in consuetudinem in futuro*.

At the time when this Aid was granted, the Scots had entred the Realm, and wasted the Bishoprick of Durham, as appears in 14. E. 2. B. R. 60. Rot. Scot. 12. 13. E. 2. M. 7. & 13. The same indemnity upon the like occasion of defence, when they found the Souldiers *ad Rogatum Regis*, and the King commanded the Chancellor to declare as much.

Claus. 13. E. 3. M. 38. Dorf. pars prima. The Abbot of Ramsey discharged *pro Custodia Maritima*, in the County of Norfolk, because he remained in his own County of Huntingdon, *cum Equis & Armis*, to the defence thereof, with this, that therefore it was not *rationi consonum*, to charge him further. The same it is *Rot. Franc. 21. E. 3. in prima parte 11 Oxon*, because they were *prompti & parati* at home to defend the County. *Ro. Scot.*

But the practice, as it should seem, not agreeing with the Right in the Parliament, 20. E. 3. N. 12. The Commons complain, that Commissions had issued out of the Chancery, to charge the People in this particular, and otherwise without consent in Parliament, and pray, that they may disobey such Commissions.

The Answer is, That the Commons had heretofore promised to assist the King with their Bodies and Goods, in the War with France, and likewise for the defence of the Realm; and that the great Lords, considering the necessity, as well for defence, as the Kings Wars, agree thereto, and yet promiseth, that this which is done *en cel necessity ne soit treyt en consequens n'ensample*. My Lords, this is a full declaration of the Right, even when for the defence; and yet some practice to the contrary, before the making of the Stat. of 25. E. 3. procured the Complaints in this particular in the Parliament, 21. E. 3. N. and 22. E. 3. N. *Pat. 8. H. 3. M. 4. Falsatus de Brem.* *Inimicus publicus & excommunicatus*, that imprisoned the Justices Itinerants in Bedford Castle, and held the Castle against the King, *propter graves & manifestos excessus quibus Regnum multipliciter perturbavit*, besieged the Castle; and whereas the Clergy, *de mera gra*, had granted the King Aid for the doing thereof, *Rex nolens gratiam sic nobis exhibitam ad debitam retorqueri*, declares as much by his Letters Patents.

My Lords, it is here declared, that the King cannot, *de debito*, or *de jure*, take any Aid against the Subjects Wills for besieging a Castle held against the King by a publick Enemy.

Rot. inquisitionum 3. E. 1. Ro. 4. Kent coram auditoribus querelarum post Bellum Evesham & pacem proclamatum: The Castle of Tunbridge being held against the King, the Hundred at Feversham was Seised at 15 l. *pro Insultatione* of the Castle; the Jury present this as a grievance, which the Justices would never have received, nor suffered to be entred into the Roll, if this Seis might have lawfully been made.

My Lords, this Castle and Hundred they were in the same County; and being before the Stat. of Winchester, they are not compellable to besiege the Castle; and if they were compellable to go in Person, and with Armies, yet no Seis could be laid for the doing thereof.

My Lords, I shall only offer to your Lordships consideration the Scotch Roll of 20. E. 3. M. 6. the Wardens of the Marches of Scotland were to appoint *exploratores & vigiles*, which were to espy out, and to give notice of the Enemies Intentments; by the Commission in H. 4. H. 5. and H. 6. time they were *explorandum pro defensione Regni & partium sumptibus incolarum*; but how? only de assensu

assensu & voluntate sua prout fieri consuevit.

My Lords, I am now come to that of Victuals, the Stat. of 14. E. 3. Cap. 19. That for the Wars the Provision for them shall be done by Merchants without Commission, or other Power from the King, or any other Power, that the People may not be compelled to sell against their wills: That this was as well for defensive as offensive Wars, and that this was not *Introduktivum nova Legis*; but so at Common Law is, by your favour, clear.

Pat. 29. E. 1. M. 16. & 19. *ad reprimendum malitiam Scotorum*; and to repel them, Commissions to most Counties to provide Victuals; and because they refuse, therefore the King there offers them security.

Bra. Trin. 8. E. 2. Ro. 99. Victuals bought *juxta forum patrie pro munitione Marchie Scotia*, and their payment upon Suit adjudged.

Sometimes at Newcastle, sometimes at Carlisle, at Barwick, as the Wars required, were the Store-Houses where the Victuals were laid, and Clerks of the Store to issue them: That the King not only paid for the Victuals, but likewise for the House where they were laid in, appears Bra. Tr. 2. E. 3. about the end of the Roll, *Dorso*. The Burgesses of Newcastle complain in Parliament, that their Houses had been taken up long time for the keeping of those Victuals; this was transmitted to the *Chequer* by Writ, which says, *Volumus his pro domibus suis predictis sic occupatis satisfacere prout decet, & prout justum fuerit, & prout temporibus Progenitorum nostrorum fieri consuevit.*

My Lords, in the next place: For the defence, when those that served with Horse, *ad vadimonia Regis*, they lost their Horses in the Service, the Owners did not bear the loss, but they were always paid for by the King; and therefore when they first entred into the Service, the Marshal, or else the Warden of the *Marches*, who had the command of them, did set down in a Roll the Horse of each Man, and their Marks, and Price of each Horse, to the intent the Owner, by this Certificate, might be assured of the full value to be paid to him in regard the Horse was lost. This appears Clo. 34. E. 1. M. 16. where the *Custodes Marchie Scotia*, assigned *pro defensione Marchie*, were to do it.

Bra. Irrot. M. 26. E. 1. Rot. 105, 106. The Scots having entred the Realm, *diversa homicidia, incendia, & alia facinora perpetrantes*, there the Horses, *ad vadimonia*, for defence, were to be appraised.

Secunda pars Pat. 10. E. 2. M. 7. the same, and the Scottish Roll of 21 E. 3. M. 7. the same *prout Moris est*: That thereupon since, the Subject hath recovered accordingly of the King, are many Cases; I will instance but in two or three, M. 24. of E. 1. Ro. 16. *Dor. Ro. Heigham*, recovered 20 Marks in the *Chequer*, *pro Equo perduto in conflictu Dover, inter homines Regis per hominum illor, & Inimicos Francie*; at which time the French had assaulted Dover, and burnt the Priory, and a great part of the Town.

Br. Hill. 17 E. 2. *pro restaur. trium Equor. perditor. ad Carlisle*, 9 E. 2.

Com. p. 9. E. 2. Richard Walgrave recovered for Horses lost at Carlisle.

Co. l. Hill. 2. E. 3. for Wages, *pro restaur. Equor. perditor*, and burying the Dead when the Scots had entred the Realm at Stanop-Park, for one Troop 18000 l. allowed *habita inde deliberatione*, and adjudged.

For Castles, the Ancient Forts and Bulwarks for Defence, the Stat. 14. E. 3. Cap. 19. says, That

Merchants, without any Commission or Power from the King, shall victual them so, that the people shall not be compelled to sell against their will. That this Statute in this Particular is not *Introduktivum Nova Legis*, is cleared by the *Case* Tr. 16. E. 1. Ro. 13. *Wills* in a little Roll, and in a great Roll of the same Year Ro. 19. When in *Trespas*, by John Eveshorne against John Flax, *quia blada & garbas suas cepit*: The Defendant says, he was Constable of the Kings Castle of the *Devises*, and that he had in *preceptis Regis* *munire faceret*, the Castle *de mortuo Statu* *de bladiis*, and other things; and that by virtue of this Writ he took an Enquest to know where he might have best laid these Victuals, *ad minus nocumentum patrie*, and the Jury found that the Defendant might take it *ad minus nocumentum patrie* of the Plaintiff, and that he came to the Plaintiffs House, and offered to buy *pro denariis & ad justum Regis*; and that because the Plaintiff refused to sell, he departed from his House: The Issue joyned, and found against the Defendant, and 100 Marks Damages given the Plaintiff, adjudged.

There were always anciently *Visores operationum* appointed, and they upon Oath certified, that they saw the Kings Money expended, which was demanded in the *Chequer*; and for Victuals, as they were bought with the Kings Money, so when they grew stale, or that the danger was passed, they were sold again to the Kings use.

My Lords, that even in times of War, when the Frontier Towns and Castles were besieged, and the Borders invaded, that even then the King did bear the Charges, appears by the allowance in the *Chequer*.

Trin. 27. E. 1. Rot. 47. *pro tuitione Castri*, now Castles, *contra Scotos qui hostiliter Regnum in partibus illis invaserunt*.

M. 31. E. 1. Rot. 2. The Scots besieged Carlisle 26. E. 1. and allowance now *de exitibus Castri*, which was the Kings.

And M. 27. E. 1. 75. 10000 l. *pro quatuor ingent. and Trin. 32. E. 1. Rot. 11, 12. visus compus* 28. E. 1. Rot. 71. *prout justum, quia Scoti contra Regem hostiliter insurgunt*; therefore *de Thesuro Regis Barwick* fortified, & Rot. 78. *Dorso*; it appears that the Sheriff of York-shire had carried 40000 l. *de Thesuro Regis* to those Parts.

Bra. in 17. E. 1. *propter frequentes egressus Scotorum in Regnum*; the Castle of Sandall at the Kings Charge, fortified, & *prout justum*, allowance; and Br. l. Hill. that year the Castle of Hornby, for the same cause the Scots having entred *circum predictum Castrum, & apud Lancastre*.

4. E. 3. P. & Mar. Dyer 162. b. One in execution for debt in the Fleet, who, as the Book saith, was a man very necessary for the Wars, and it was moved by the Kings Attorney *per Mandatum Concilii*, if the Prisoner may be licensed by the Queen with a Keeper, to go to Barwick for the defence of it or no, and it was held by all the Judges of B. R. and C. B. that the License was not good; and 13, & 297. the same cause cited accordingly to have been the Opinion of all the Judges.

My Lords, For Prisoners taken in defensive Wars, and likewise for Pledges and Hostages for the securing of Peace, that the charge of the maintenance of these, and the carrying them to the several places of their abode, have been always born by the Kings of the Realm, the allowances in the *Chequer* are so frequent, as that I intend to cite none of them, save that for the Pri-

1637. Prisoners taken in conflict at Dover before spoken of, which is *Co's Hil. 4. E. 2. Rot. 22. Dor* neither do I find it at any time stood upon, save only *8. E. 2. amongst the Bra. Trin. 8. E. 2. Rot. 88. Dor.* but the reason is, because that after the death of *E. 1.* in the Commission of granting the Constableship of the Castle, no mention was made of the Prisoners, and yet even in that case upon a *Monfranc Regi*, a Writ of Privy Seal is awarded for allowance, *prout Justum.*

My Lords, If in all these particulars of Soul-diers, Victuals, Castles and Forts, Horses, Prisoners, and Pledges, in case of defensive Wars, the main supports of them, the Kings could not tax their Subjects, but have born the charge thereof themselves, I shall thence offer it to your Lordships to be so for the defence in general.

My Lords, The allowance in the Chequer in all the particulars before-mentioned are frequent in the case of Mines in the Coasts. The profits of Silver-mines that they upon an account in the Chequer were always answered to the King, was one of the principal Arguments for the Kings right unto them, and there *fol. 320.* it's held that in all things that concern the Revenue of the Crown, because they are there abated, that the Record of the Exchequer shew not only the course of the Court, but what the Law is throughout the Kingdom.

My Lords, that in Cases of War and Embassies, that the Chequer made no allowance what great Consideration appears by the Statute of *5. R. 2. Cap. 10.* that they were not allowed by the Court till the Party brought the Great Seal, or the Privy Seal for it.

And if a Writ of allowance come to the Chequer before the Court had examined the Account, yet they never made allowance till the Court had examined it.

H. 25. E. 1. Ro. 22. licet Bre' de Allocato pendeat de dno 1000 l. allocandis; tamen ante allocationem factam oportet si pecunia illa ad opus Regis devenit, & quod ipsi doceant super hoc curia Regis, and Trin. 25. E. 1. Ro. 47. the allowances never ingross, but by particulars.

My Lords, The next proof that I shall humbly offer unto your Lordships, is in that of borrowing of Money for the defence of the Realm, which as they have usually done it, so it is as clear, that, not only upon Petitions, at their own pleasures, and upon grace, but likewise upon suit, they have been adjudged so to do in the ordinary Courts of Justice.

Co's p. 31. E. 1. Ro. 41. 149 l. borrowed of *Henry Sampson pro defensione totius Regni*, and repayment ordered *M. 10. E. 2. Ro. 160. Grandes Pecunie summas* borrowed by the King for that purpose, order for repayment.

Bra. M. 3. E. 3. Circa princ' Ro. 654 My Lords, in this particular I shall cite but this one Case *Com. p. 29. E. 1. Ro. 18.* the King *pro urgentissimis Regni negotiis & defensione totius Regni*, had seized divers Sums of Money in all the Abbeyes, and Cathedrals, and other Religious Houses within this Realm, & *quo citius commode poterit* promised payment. In the Parliament *29 E. 1.* at Lincoln the King is petitioned for repayment of these Monies, who promiseth payment, *Itaque Regis Conscientia super hoc promittitur* and there *Ro. 19.* divers Sums adjudged to be paid, *and there Ro. 65.*

My Lords, I shall thus humbly offer this to your Lordships, that if the King had conceived, that when himself wanted Money for the defence, he might have charged his Subjects, he would never

have made this answer of repayment *ad exonera- dum Conscientiam*; for then in Equity and in Conscience the Parliament should have taken care for the satisfaction of these debts, or should at leastwise have distributed part of this Charge upon all his Subjects; neither should the Parties have had full satisfaction for all their debt, but should have born part themselves.

By the Stat. *35. H. 8. Cap. 12.* the King for the defence of the Realm, had divers great loans made to him; now likewise there being cause of a new defence against France and Scotland in Aid of the King, and likewise release to the King all Suits and Petitions concerning those Monies. My Lords, it will need no application; these were general loans, and for the defence.

My Lords, I am now come to the other Authorities for proof thereof, which is by the Acts of Parliament.

My Lords, before I come to the Acts of Parliament themselves, I shall humbly offer to your Lordships the Summons and Preparatives to them.

First, The *Ardua Regni Negotia*, for which they are called, are principally *defensionem concernentia*; that these are not the way and manner of defence and their evidence therein, but the supplies and aids for this defence, I have presented clear proofs to your Lordships before. That these Aids cannot be raised without their consents, is strongly inferred in this, that the Knights of the Shire are to have *plenam & sufficientem auctoritatem pro se & communitate Comitatus pred' ad faciend' & consentiend'* to the things in *negotiiis amediis*: If this might be done without the consents of the Commons, this in the Writ would be needless; but that this cannot be done without their consents, is cleared by the words following in the Negative, *Ita quod pro defectu potestatis hujusmodi dicta negotia infecta non remaneant quovismodo.* This, My Lords, is the constant form of the modern and all the ancient Writs, and shews clearly that the Commons, without their consents in Parliament, are not chargeable to a defensive War.

In the Acts of Parliament, I will begin with that of William the Conqueror, the fourth of his Reign, which besides that is cited in the Preface of the eighth Report and *Institus. fol. 76. b.* and by *Ingulph. fol. 519.* and Mr. Selden in his *Eadmerus p. 171.* It's likewise of Record and enrolled in the Red-Book in the Chequer. The words are thus.

Volumus & firmiter precipimus et concedimus, quod omnes liberi homines totius Monarchia Regni nostri habeant et teneant terras suas et possessiones suas bene et in pace libere ab omni exactione injusta et ab omni tallagio; Ita quod nihil ab eis exigatur vel capiat, nisi servitium suum liberum, quod de jure nobis facere debent et facere tenentur, et concessum jure hereditario in perpetuum per commune Concilium totius Regni nostri predicti.

My Lords, the words, by reason of the disjunctive *et ab omni Tallagio*, are plain, that the King shall not exact nor take any thing of any Freeman, but what his tenure binds him unto; as in words, by reason of the generality of them, it extends to cases to the defence of the Realm: that it doth so in intent, I shall endeavour thus to present it to your Lordships.

The Military Services, before mentioned for the defence of the Realm, they are by *Bracton* attributed to the Conquerors Institutions; for in his 2d. Book *fol. 36.* speaking of them, he saith thus, *Secundum quod in conquestu fuit ad invicem, Plowden* in the Argument of *Thomas Tresham's Case.*

Means

Means the Conqueror had to do it, by reason of the many Attainders of those that take part with Harold, and after his death with Edgar Etheling: That he did it in a great part, appears by Math. Paris, fol. 8. That he put all the Clergy which before held in *Frankalmoigne sub servitute militari*, to do service *tempore hostilitatis*, and by the County Palatine of Durham and Chester in those places of danger. In the Book of Knights Fees in H. 2ds. time, it appears by the Certificates, that they had sometimes *de veteri Feoffamento*, and sometimes *de novo*: And by some of them it appears, that the Tenures *de novo Feoffamento* were before King Stephens time, and therefore it's probable that the *vetera* might be those created by the Conqueror. The provision for Souldiers pay by Tenures, was likewise of his Institution, as appears by that before cited out of the Black Book, lib. 1. cap. 27. That in *primitivo Regni statu post Conquestum, ad stipendia et donativa Militum*, out of the Castles and other Lands in quibus *agricultura non exercebatur, pecunia numerata succedebat*.

The Policy and Provision of the Conqueror, for the defence being by Tenures, when in this Act of Parliament he lays *quod nihil ab eis exigatur vel capiatur, nisi servitium suum, quod de jure nobis facere tenentur*, as I humbly conceive, shews plainly that the Subject was not otherwise to be charged for the defence, nor further, than by their Tenures.

This, My Lords, further appears by other parts of the Parliament, where speaking of any thing of charge that is to be done according to their Tenures, as that all *bene se teneant in Equis et Armis ad servitium suum integrum faciend*; But in the next place speaking of the defence, it saith that all within the Realm *sint fratres Conjurati pro viribus et facultatibus*, to defend the Kingdom and the Peace, *et ad judicium rectum, et justitiam faciendam*, the coupling of the Defence with that of the Peace, and doing Justice, shews the personal care that all by their Oath of Allegiance ought to bear to the Common Peace and Good of the Realm.

The next Statute that I shall present to your Lordships is that of Runney-meade 17 Johannis, the words are these, *Nullum scutagium vel auxilium ponam in regno nostro, nisi per Commune Concilium Regni nostri, nisi ad Corpus nostrum redimendum*, and to Knight his eldest Son, and to Marry his eldest Daughter; as in words this extends to the defence, because all supplies for that purpose from the Subject, they are only in *auxilium* or in *subventionem expensarum* of the King, who, as before is proved, is principally bound thereto. So may the intent likewise be further gathered, first, from this, that the word *Auxilium* is joyned with that of *Scutage*, which is for the defence; and likewise from this, that particular satisfaction is made by other parts of that Statute to those that had been disseised by R. 1. and King John, which were things done only for the increafe of their Revenue without shew of the common defence, that both before 9 H. 3. and afterwards 20 E. 1. this was a Statute and so accounted, I have before proved: And in the Book of 5 H. 3. it is called by the name of *Magna Charta*, Sans addition: So 37 H. 3. in that solemn Confirmation observed by Math. Paris, p. 1155. This of Runney-meade is confirmed by the name of *Magna Charta*; and 50 H. 3. p. 1220. which I note only to this purpose, that of speaking of *Magna Charta*, this of Runney-meade is intended as well as that of 9 H. 3. as part thereof, and bodied both together; yet that neither of

them were observed either in King Johns time and of H. 3ds. time, our Histories are full of it: And by the Popes Bulls of 12, et 13. H. 3. the Pope absolving the King from his Oath in their Confirmation, doth it, because as the words of the Bull are, *Juramentum peccati vinculum esse non debet*; neither till 29 E. 1. as I shall hereafter prove, were they at all observed in the things concerning the Kings Prerogative.

The next that I shall cite, are the Statutes of 25 E. 1. and the Stat. *de Tallagio non concedendo*.

That of 25 E. 1. c. 5. & 6. the grievance is for aids and prizes taken through the Realm for the Wars; the King grants that such aids and prizes taken through the Realm for the Wars, shall not be brought into any Custom for any thing before done, be it by Roll, or any other Precedent that may be found; and further grants, that for no business from henceforth he will take such manner of aids, tasks and prizes, but by the common consent of the Realm, and for the common profit, saving the ancient aids and prizes due and accustomed.

My Lords, although by the Copulative it is clear enough, that there must be common consent and common profit concurring; and although the saving of the ancient prizes and aids accustomed might well enough have been satisfied in the aid excepted in Runny Mead, and the prizing of Wines and Purveyance.

Yet to out these, and all other scruples, the Statute *de Tallagio* made afterwards for that purpose is general, that no Tallage or aid shall be taken by the King, nor that any of his Officers shall take any Corn, Leather, Cattel, or any other Goods, without the consent of the Party.

My Lords, to bring these Statutes to the thing in question, that these things cannot be done, though for the defence, the times of the making them, and the circumstances concurring thereto, I shall present to your Lordships.

That of 25 E. 1. by the date appears was the tenth of October, 25 E. 1. My Lords, the King the twelfth of August before being at Odimer, ready to go over to Flanders, the Parliament being then summoned by his Letters Patents, Rot. Pat. 25 E. 1. m. 7. taking notice of the Constables and Marshals departure from the Court in displeasure, and of the rumours of the people that the King refused to seal Articles sent him for the common profit, for redress of divers grievances done to the people: For the grievances, he saith, that without those things he could not have defended the Realm, and yet saith that he is sorry for it, and prayeth that this may be his excuse, as he that hath done those things, neither to buy Lands, nor Tenements, nor Castles, nor Towns, but to defend himself and the whole Realm; and that if he returned again, he would have all know, that he had an intent to amend all those things, to the honour of God, and content of his people, and that he hath done much already; that if he dies in this service, his Heir shall make amends.

Hereby it appears, that the grievances which procured this Statute were for the defence of the Realm; therefore from hence it follows, that the aids and taxes there mentioned were for the defence; so likewise that the exception of the ancient aids extends not to those of the defence, that being the thing wholly complained of. This Declaration of the King was the twelfth of August, the September after, the King being at Winchelsey, those Articles are sent to him, to which

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he deferred for the present to give his assent unto, because his Council was not there, and so fails over into *Flanders*. This Statute of 25 E. 1. is past by the King beyond the Sea; the *Teste Edwardo filio nostro* at his return, as appears by *Walsingham*, p. 42. The King is desired to confirm these Articles, which in *Walsingham* p. 40. are the same word for word, as in the Statute *de Tallagio* which the King then deferred.

27 E. 1. They desire it again, which the King doth with a *Salvo Jure Corona nostra in fine adjecta quam cum audissent Comites cum dispendio ad propriam suam*, saith the Author, *Sed revocatis ipsi ad eandem Pascha ad votum eorum absolute omnia sunt concessa*.

That the Statute *de Tallagio* was after that of 25 E. 1. is plain in this, by the Kings going over to *Flanders* without assenting to any Articles. In *Septemb.* and 10th of *Octob.* following, as appears by that Stat. 25 E. 1. it self, it was made; and likewise by the Statute *de Tallagio* it self, in the Kings releasing all rancour to the Earl-Marshall and Constable, who had most offended him, and first presented these Articles to the King.

My Lords, I shall add this only; as I conceive, it will not be proved that this King, either before or after the making of this Statute, or any of his Successors since, ever claimed this absolute power over the Subjects, as to lay Aids and Tallages upon them for the supportation of their own private Estate, abstracted from the common defence or good. This King at this time, we see by his own Declaration, was far from it, this last Statute fully satisfied those that desired it; for as *Walsingham* saith, *ad eorum votum absolute omnia sunt concessa*. If therefore it extends not to that of defence, I shall humbly offer it, by what construction of it our Ancestors Judgments and Discretions will be freed from a great deal of censure that were so well contented with it.

My Lords, *Magna Charta* being confirmed at the same time when the Statute of 25 E. 1. was made; and both that and the Statute *de Tallagio* being only Articles upon *Magna Charta*, they were all of them, as I conceive, intended in the subsequent, and so often confirmation of *Magna Charta*.

My Lords, the next is the Statute of 14 E. 3. c. 1. that the people shall not be compelled to make any aid, or to sustain any charge, but in Parliament: That this cannot be done for the defence, will (as I conceive) be enforced from the words; for a great Subsidy having been granted, as well for the Wars on this side the Sea, that is, for defence, as for the *French Wars*. It's declared, that this shall not be drawn into example, and that out of Parliament they shall not be compelled to sustain any charge; and then it is further Enacted, That that Subsidy, and all the profits of Wardships, Escheats, and other profits of the Realm, shall be spent for defence and safeguard of the Realm, and the Wars in *Scotland* and *France*, and not other where: So that the Statute, as I humbly conceive, all put together, bears this sense, that the Subsidies granted in Parliament, and the Wardships, being a fruit of the Tenures created for the defence of the Realm, and other profits arising to the King by way of Prerogative, are to be spent for the defence of the Realm, and the Kings other Wars; but that no aid or charge for any of these can be laid upon the Commons without consent in Parliament.

My Lords, that the practice of this King, I mean E. 3. was contrary to these Statutes, and

that they were not kept, appears by the Parliament Roll 15 E. 3. N. 9. the next year after, where the Commons shew that their Goods were seized, and their Bodies imprisoned without any Suit commenced against them.

My Lords, the next which I shall cite are the Statutes of 25 E. 3. and 1 R. 3. against Loans and Benevolences, which I shall humbly offer to your Lordships on this ground.

Ad ea, que frequentius acciderint, adaptantur Leges.

As for my part, I have seen no general Loans or Benevolences, but they were for the defence; so I conceive, if they were any otherwise, they are but few in respect of the others: The common grievances therefore being by Loans and Benevolences of that nature, these Statutes, I conceive, were made against them; for these being not within the words of any of the former Statutes, that therefore the Kings might with the more colour put them in practice; so, on the other side, being equally as dangerous to the Subject, because of the displeasure by denial procured the Statutes: That Loans for defence were after 25 E. 3. counted unlawful, appears by *Walsingham*, p. 179. that 44 E. 3. The King *sinistro usus Concilio magnas Summas Pecunie* of all sorts, *mutuo petiit afferens quod in defensionem Ecclesie, & Regni illas expendere*, but that the people would not lend.

My Lords, the next which I shall cite is direct in words, which although it be not an Act of Parliament, yet the weight of the Authority, by the putting it, will appear; it's the second part of the Parliament Roll, 2 R. 2. N. 3, 4, & 5. the Kingdom being beset with the Enemies of *France*, and *Spain*, and *Scotland*, who all three by Land and Sea invaded the Realm: The Privy Council not willing in a thing so much concerning the Realm to take the whole carriage of it upon themselves, nor desiring so soon to call a Parliament, but a little before being dissolved; they therefore resolve to assemble a great Council of most of the Bishops, Lords, and other great men, and Sages of the Realm, who meeting and finding the absolute necessity of a present preparation for defence, and that the King wanted money to do it; what their full and final resolution in this case of extremity for the defence was, I shall read the words of the Roll; they say, *Pur conclusion final qu'ils ne poient cest mischeif remedier sans charger les hommes de Realm quel charge ne pait de fait ne grant sans Parliament*. And therefore the necessity being urgent, these great men lend money for the present, with advice presently to call a Parliament, as well to provide for the repayment of this Loan, as for a further supply. Its true, my Lords, this King at this time was within age; and it is likely that many of his Council had been E. 3. his Grandfathers Privy Council, who well knew his Prerogative, and extended it as far, by reason of his great Wars, to the charging of his Subjects, as any before or since his time; and that not only the Privy Council, but likewise, as the Record is, almost all the Prelates, as other Dukes, Earls, Barons, Bannerets, and other Sages of the Realm, which as I conceive were the Judges, should be so far from putting this in execution, as that they declare in the Negative, upon full deliberation, that the Commons cannot be charged herein, but in Parliament; themselves likewise thereby being to undergo a present charge, by lending to supply that necessity. The Authority must needs be weighty, that upon second thoughts afterwards the same was declared in full Parliament by the Lord Chancellor,

1637. four, and so afterwards entred upon the Roll without any qualification at all, adds further to the Authority.

Ulr. Febr. 3. Caroli, a Commission issued to divers great Lords, the end, as appears by the words, was for aiding the Kings Allies beyond Sea, and for the defence and safety of the Kingdom and people: They were by the Commission to raise money by Imposition or otherwise, which without extreme danger to the King, Kingdom and people, can admit no long delay, wherein form and circumstances are to be dispensed with, rather than the substance lost. This, my Lords, was a Commission to tax the Subject in time of necessity for defence: The last Parliament this Commission, as against the Law, was condemned by both Houses, and cancelled in his Majesties presence, and sent so to be viewed by both Houses.

Philip de Comines, in his fifth Book cap. 8. observing the same above all other, commends the policy of the English Laws and Government, and both he and Bodinus, *Reipublica lib. 6. c. 11.* and Pasquierus, Advocate-General, in the King of France his Chamber of Accomptes, in his second Book c. 6. & 7. all shew this likewise to be the ancient Law of France; and how the practice comes to be otherwise, there Pasquierus shews at large; and that the Kings sometime endeavouring the contrary, found so much difficulty, that they afterwards, especially Charles the fifth, procured by the consent of the three Estates these Aids for defence to be granted for three or four years together; and that this consent of the people at the first, was afterwards that which gave the occasion to the King to take it without consent: And therefore he concludes, that France being *un Realm de consequence*, that they must not easily promise any thing, though but once, which they will not be willing to permit for ever.

My Lords, I have now done with the proofs: In the next place, I shall endeavour an Answer to some few Objections that are obvious both from Reason and Authority.

1. For those of Authority, 13 H. 4. 14. 16. Gascoignes Opinion, That the King may charge his people without Parliament to a thing that is for the common profit of the people; the thing he applies it to is, that the King may grant Pontage and Murage.

My Lords, That the King may grant both these, and Tolls upon Erection of a new Fair or Market, and Pannage, I shall not deny.

The Answer I shall give to them is, First, That these Grants do charge *Venalia* only; that is, Goods carried to those Places for Merchandize; but that any Tax may be laid *secundum statum & facultates*, either upon the Hundred or County, I shall humbly deny it.

It is true, My Lords, By the Conquerors Laws it appears that Cities and Walled Towns were for the defence of the Country, and therefore by those Laws, no Fair or Market might be kept but in *Civitate & Burgis Muro wallatis*; therefore in *Doomsday* in all such its found that there are so many *Mansiones murales*, which by their Tenure, when need was, were bound *ad murum reficiendum*. That no other Land that holds not by that Service is liable, appears by the *Parl. Roll*, 1 R. 2. pars 2. in 76. Where all the Cities and Burroughs of England petition, That in this time of danger, they not being able with their Merchandizes to do it, that others that had Land within the Town might be made Contributaries *avant ceo heures ont port nul charge*.

The Answer is, That all according to their Tenure, as they have anciently done; so shall they still; and if this might be done, there would have been no need of the Statutes of 2 & 3 P. & M. cap. 1. 23. El. cap. 4. for giving power to tax men *secundum statum & facultates*, to repair Castles and Towns within 20 Miles of Scotland.

For the Tolls and Pontages and Panages, as there is a great deal of equity, for those which receive benefit by bringing their Goods to the Market, and over the Bridge, should contribute to the Charge that makes and maintains the Market-Places and the Bridges; so neither are these compulsory, but voluntary Charges; for as no man pays, but he that receives the benefit; so is none compellable thereto, but is left to his liberty.

Neither is there any colour in respect of the Town it self, to whom the Murage or Pannage is granted, why they should not be charged, because the Grant cannot be but at their own Suits; for if it be not at the Suits *et commoditates*, the Grant is void, and to be revoked, as appears *Pat. 5. E. 3. 2 pars* in 20.

It may be further objected, That as the Law hath intrusted the way and manner of managing of the Defence wholly and independently unto his Majesty; so likewise of Aids and Means, as the *Causa sine qua non*; the other cannot be effected, and therefore his Majesty should not be dependent upon the Parliament for them.

My Lords, The near relation between his Majesty and the Parliament, that they are but one Body, hath been presented to your Lordships; and that his Majesty did exercise the *Summum imperium* there. *Bodine lib. 1. cap. ult.* says, *Ejusdem quod esse potest? tributa nova imponere cujus est legem ferre* but that the Legislative power is not in his Majesty out of Parliament, will be granted.

The Subjects Interest being as nearly concerned in the Defence, as his Majesty's, there's no cause why they should not be willing to proportion the Aid to the Occasion; so neither can the Law presume otherwise, which hath so high an opinion of the Judgment and Integrity of this Court, that as it is in the *Commun. 398.* It's unlawful for any man to conceive any dishonourable thing of it.

My Lords, My last Answer hereto is, That by the Law the King hath as independent a Power to make a Foreign War, as well as a Defensive; it will, as I conceive, be granted, that his Majesty in this Case hath not power to Tax the Subject; for then it would follow, that as well as to the conquering of the next adjacent Realm, so of all Europe, the Subject should be at the Charge, and yet the Land conquered, should be only his Majesty's; and yet upon this ground, in respect of the equality of the Powers, it might be done as well there, as here.

Neither, My Lords, as I humbly conceive, doth this only answer the Objection, but returns upon the other side for his Majesties Highness his Power to make offensive War; which for the most part, causeth a Defensive; by this means it should be in his Majesties power to cause a defensive War, and to tax the Subject for the Maintenance of it.

My Lords, The last Objection whereto I shall endeavour an Answer, stands thus; The Parliament is a great Body, and moves slowly, and that the Cause may be such, that the Cause may be lost before the Parliamentary Supplies come.

My Lords, How means of effecting so sudden and so great a Surprise, can be so secretly carried,

ried, I shall not examine it, in reason, but humbly offer hereto these Answers.

Anno 1637. That the Services whereby the Law hath provided for the Defence, both at Land and Sea, they have the same mention of time with the Parliamentary Supplies upon the Summons of the Tenants by Knights-Service *ad exercitum*, and of Cinque-Ports, 40 dayes warning, is to be given as for the Parliament.

And so is it probable for that of Mould. 13 E. 1. it was for others that held by Sea-Service.

And anciently the Summons *ad exercitum* to the Ports, and for the Parliament, went out much about the same time, that the Parliament might Assesse the Escheage, and that in case the Tenures and other Revenues were not able to maintain the War, that the Parliament might provide for farther Supply, as appears E. 1. M. 15. 31 E. 1. & 44 E. 1. M. 15, 16. *Et oportet neminem Legibus esse sapienterem.*

The Tunnage and Poundage when first granted for life, was that the Kings might have always a Sum of Money ready upon such sudden occasions.

In the Parl. 4 R. 2. N. 42. the Commons desire payment of Edw. the Third his Debts, that they might be encouraged to lend the King in Aid of the Realm, if a sudden cause of necessity should fall out; the Answer is, that it shall be done *so long, le Petition.*

My Lords, By this it appears that this objection was not then taken to be of weight; many of the loanes are in *necessitatis articulo.*

The authorities that further answer this objection, are great and full in point.

The first is; That of the Parliament Roll of 2. R. 2. before cited: the business of defence could not stay so long as for a Parliamentary supply; yet agreed that the Commons without Parliament could not be charged; and therefore the same men that gave the Judgment, presently lend money for that purpose.

In the statute of 31. H. 8. for Proclamations, the cause of the making of the statute is expressed in these words; Considering that suddain causes and occasions fortune many times, which do require speedy remedies; and that by abiding a Parliament, in the mean time might happen great prejudice to ensue to the Realm; therefore the Kings Proclamation is by that Act made Equivolent to an Act of Parliament, but with a full exception of their Lands, Goods and Chattels: which as it shews that before, by the common Law, the King could not in cases of exigency, that could not stay for a Parliament, take or seize their goods; so they were careful still to preserve their Rights.

My Lords, After the statute of 31 H. 8. the Maxime of Justinian was true in H. 8. as of the Roman Emperors after the *Lex Regia*: whereby the people transferred their suffrage to the Emperors *quod principi placet legis vim habet*: so at that time was that other as true on the Subjects part here as there, in the Digest, *Lex 10 de regulis juris quod meum est non est universitatis, & quod nostrum est sine facto nostro ad aliam transferri non potest*

The 7 Partic. of Spain tit. 1. Partic. secunda, gives something more to the King, for he may take from the Subject *pro necessitate Reipublice dato primitus tali casu Domino rei bona lambia ejusdem, vel majoris precij bonorum virorum arbitrio*; He may in this Case take, giving a pawn to the Subject for the assurance of a future full satisfaction.

Livy in his 6 Book Cap. 35. Bodine in his 6th Book, fo. 655. affirms, That when Hanibal had put Italy and Rome it self, unto so great hazard, and that their was not Money left in the common Treasury, that yet the Senate, without their consent could not charge the people; but that *unusquisque* of the Senate, *mutuo dedit aliquid in usum publicum.*

My Lords, The last authority for the answering of this objection, and clearing of the whole business, is the Commission of the Loan in the West. 2 Car. 4. pars pat. the words are these, the great and mighty preparations, both by Sea and Land, did dayly threaten the Kingdom, that the safety and very subsistence of the King and People, and the common Case of *Christendom*, were in apparent danger of suffering irreparably, that the Kings treasure is exhaust, and the Coffers empty; that the business of the supply cannot endure so long delay as the calling of a Parliament: and inquiring into all means just in cases of such unavoidable danger: The King is now resolved to borrow of the subject, to enable his Majesty, for their safeties, and Promiseth re-payment.

My Lords, the borrowing of money only is the thing required, that is, for the defence the King had no money left, the exigency such that it would not stay for a parliament; This Commission afterwards in the Parliament; 3 Car. was questioned, upon debate adjudged by both the houses of Parliament to be void in Law, by the Petition of Right presented so to the King, his Majesty denies it not. My Lords, From this objection of suddain danger I come to the next, which is the third thing before offered to your Lordships which is an admittance that the danger sometimes may be such, that the Subjects goods without their consents may be taken from them; for as propriety being both introduced and maintained by humane Laws, all things by the law of nature, being common; there are therefore sometimes like the *Philistinis* being upon *Sampson*, wherein these cords, they are too weak to hold us, *necessitas enim*, as Cicero says, *magnum humana imbecillitatis patrocinium omnem legem frangit*, at such times all property ceaseth, and all things are again resolved into the common Principles of nature.

These times, as sometimes they are only in *instanti*, and concern but some few, as in Cases of killing one another in a mans own defence, pulling down houses in a common Fire, making of Forts upon other Mens Lands, or with their Goods, upon sudden Assaults; so sometimes they are longer in continuance, and larger in extent, and concern the whole Kingdom, as it is in times of War, *quando agitur pro aris & focus flagrans bello.*

And as on the Particulars before mentioned, which are but for a short time, and that concern some few only, the Law hath no power for that time, nor maintaines any property; so in the latter it loseth this power for a longer time, and over all.

A Dissent upon Disseisin in time of War takes not away the Entry of the Disseisee, Litt. Sec. 412. no Plenary after the six Months bars the Patron of his *Quare Impedit*, upon a Presentation in time of War, 43 E. 3. Q. Imp. 135. N. B. 31.

And in a Writ of Right, where the Seisin makes the Title, the taking of Ejectees must be alledged to be done *tempore Pacis*, the Law allowing no estate in such times, but calls it an occupation in time of War, Litt. Sec. fo. 12.

And

And as *inter arma leges silent*, so that of *Bract* Lib. 4. fo. 240. that *tempus guerræ est tempus injuriæ* is likewise true, for after the War is ended, the Law, as not having any conizance of things then done, gives no remedy for wrongs in that time sustained, as the case is adjudged in the Roll of Rent, 7 E. 1. *inter placita de quærelis Willielmum Parleton queritur de Petro Rardinum quod ipse die Mercurii ante festum St. Tho. 46 H. 3. came to the Town of Cleve, and took of the Plaintiffs Goods three Oxen, four Cows, and three Heifers, and yet detains them; the Defendant alleadgeth the pardon of H. 3. of omnes transgress. factas ratione turbationis tunc in Regno existentis, and that it is tempus guerræ when the Goods were taken; the plaintiff replies, That the King can pardon only offences done to himself, & non transgressionem aliis illas; the defendant rejoins that tempus illud was tempus guerræ, & non tempus Pacis, and upon this the issue joyned. The Jury find, that when the Defendant took the Goods, fuit tempus Belli, & non tempus Pacis; and therefore it was adjudged for the Defendant.*

Tempus Belli, When property ceaseth, is not upon every intestine or defensive War; but only at such times when the course of Justice is stoppt, and the Courts of Justice shut up; and this is *Tempus Belli* in the institutes Sec. 412. p. 39. E. 3. L. R. Ro. 49. the Attainder of treason of Thomas Earl of Lancaster reversed error assigned, *quia tempore pacis maxime cum per totum tempus predicta Cancellaria & alia &c. Cur. Domini Regis qua fuerunt, & in quibus Lex cuiusq. fiebat prout furi consuevit; nec predictus Dominus Rex illis explicatis equitavit.*

That there were greater Armies asfoot on both sides in this business, when the Earl was taken at *Burrow-bridge*, our Histories are full; but yet it was not that *Tempus guerræ* intended by the Law, because the Courts of Justice were open, and the King, with Banners displayed, was not in person in the Field.

My Lords, In these times of War I shall admit not only his Majesty, but likewise every other man that hath power in his hands, may take the Goods of any within the Realm, pull down their House, or burn their Corn, to cut off Victuals from the Enemy, and do all other things that conduce to the safety of the Kingdom, without respect had to any mans Propriety.

12 H. 8. 2. *Br. Trans.* 406. 8 E. 4. 23. That in such times a Subject may make a Bulwark in another mans Land, and that the Laws already established are silent at such times: And although in that foreseen and lingring War of *Hannibal's*, whereof I have before spoken, the Senate could not charge the People; yet when there was a *Tumultus Gallicus*, that is, when the *Cisalpine*, their Neighbours, on the sudden (as sometimes they did) assaulted the City; by the same Author the Case was otherwise.

My Lords, Besides this sudden and tumultuous War which shuts the Courts of Justice, and brings his Majesty in person into the Field, and wherein Propriety ceaseth; the Law takes notice likewise of other times of War: as when his Majesty upon just cause known unto himself, by his Proclamation proclaims War against any Foreign State; and likewise the Law takes notice of the Effects thereof; that is, that no Subject of such Prince or State is capable to prosecute any Suit, though but in a personal Action, in any his Majesties Courts; and likewise that then it is lawful for any his Majesties Subjects to seize

and keep to their own use the Goods of the Subject of any such Prince or State, as the Books *Car. 13.* are adjudged. 7 E. 4. 13. 13 H. 8. N. B. *Propert.* 38. 22 E. 3. 16.

My Lords, It appears not by any thing in the Writ, that any War at all was proclaimed against any State, or that any of his Majesty's Subjects had taken away the Goods of any Princes Subjects in Christendom, but that the Party might have recovered them before your Lordships in any of his Majesties Courts; so that the Case in the first place is, whether in times of Peace, his Majesty may without consent in Parliament, alter the property of the Subjects Goods for the Defence of the Realm.

Secondly, The time that will serve the turn for the bringing in of the Supplies and Means of the Defence, as appears to your Lordships judicially by the Writ, that is 7 Moneths within 4 days; for the Writ went out 4 *Augusti*, and commands the Ships to be at *Portsmouth*, the Place of the *Rendezvous* the first of *March* following; and thereby it appears that the necessity in respect of the Time, was not such, but that a Parliamentary consent might in that time have been endeavoured for the effecting of the Supply.

Yet in the *Third Place*, it is averred, that *Salus Regni periclitabatur*, and that was the cause of the issuing of the Writ, and this by the Demurrer, if it should be confessed, yet this is but in general; how or in what manner *periclitabatur non constat*: By the Law the Defendant may have a Protection when he is in *negotii Regni*: But when he will make use of it, it's not allowable in that generality; but he must shew in particular, in what Town or Castle, or other particular Service he is in, that so the Court may judge whether the Cause be sufficient yea or no; and yet is that his Majesties Writ too, as well as that in question: see the Books for it, 36 H. 6. 39. 28 H. 6. 1. Yet in the *fourth Place*, if your Lordships shall give any heed to this General, as to the Particular of Pyrates infesting the Coasts, and Preparations further *ad regnum gravandum*, mentioned in the Writ, the Case then, as I conceive, is this.

In a Time of Peace, his Majesties vigilancy foresees a danger likely to ensue; the Supplies for prevention of this Danger will serve, if brought in seven Months after, within four days; yet whether in this Case, without their consent in Parliament, his Majesty may alter the property of his Subjects Goods?

Mr. St. John's Second Days Argument.

MY Lords, I have now done with the Defence in general, and in the last place, I shall endeavour to prove that this of the Sea hath no such peculiarity in it, but that it will fall within that of the Defence in general; wherein, in the first place, I endeavour an Answer to some Objections, both from Authority and Reason, that may seem to prove a Right. And secondly, to some Precedents concerning the Use and Practice; of the first Rank I shall begin with *Danegels*.

It may be said, that the *Danes* infesting the Realm, that *Ethelred* for the resisting of them, first by his own Authority laid this upon the Subject, and made it an Annual Charge.

Secondly, That after the Conquest, they seldom infesting the Coasts of the Conqueror, took it not annually as at first, but at such times only

ly as it is in the *Black Book*, lib. 1. case 11. when
Anno ab exteris gentibus Bellum, vel opiniones Bellorum
 1637. *insurgebant.*

And Thirdly, That after H. 2. time, the Kingdom being altogether freed from the Danish Invasions, although the *Danegelt* lost the name and use, it never after this time being taken by Hides of Land as before; that yet the succeeding Kings by the same Authority did lay other Taxes upon the Subject for the Defence of the Sea.

My Lords, For Answer, In the first place I shall observe this only by the way, that the best and certainest Authorities for the *Danegelt* agree not what it was.

I mean the Laws of *Edw. the Confessor*, cap. 11. and the *Black Book*, for the Confessor's Laws say, that it was one shilling upon every Hide of Land, and the *Black Book* 2 s. by which it should seem that it was little in use in H. 2. time, nor much known.

The 111th Chapter in the Confessor's Laws, were this is mentioned, was no part of the ancient Laws themselves, but something afterward added, appears by the words themselves.

First, It speaks of the freedom which the Church in the first institution of it had, which freedom, we know, was not lost till after the Conquest, and likewise of the granting of it to *William Rufus* by Parliament; and therefore it should seem to be inserted in those Laws afterwards out of the Laws of H. 2. for this 111th Chapter, and that of *Danegelt* in H. 2. Laws are the same *de verbo in verbum* as appears in *Hoveden*, fol. 544.

But admitting the thing, I shall endeavour answers to each part of the Objection, as first, That the *Danegelt* was granted in Parliament.

Mr Camb. Brit. p. 142. observed that the Danes first infested the Coasts *Anno Dom. 800.* and, as his words are, with sic' Hurly Burlies, as the like was never heard of, havock of all, razing of Cities and burning of Churches, and for their continual Piracy had got the name of *Weccingles*; that is, Pyrates.

The *Danegelt* first began in *Ethelred's* time, almost 200 years after the Danes first Invasion; for he began his Reign *A. D. 978.* That provision for Sea-defence was made in the *Interim* after 800, and before *Ethelred's* time, appears by the many Sea-fights of *Alfred* and other Kings with them: That this Provision was usually in Parliament, is probable from that of *Ingulphus*, Lond. Print. fol. 488. Where *Anno Dom. 833.* which was 33 years after the Danes first Invasion; A Decree to the Abbot of *Crowland* is dated thus: *Coram Pontificibus, Proceribus, & Majoribus totius Anglie, in Civitate Londini, ubi omnes congregati sumus pro consilio sapiendo contra Danicos Pyratas littora Anglie assidue infestantes.* If King *Ethelred* by his own Authority might have imposed this, it is like some of his Predecessors, the Case so necessary requiring it, in almost 200 years space would have done it before this time.

That this of *Danegelt* was done in Parliament, the words carry as much; for the Words of the Law are *Danegeldi redditio primitus statuta fuit*; a Word most proper for the Parliamentary Authority.

But fully by the Laws of that King, I mean *Ethelred's* Laws, in *Mr. Lambert's Saxon Laws*, fo. 58. there *ex sapientum suorum consilio* peace is made with the Danes, and a certain Sum of Money, in present granted to the Army, as our Historians observe. The Danes by composition

were to send away the whole Fleet saving 45 Ships, which were to remain to defend the Kingdom against other Enemies; and the King was to maintain those Ships at his Charge; that the *Danegelt* was paid to the Danes for this Defence, many of our Historians observe. *My Lords*, That at the same Parliament this was provided for, appears by the words of the Law, *Si quis igitur post hoc Navalis apparatus in Anglia predam fecerit, hic nobis auxilium ferat exercitus, nosque ei quamdiu (in fide manserit) qua ad comitatum paravimus omnia*, that this was a Parliament, as the words shew it, so is it held in the Preface to the 9th. Report, *Huntingdon*, fol. 205. If this was not the *Danegelt*, yet this is clear, that in that King's time then provision contra navales apparatus was made by Parliament. *Primum statuerunt Angli infansito concilio quod ipse Danis censum persolveret Regibus, namque nostris modo persolvitur ex consuetudine quod Danis persolvebatur ex ineffabili terrore.* That *Danegelt*, which after the Conquest was paid to the King, we see by that Author *primum statuerunt Angli; Statutum Anglorum* must needs be by Parliament.

If the *Danegelt* in time of such great danger, was not imposed without Parliament, it must strongly make against those that shall object it.

The Danes having quitted the Realm, that the *Danegelt* was released by *Edward the Confessor*, as *Ingulph. fol. 510.* and *Hoveden*, fol. 253. and all our latter Historians. That of *Ingulph.* (my Lords) alone is without all exception, who lived in those times; for he was brought up in England in the Confessors days, and therefore knew what he wrote. He afterwards went over into Normandy, and was the Conqueror's Secretary, came over with him to the Conquest, & at his own Charge maintained 12 Horses: he was so great at the Court, that as himself writes, fol. 514. *quis voluit humiliavit, quos voluit exaltavit*: and p. 518. A Charter of the Conqueror's to the Abbey of *Crowland* was made *ad petitionem familiaris mei Ingulphi*, and therefore in all likelihood would not report this partially against the King.

My Lords, That we are not to put out our Fires at the Ringing of the *Coverfew-Bell*, we have no other Law for it, but *Disuse*, and the Testimony of Historians, that H. 1. released it.

For that of the *Black Book*, that *William the Conqueror* retained it *quando Bella, vel Opiniones Bellorum insurgebant*; as that Book is mistaken in the thing, saying it was 2 s. every Hide, being in truth but one; so it is possible he might mistake in the other too: That it was released *in aeternum* is apparent; that many things were done *de facto*, to the infringing of the liberty of the Subject, both in his time, and of H. 1. and H. 2. too, it is clear by our Historians. And if it were not released before, yet that King *Stephen* released it, is written by *Huntingdon*, fol. 221. *Hoveden*, fol. 276. *Hoc Deus voluit*, say those Historians, *sed nihil horum tenuit*; and as all our Historians agree, that after H. the Second's time, in whose Reign the *Black Book* was compiled, it was never paid, so may it be collected out of the *Red Book*; for all or most of the Aids and Escuages in H. the Second's, and King *John's* time being there mentioned in 8 H. 2. *quod Danegeldum assensum fuit*; but after that, neither of his time, nor of King *John's*, is any more mention of it.

Sir Henry Spelman in his Glossary, that when it was taken in the Conqueror's time; and since that, it was *Consensus Magnatibus Regni & Parliamentariis demum Authoritate.*

My Lords, In the last place, if the succeeding Kings

637. Kings *mutato nomine*, only have in lieu thereof laid other Taxes upon the Subject, they must then hold proportion with that of *Danegelt*, that is, that they have been equally set upon all the Inland Towns throughout the Kingdom as that was. 12. Upon every Hide of Land: and likewise in time, and that there was no intermission but that in R. 1. and King John's times which were active, that then it was put in execution.

Clo. 15. *Johannis m. 3. Dor. & 7. and Matthew Paris p. 312, 313.* The Pope had granted the Crown of England to the French King, who was ready to invade the Realm; great provision of Shipping was made *ad liberationes Regis, & ad stipendia Regis*. So far was this King in this time of necessity, to impose any aid upon the Subject for the Sea-service, as that he himself bore the charge.

My Lords, The next authority from the right which I shall insist upon, is that in the terms of the Law, fol. 114. in the Title of (*Hydage*) the taxing by Hides was much used in old time, and that chiefly in King *Ethelreds* days, who in the year 1006. when the *Danes* landed at *Sandwich* in *Kent*. taxed all the Realm by Hides, and every 910. Hides of Land should find one Ship.

My Lords, My first answer is, That this was done when there was a formidable Enemy, and which soon after conquered the Kingdom, was upon the Shore, as by the Book appears, and therefore likely that the Courts of Justice were shut, and that the King was in Person in the Field.

Secondly, This was but *actus unicus*, and even by the Common Law that so easily admits of Customs is not good, it's *actus Binus* that hath any colour *inducendi consuetudinem*.

Thirdly, it appears not by any thing in the Book, but that this might be done by Parliament, many of the ancient Acts of Parliament are *statuit Rex &c.* And whereas the Book saith, taxing by *Hydage* was much used in old time; That these were by parliament appears both by use and authority, express in Print. *Doomsday* in *Barkshire*, *quando geldum dabatur communiter per totum, Barkshire dabat Hydum 3 s. Matthew Paris, p. 780.* many *Caruragia* and *Hydagia* recited in Parliament that had formerly been given to that King in Parliament.

Bracton, in his second Book, fol. 37. is express in the Point, that they cannot be taken but by grant in Parliament, his words are these, *Sunt quedam communes prestationes qua servitia non dicuntur, nec de consuetudine veniunt, nisi cum necessitas intervenerit, sicut sunt Hydagia & Caruragia de necessitate & ex consensu totius Regni introducta, Rot. p. 8. h. 3. m. 4.*

My Lords, The next authority I shall insist on, is the case of the Abbot of *Roberds-Bridg* in *Kent*, which because *prima facie* it seems to be in point, I will put it at large.

M. 25. E. 1. *finiente C. B. R. 77.* The Abbot brought a *Replevin* again *Adam de Bridgland* and others for taking his Castles; the Defendants avow in these words, *dicunt enim quod occasione turbationis inter Regem & Regem Francia suborta assignatus fuit Will. de Leyborn ex parte regis ad Custodiam Maris faciendam, ratione cujus custodia faciende Terra & Tenementa hominum ejusdem Comitatus agitata fuerunt ad Custodiam faciendam, and the Abbot was seised 22 E. 1. at 7s. 23 E. 1. at 13s. and 24 E. 1. at 15s. ad predictam Custodiam faciendam, and because he resisted to pay that, the Defendants being Collectors for the Town distrained*

the Abbot. The Abbot in Bar of this Avowry says, that for his Lands he was assailed to find a Horse and Man in *Subsidium Custodia predicta*, and that he found this Man and Horse accordingly, *ad eandem Custodiam faciendam*, and therefore demands Judgment, *si una & eadem occasione Custodia predicta*, he ought to find the Horse & militemus *predictam pecuniam solvere*. The Defendants maintain their avowry, and say, that the Abbot had divers Lands within the Town, and that he was seised for them for money, and that he was not seised for those for the Man and Horse, therefore issue is joyned and day given without any more thereupon that I have seen.

My Lords, Besides the Authority of it in point, these two things may further be objected from this Case.

The Common use that 22, 23, 24. E. 1. the County was agisted *ad Custodiam Maris*, and likewise to find Forces.

My Lords, For the last I have before admitted, and by the Statute of *Winchester* this may be done; for the Service was to be performed in *Kent*, the same County where the Land lay.

My Lords, Because this Case *prima facie* hath some shew of Authority in point, I shall endeavour a full and clear answer to it.

By the Case it self it appears, that these Seises were in time of War, the words are *occasione turbationis inter Regem & Regem Francia*; neither was the War with *France*, only at that time, but likewise with *Scotland* and *Wales*, and all the effects of War.

The French had landed in divers parts of the Realm, and in particular 23 E. 1. in this County of *Kent*, and had burnt the Priory, and the greatest part of *Dover* Haven was shut up for a great part of that time, the goods both of the French and Scotch seized throughout the whole Kingdom, the Lands of all Priors Aliens seized, and those that were upon the Maritime parts removed, and Natives put in their Houses, and all Strangers whatsoever that landed within the Kingdom to be arrested: all these, if any of them shall be denied will be made good, not only by our Histories, but likewise by the publick Records of the Kingdom: so that my first answer is that these Seises were in time of an actual defensive War from the two next and greatest States unto the Realm.

My Second answer is, that it appears not at all by any thing in this Case, that these Seises were made by any Authority from the King, for the words are only in the general, that the County was assailed, and that the Abbot himself was assailed, says not by whom or whose Authority.

That it was not by the Kings Authority appears by *Leyborns* Commission, appointed *ad Custodiam predictam faciendam*, as the words of the Case are; for by his Commission whereby he was to do this, which is *Rot. vas. 22 E. 1. M. 8.* He was so far from having any power to tax the County hereunto, that he is Commanded for Victuals, Arms and other things that he shall need in this business, that he shall pay those from whom he shall have any such thing, which likewise is entred in the *Co's 23. E. 1. Rot. 77.*

My Lords, That there were Parliaments in every one of these years, appears by the Summons, and those in words not usual; for the great Fleet of *France* being mentioned, and that the French did intend *Linguam Anglicanam omnino delere*, they were now called *ad tractandum, Ordinandum & faciend. nobiscum*, and the Lords & *allis incolis Regni qualiter sit hujusmodi periculis obviandum*; and it is

in the Close Roll, 23 E. 1. M. 4. dorf. and 24 E. 1. Anno M. 7. dorf.

1637. My Lords, That accordingly order was taken cum incolis, and that the Gentlemen and other Inhabitants, by way of by-law or agreement amongst themselves, did make provision in this particular, I shall endeavour to prove to your Lordships, that it hath been done at other times, and such by-laws good, appears in 14 E. 2. B. R. Ro. 60.

The Scots entring Duresme, a by-Law was made by the Inhabitants for the raising of money; and one that refused it, was adjudged to pay it: Besides, Leybourn who was Admiral of all the English Fleet, there were Custodes Maris in each Maritime County: These, as appears Com. 24 E. 1. Ro. 78. dorf. were chosen by the Commonalty of each County.

And that these, together with the Sheriff and Inhabitants did make Orders for those things, appears by the Com. 23 E. 1. Ro. 79. where Writs are directed to the Sheriff of Kent, and all the Sheriffs of other Maritime Counties, commanding them, that Circa Maris Custodiam visis presentibus Milites, & Potentiores liberos homines de Balliva tua evoces, & cum ipsis provida circumspectione deliberes, how he should do it. This, I conceive, is expressed in point, and the practice grounded upon that in Parliament, ad ordinandum cum incolis.

My Lords, my third Answer to this Case is, that these Sesses were for Land-service only, and not for Shipping.

And this appears first by the Case it self, for the Abbot in Bar of the Avowry says, that he was fessed to find a Man and Horse in Subsidium Custodia predicta, which must be for Land-service, and therefore demands Judgment si una & eadem occasione custodia predicta, he ought both to find the Horse, and to pay the Sess.

My Lords, this is not denied by the Defendants; but they say that the Abbot had other Lands, and that this Sess was for those other Lands; so that its admitted that the Sess for the Horse, which must be for Land-service, and that for which they avow, were both of the same Case; all the difference is, whether the Sess were upon the same Land, or not.

My Lords, if the Sesses for which the Defendants avow had been for Shipping, they might have admitted all that the Abbot had said in Bar of their Avowry, that is, that notwithstanding he found Arms for Land-service, that yet he might for the same Land have been fessed again to the finding of Shipping: Neither do I doubt, but that the parties in the actions now before your Lordships do find Arms, and yet they are fessed for the Shipping, and that it will be stood upon by the other side, that the finding of Arms for Land-service, excuseth not for the Shipping.

But it may be said, that the very words are, that the Sesses were pro Custodia Maris.

My Lords, by divers Records it appears expressly, that the Custody of the Maritime parts of the Land is called Custodia Maris.

Claus. 23 E. 1. m. 4. dorf. A Writ directed Collectoribus pecunia ad custodiam Maris in this County of Kent, commanding them, that in respect that the Cinque-ports were at the charge of Shipping quod quieti sint de custodia Maris facienda, which must needs lye at Land.

Com. 24 E. 1. Ro. 79. A Writ to William Bonill, & Sociis suis ad custodiam Maris in Com. Suffolk assignatis, and yet all that they are to do in that

Office is for defence at Land: So Tr. 31 E. 1. N. 20. Com. This Custodia Maritima, how it is to be done, appears Rot. Parl. 46 E. 1. N. 49. and by the Statute of 5 H. 4. c. 3. it is to be done as heretofore it hath been done; according to the Statute of Winchester.

My fourth Answer to this Case is, that the Plaintiff was a Clergy-man, and the Clergy having denied in Parliament to aid the King as the Laity did this year, and at this time they stood at the Kings disfavour; and in Hill. Term, as appears Com. Hill. 25 E. 1. Rot. 17. the King commanded all his Courts of Justice, that if any Clergy-man was Plaintiff in any Action, quod nullum ei fiet remedium; and therefore Wals. p. 41. in his Annalis Concilio of this year of 25 E. 1. says thus, that it was Clero Anglia importabilis, quia de protectione Regia est exclusus, & per Regem nihilominus deperditus.

But, my Lords, if I should let all go that hath been said, yet under your Lordships favours, the Case is of no Authority at all; for admitting that the Sesses were for Shipping, and that by the Kings Authority, yet had the Plaintiff no reason to put himself upon the point of Law, when the matter of Fact would help him.

For the Plaintiff says, that he had been fessed before for those Lands; the other part says no, but that it was for other Lands; and upon this the Issue is joyned.

Nay, my Lords, if there be any Authority at all in the Case, under favour, it's strong the other way. For if the Sesses were for Shipping, the Abbot says, that before he had found Arms for the Land-service, and demands the Judgment of the Court, if therefore he ought to pay this Sess too. The other part, if the Law had been clear, might have demurred thereupon; so that the Authority sways this way, that none for the same Land are chargeable for Arms at land, and shipping too.

My Lords, not only for the clearing of this Case, but of all other things that concern it, either in the meer right or matter of Fact before the 29 E. 1. that before the Parliament at Lincoln, 29 E. 1. all things concerning the Kings Prerogative, and the Subjects Liberty, were altogether upon incertainties.

The Statutes of Rumsey Mead of Mag. Charta and Charta de Foresta had been confirmed at least eight times, from 17 Joh. unto 29 E. 1. and yet not only the practice, but likewise the judgments in Courts of Justice were clear contrary to the plain, both words and meaning of them.

By the second Chapter of Mag. Charta, a Baron pro Baroniam integra was to pay but 100 Marks for his relief, the practice and Process out of the Chiquier till 29 E. 1. was always for this relief 100 l.

M. 28 E. 1. Rot. 34. Com. after the death of John Gray that held per Baroniam, the question was, whether he should pay 100 l. as the Record says, prout ante hac onerari solebant, or only 100 Marks propter confirmationem secundum Mag. Charta. and this the Court would not determine before they had consulted with the King, and yet the Statute of Magna Charta had been confirmed but 25 E. 1. and likewise the same year, as appears by the Statute de Articulis super Chartas.

Com. M. 23 E. 1. Ro. 26. Philip Marmion died 23 E. 1. and 100 l. paid for his relief.

It was now 29 E. 1. in question, whether 100 l. or 100 Marks should be paid; and accordingly adjudged but 100 Marks; and Judgment thus entered sciendum enim quod fines isti of 100 Marks admittuntur, licet hactenus they were always 100 l. because

1637. because the King had confirmed *Mag. Charta* 29 of his Reign, and by his Writs had commanded the Courts to inroll it, and would have it *de cetero in omnibus suis Articulis observari*. My Lords, of this kind there be many Cases.

The Charter of the Forrest, *cap. 10.* is *nullus de cetero amittat vitam vel membrum pro venatione nostra*, and yet against the plain letter and meaning, *Com.Tr. 27 E. 1. Ro. 44.* Adam Gower of Scarborough, as appears, had in this Kings Reign been beheaded *pro venatione* in the Forrest of Danby, and now an Inquisition went out to find what Lands and Goods he had, and then upon the return the question was, whether his Land was forfeited, and should Escheat upon such an Attainder, and resolved that his Land was not to be forfeited, *P. 22 E. 1. Rot. 48.* The Kings Shepherd had put the Kings Sheep into a mans ground who had distrained them, and for this Process went out of the *Chequer* to punish the man, who there pleads that he knew not they were the Kings sheep.

And there *Roll. 51. Dorf. Lessee* for life of a Mannour of the Kings with an Advowson excepted, by presenting to the Advowson, the Court declared that he had forfeited the Mannour it self.

By these Cases, it appears that neither the practice nor proceedings in the Courts of Justice in those times, in things between the King and the Subject, are so much to be relied upon as the words of the Law.

Obj. 4. My Lords, It may further be objected, that at the Common Law, before the Statute of Winchester, the King might compell the Subject to find Arms for the defence of the Land, and therefore by the same reason he may charge them to find Ships for defence of the Sea.

My Lords, not granting the thing, yet for the present admitting it, I shall thereunto give these Answers.

1. That his Majesty, by the Tunnage and Pannage, and other Duties at Common Law mentioned, hath a particular Supply for that of Shipping, but hath nothing in particular for the other of Arms, and therefore that may with more reason be laid upon the Subject then the other.

And yet for one of the principal things in that Statute of Winchester, that is, for Watching and Warding, the Kings before that Statute, had a particular and certain Farm or Sum of Money of each County for doing of it, which after that Statute, the County was discharged of; because by that Statute, the Counties took the Charges of doing it upon themselves, as the Cases are, *Co's Hil. 20. E. 1. Ro. 10. and Br. Tr. 33. E. 1. Roll. 23. Dorf. 18 l. pro Can. and 76 l. pro Northumb.*

My second Answer is, That each Subject, and that *secundum statum & facultates*, is already chargeable for that of Ships, as hath been before proved; and therefore if he be chargeable both in Money and Kind too, the Charge is double in the one, and single in the other: Neither would it hold proportion with these Cases of Watching, where the counties were discharged of the Money, when they took the things in kind upon themselves: And therefore this Objection cannot (as I perceive) be made, unless his Majesty first quit all the before mentioned Duties upon Merchandize.

My Third Answer is, That in that of Arms, there is only *Mutatio speciei*, changing of Money into Arms; for they remain the Subjects still in property, and are in his own custody; he may sell them, or employ them at his pleasure for his private use.

But in this way of Shipping, there's *Oblatio rei*, in respect of the Victuals and Mariners wages 26 Weeks. *Car. 13.*

My Fourth Answer is, That that of Arms is not only for the defence against Foreiners, but in Watchings and Wardings upon Hue and Cry, and otherwise, to keep the Peace within the Realm, and for the execution of Justice, by assailing the Sheriff, when he shall have occasion to use the *Possessio Comitatus*, and otherwise; all which do fall in the other.

And as the use of Arms is more general, so are they for the more immediate Defence of that Element, wherein we have our most usual and certain livelihood.

And yet the ordering of these for 300 years and upwards, was by Authority of Parliament.

Lastly, *My Lords,* In respect of the Victuals and Mariners Wages to be found for 26 weeks; the Case in question is as I conceive, cannot be compared to that of Arms, but rather to that of taxing the Country for finding of Souldiers to go out of their Counties.

5 Obj. My Lords, the next Objection that I shall endeavour to give answer unto, is, That it is in His Majesties Power, for the safety of the Realm, to shut up the Ports and Havens of the Kingdom, and thereby to make a general stoppage of all Foreign trade: And therefore, as his Majesty may anticipate gain, by barring Men from the exercising of their Callings, so by the same reason may he take something away.

My Lords, My first answer is, That the Law therein doth trust the King only with that, which being done, is most to his own loss: as in respect of the Customs, and other Duties, this of prohibiting Forreign trade would be.

My second answer is, That this cannot be done but in time of War, and imminent danger; and that this objection therefore will not be seasonable, until the other be put in execution.

6 Obj. The last Objection is, That in divers old Charters of Liberties and Exemptions, the Patentees are freed *de Danegeldo & Navigio*; hereby is implied a Right. My Answer is, from the same Charters it may as well be inferred, that the Subject is bound to make and repair the Kings Parks and Houses, and to make new Bridges, and divers other things, these Charters of exemption freeing them *ab operationibus omnium Regalium Parcorum & Pontium*, and divers other things, which by Law the Subject is not bound unto.

My Lords, for the Precedents, that from matter of Fact and Charge may be brought for proof of the use and matter of Fact: As I do not profess to know them all, so if I did, yet time would not permit a particular Answer to each of them; I shall therefore offer this general Answer to them.

That most of them, or all of them, are for charging the Sea-Towns and not of the Inland-Counties: That besides the *Cinque Ports*, many great Sea-Towns and Havens, which have Ships, have many great Privileges, and are enfranchised for that purpose, is declared in the *Parliament Roll* of 13 E. 3. N. 11. before cited. These that are to find Ships, besides the many prescriptions for Wrecks and benefit of Fishing, are discharged of Arrayes and defence at Land, as appears not only by that Parliament Roll, but by the *Scotch Roll* 10. E. 3. M. 28. *Dorf.* The Town of Shoreham in the County of Sussex, time out of mind had found Ships, and therefore being by the Commissioners for the Array taxed to Arms for the Land-Service, a *Superfedeas* for that cause awarded.

Iter? Suffex 7 E. 1. Ro. 63. *Dors.* William de Bruse Lord of Shoram, upon his Claim adjudged, that all the Customs of Merchants at Shoreham belonged to him.

Anno
1637.

Rot. Pat 26. E. 1. N. 16. The Town of Yarmouth, pro servitio Navium impenso & impendendo, are discharged of all Subsidies granted in Parliament, pro Corporibus Navium & attito, & Co'ia Tr. 31. E. 2. R. 30. The Town of Baldsey in the County of Suffolk, for the same cause discharged by Judgement of the Court.

Iter. Cant. 21. E. 1. Ro. 44. *Dors.* Certain Landholders within the Cinque Ports have Tall de quolibet homine applicante, upon their Lands.

Petitions 1 E. 3. Ro. 9. *Office de Pa'*, in consideration of the Charge of providing Ships, the Town of Southampton petition, That their Privileges of having Customs within their Ports be confirmed unto them: That they had these, appears *Hill*. 13. H. 4. B. R. Ro. 39. where they are indicted for Extortion, for taking more Custom than was due, *Rot. Par.* 45. E. 3. The Commons pray, that the Franchises of the Sea-Towns and Havens may be allowed them as heretofore, and that by default thereof the Navy of England is much decayed, to the disaffurance of all the Realm, if need should be. That these that are not Maritime Towns, ought not to be charged, which is the very Case of the Defendant: I shall cite to your Lordships express Precedents.

Claus. 13. E. 3. M. 14. *Dors. pars secunda*, The Town of Bodwine in Cornwall discharged of Ships, because dicta villa portus non est, & longe a Mari distat, and hath not used before-time to find Shipping: And an inquisition awarded to enquire of these particulars; whereby it appears, that the Inland-Counties had not so much as de facto been usually charged with Ships.

Rot. Franc. 21. E. 3. M. 17. Those Towns quae naves non habent & quae aliis naves habentibus contributoria non existunt, that they should be discharged, it appears thereby, that there be some Towns that are Members of great Sea-Towns, and are contributory to Shipping, and other Inland-Towns are not contributory, 2 *Pars Pat.* 2. Ro. 2. M. 42. A Charter 51. E. 3. recited, whereby it is likewise recited, that the Burgesses of Beverly had by their Petition in Parliament complained, that that Town is in loco arido, & a Mari, that ad sinistram procuracionem quorundam Machinantium ipsos indebite praegravare ad contribuendum simulcum hominibus villa de Kingst. super Hull, to the making of a Barge, per mandatum Regis. Now they pray de omnibus & singulis huiusmodi oneribus insolitis, to be discharged by the Charter; it appears that they are discharged accordingly, and this now exemplified 2 R. 2.

To those of 48 H. 3. both for Taxes for Soldiers, and some for Shipping, I shall give a particular Answer: That it was then Tempus Belli, when the Courts of Justice were shut, for the Commissions went out after April: And in the Red Book fo. 241. 6. It was Tempus Belli from 4. Sept. 48 H. 3. until the 16th. of Sept. 49 H. 3. and that the Courts of Justice were shut up, appears in 49 H. 3. R. 4. Co'ia Scaccario non fuer' Barones residentes in Scaccario ad Pas. 48. H. 3. and Co'ia Pas. 49. H. 3. propter turbacionem nuper habitam; there were no Sheriffs in aliquibus Comitibus, 48 H. 3. and those that were, non potuerunt sic facere quae ad Officium Vic' pertinebant.

To those Commissions that went out before 29 E. 1. I have given an answer already, That the liberties of the Subject had been adjudged against the direct words of Magna Charta.

To the Commissions 30 E. 1. M. 9. In the Patent Roll de puniendo homines that refused, it is, quia ad rogatum Regis mittere concesserunt so many Ships, and if a By-Law were good to bind them, (as is before proved) as well as their own promise; neither have I seen any legal Proceedings against any of those, that refused at that time, save only against the Cinque Ports that are cited by their Service.

P. 53. E. 1. R. 38. B. R. & Ro. 82 against Seaford, as a Member of the Ports, and the Charge is, That per servitium tenent' invenire unam navem.

For those of E. 3d's time, his Reign, for the most part, was a time of War, and that the offensive brought a defensive upon the Kingdom, is plain: *Walsing.* says, that P. 119. 10 E. 3. the French, *Walsing.* P. 131. burnt Southampton. *Stone* P. 234. 12 E. 3. they assaulted Southampton, and burnt part of *Plimouth*. 13 E. 3. They assaulted the Isle of Wight, *Rot. Parliament* 13 E. 3. pars prima, N. 9. That they had done much mischief upon the West-Coast, and conquered the Isle of Jersey.

Scotch Roll 10 E. 3. M. 5. *Dors. & M.* 2. All the Ports throughout England shut up.

My Lords, in these years, wherein most of these Writs issued, the great danger appears; and yet that the Charge laid upon the County was by Law and Agreement, I shall cite to your Lordships the *Scotch Roll* 10 E. 3. M. 3. The French riding at Anchor at the Isle of Wight, the King sent divers Privy Councillors to Dover, and commanded all the Officers, Masters of Ships, Mariners, and Inhabitants, from the Thames to the West, to come thither, & ad tractandum with those Lords of the Council about the Defence of the Sea by Ships; and in the Records it is cited, that notwithstanding the Kings former Command, haftenus quicquid non fecer' in praemissis, the Writs for Shipping issued before, and were not executed, and therefore now a Commission, if so it might be done with consent. 20 E. 3. Other writs went out.

Rot. Fr. secunda pars, M. 24. 20 E. 3. writ to Yarmouth, propter pericula Maris, to Rop up their Havens; and *Rot. Fr. prima pars* M. 19. *Dors.* That no Fisherman go out to Sea.

I shall endeavour a particular Answer to this: *Claus.* 10. E. 3. M. 23. The Writ says, That vadia pro defensione super Mare solvi non solebant temporibus Progenitor' of the King.

To this I shall give this Answer: That these Wages were demanded before the time of their going to the Service, and the Record is, That huiusmodi vadia have not been paid.

My Lords, if this Answer be not sufficient, my second Answer is, by denying the thing; for besides that of 15 John, in that time of necessity, the Ships were to serve ad liberationes, & ad stipendia Regis, and 46 H. 3. M. 4. both in E. 1. E. 2. and this Kings time, before the tenth year of His Reign, Wages for defence were frequently paid.

My Lords, because I know not how far this will be stood upon, I shall spare the citing of any of them, and shall to this purpose cite to your Lordships only this Case. It is amongst the Parliament Petitions 1 E. 3. and transmitted into the Chiquer, H. 2. E. 2. *Dors.*

The Fishermen upon the Coast of Yarmouth, 20 E. 2. were daily robbed and killed, and for rescue of them those of Yarmouth were commanded to set out some Ships to Sea, and Adam Bridlington, the Kings Clerk, sent with 300 l. to set out this Fleet, which the Men of Yarmouth intended they should have as Wages for the Voyage; but the Clerk would not let them have above 230 l. and that as Money

Money borrowed of the King; and for this they gave their Bond of re-payment thereof: 1. E. 3. They complained in Parliament, and pray that they may be discharged of the 230 l. and that the Bond may be cancell'd, which is adjudged accordingly into the Exchequer for a Tryal, whether they had done the Service or not.

My last Answer to these Precedents is, That the Matters of Fact in these years, to the violation of the Subjects Rights, procured upon fresh Suits, not only the before-mentioned Stat. of 14 E. 3. cap. 1. against any charge to be laid upon the Subject without assent in Parliament: But afterwards they complain in Parliament 15 E. 3. N. 9. That their Goods were seized, and their Bodies taken without any Suit commenced against them, contrary to *Magna Charta*, and the Statutes and Ordinances made thereupon with so much discretion of their Ancestors.

And in particular, in the Parliament Roll of 22 E. 3. N. 4. for the guarding of the Seas. And in 36 E. 3. N. 9. and 37 E. 2. N. 2. as before in 15 E. 3.

My Lords, I now come to the last thing, which is the Proofs in the point which I shall humbly offer to your Lordships.

My Lords, the first Authority that I shall cite to your Lordships, is the Patent Roll 26 E. 1. M. 21. whereby I shall endeavour to prove to your Lordships these two things.

1. The confession of that King and His Council, that he was so far from having power to tax the People for the Custody of the Sea; as that he is bound to make satisfaction for any thing taken from the People for that purpose.

2. The second, That the Charges laid upon the People for the Custody of the Sea, were the principal grievances that occasioned the making of the Statutes of 25 E. 1. and *de Tallagio non concedendo*.

For the last, the King there declares, That he had a desire to redress the grievances made to the People in His Name, and instanteth what they were, *veluti de rebus captis in Ecclesiis, & omnibus aliis rebus captis & asportatis, tam de Clericis quam de Laicis, sive pro Custodia Maris, vel alio modo quocumque*: Whereby, my Lords, there's an acknowledgment, that it is a grievance, and to be redressed, to lay any Tax upon the Subject for the Custody of the Sea.

Commissioners are there named throughout all England to enquire of these grievances; herein they are to proceed accordingly to certain Instructions from the King and the Council; Which are these three.

1. Whether the things were taken without Warrant; and if so, then the party that took the Goods is to make satisfaction, and further, to be punished for the Trespass.

2. If there were a Warrant allowed, if so, then the Officer was to make satisfaction.

3. If all were done according to, and in pursuance of the Warrant, and no more; then upon certificate thereof unto the King (as the words are) *& en ferra tant que il se fendra appayes pur reason*.

The King hereby promiseth, that whatsoever things were taken from the people by any command of His, for the Custody of the Sea; that he will make reasonable satisfaction to the Party for such things.

My Lords, for the second thing, that is, That the grievances occasioned the making of these Statutes, is clear from the words of the Patent;

for they were made *Post guerram inter Regnum & Regem Francia*; which, as appears by the Case of *Car. 13.* the Abbot of *Roberdsbridge*, was from 22 E. 1. until 25 E. 1. and by all our Historians and many Records.

It appears likewise by those other words, that the King before His going into *Flanders*, intended to have remedied those grievances; He went over in September 25 E. 1. and the Statute 25 E. 1. was made the 10th of October after.

Hence likewise it follows, that the exception of the Kings ancient Aids and Prizes mentioned in the Statute of 25 E. 1. extends not to this of charging of the People to the Custody of the Sea; that being one of the principal grievances that occasioned the making of it: That the same grievances caused the making of the Statute *de Tallagio*, I have before offered the Proofs to your Lordships.

2. My Lords, The next Authority which I shall present, is the *Co'sa H. 23. E. 1. Ro. 77.* there the King commanded 30 Gallies to be made by several great Towns; every Galley was to have six score Oares a piece: These were *pro defensione Regni & securitate Maris*. My Lords, the Cases are many in the *Chequer*, where the Money for making of these Gallies was recovered against the King.

I confess, My Lords, that the King had promised payment to those that made them, which I shall thus submit to your Lordships; That in case the King might have commanded the making of them at the Charge of the Towns, that then the Kings Promise was but *nudum pactum*, in promising payment for that which by Law they might have been forced to do; And so the payment rested only in the Kings Grace and Pleasure. But, my Lords, upon Suits in His own time of E. 2. and E. 3d's time, the Moneys for making these Gallies were recovered by several Towns.

M. 29. E. 1. Ro. 29. *Dors.* for York.

M. 31. E. 1. Ro. 77. *Ipswich* and *Denwich*.

P. 5. E. 3. Ro. 21. for him, *prout iustum fuerit*, nothing having been paid before.

Bra. M. 16. E. 2. Ro. 14. both for the Galley made at *Southampton*, and bringing her to *Winchelsey* at their own Charge.

Præcepta P. 1. E. 3. All the Money from *Southampton* not being paid, now ordered that it should be paid.

My Lords, the next Authority that I shall present to your Lordships, is the Parliament Roll of 13 E. 3. *Pars prima* N. 9. and 11. The Causes of calling the Parliament are declared to be these.

1. The keeping of the Peace.

2. The defence of the *Marches*.

3. The Safe-guard of the Sea, that the Enemies might not enter the Realm to destroy it.

These three Points, for the Commons to advise upon, are put into Writing and entred in the Roll.

My Lords, by the Articles themselves propounded on the Kings part, it appears that the Commons are not chargeable to the guarding of the Sea; that this advice of theirs should not be prejudicial to them, to bind them thereunto; and that there are Ships enough in England to do it, if the People were willing, N. 11. The Commons afterwards in debating of these Articles, when they came to this of the Sea, Notwithstanding the caution before, they are afraid, that if they should debate it, that it might imply that they are chargeable to do it; and therefore they protest against giving any advice therein, as a thing whereof

Anno 1637. whereof they have no cognizance; and do further declare, that the Cinque Ports, and divers other great Towns, that have Franchises, and are bound thereunto, that they should do it. And therefore the Merchants, Masters of Ships, and Mariners through *England*, are summoned to be at the next Parliament for advice about Shipping.

4. My Lords, the next Authority is the Parl. Roll 22 E. 3. N. 21. The Commons petition in these words *que le guard de la mere se face deseries Res soit le guarda fit man adrefait amant vis senois, ut semble que Mellin guard ne poit estre fait que le Roy ne frit no post il de marrit issint per de la sur Ca' guer' & pr' de faire de cest terr'.*

My Lords, the Commons having formerly granted the King divers aids and subsidies upon Wools, Wool-Fels, and Leather, and otherwise for the guarding of the Sea, they now grew weary of it, and desire that the King himself from thenceforth should bear the whole burthen thereof, and charge him with his promise to that purpose.

My Lords, This Petition, although in the name of the Commons, yet the Lords joyned in it; for otherwise all our Acts of Parl. of those times being made upon Petition and Answer, should be without the Lords assent: Hence it appears, that the whole Kingdom at this time, was so far from thinking that the King could charge them without their contents, to the guarding of the Sea, as that they alledge, that the King himself ought to bear the whole Charge: neither doth the King deny His Promise, nor wholly deny the thing; for though he saith, that it should be done as it hath been done before, yet it is with a qualification, because the Sea cannot be kept better than he hath kept it, by reason of his so often being at Sea in Person, in going and returning from *France*, and and diverting the Enemy by his Wars in *France*; if the King had given His absolute denial, yet here's the Judgment that both the Houses of Parliament express in point.

Rot. Franc' 21. E. 3. Secunda pars N. 11. and 9. The Merchants had granted 2 s. 8 d. upon their Goods till Michaelmas, for providing 120 great Ships *pro secura conductione Navium & Merchandizarum, & pro defensione caterarum marinarum Regni, & alius periculis his guerrinis temporibus regno venientibus.* This Grant being made, the King alledging that this was not sufficient for the Service, and the causes of the stoppage of Trade by reason of the Wars, the King now lengthens out the time from Mich^l to East^r following, and to satisfy the People, the King by His Proclamation declares, That the 2 s. 8 d. shall cease at Easter according to the Grant; which, as it should seem, not satisfying the People, or the King still continuing the taking thereof, the Commons in Parliament 22 E. 3. N. 16. pray that it may cease, and that by procurement of no Merchant, *Plus Pargent soit continue.*

The Answer is, that it should cease.

An Imposition but for half a year, and that upon Merchandize, and by consent of the Merchants for the defence yet taken off upon complaint.

The Answer is, that it should cease.

My next Authority is the Parliament Roll 2. R. 2. Pars Secunda N. 5. before cited, where the great Council and Sages of the Kingdom resolve, That the Commons are not chargeable to the defence of the Realm without Parliament, extends to this Particular of the Sea, for the present preparation whereto the Commons are not chargeable for defence at Sea; and therefore the Money lent was to provide an Army for the Sea *en defence & sal-*

vation del' dit Realme, & de la Navie, & de costiers del' Mere.

My Lords, the next Authority is the Parliament Roll 2 H. 4. N. 22. Commissions to charge the People to make Ships for the defence of the Realm without consent in Parliament, repealed by the King, and the whole Parliament for that very cause.

Item pur ceo quere tarde divers Commissions furent fait au divers Civies, Burroughs & Villis du Roylme, pur faire certain barges & ballengers s' assent du Parliament, & outment que estre fait devant ces biens, n' les Commons pray a nostre sur le voy que le dits Commissaris soyent repeales, & quils ne soyent de nul force ne fait a quors loi' fut respondus que le Roy voer que m' les Commissions soyent repeales in tous points mes pur le grand necessitie, que ad des tiels vesselx pur defence du Roylme, en case que les quens se priment le Roy voit Communer de rest matter ovesq, les sirs' & puis apres le monstre an dits Commons pur eut saver leur Counsel advise in tiel part. The first Commissions repealed, because the Commons were not chargeable without consent in Parliament; and now the King will put it into the Parliamentary way by doing with assent of the Lords and Commons.

8. My Lords, my next authority, is the Parliament Roll 9 H. 4. The cause of the calling of the Parliament, is for the safeguard of the Sea, and of the North *Marches*; and N. 17. great mischief shewn for default of the safe keeping of the Sea, and N. 21. It's there inrolled by the Kings Commandment, that there was communication had between the King and the Lords of the defence of the Realm, and for resisting the Enemies, who made preparation on all sides; whereunto sufficient resistance cannot be provided, without that the King have in His Parliament some notable Aid granted unto him.

My Lords, the King hereby acknowledgeth, that he cannot without the Parliament charge the People for the safe keeping of the Sea; that being the principal part for the defence there intended. The same with the Summons, that without the consent of the Commons, *negotia prad. infraremanerent*; and with the Summons in the Close Roll, 23 E. 1. before mentioned, *quod omnes tangit per omnes debet approbari.*

My Lords, the next Authority is the Parliament Roll 4 H. 4. N. 28. The Lords Spiritual and Temporal, and the Commons grant to the King a Subsidy upon the Staple Commodities, and Tunnage and Poundage, and likewise a 10th and 15th with this Protestation: *Protestant que cest grant en temps avener ne soit post in example de charger les dits sur ne les Commons du Realme de nul maner Subsidie ne 10th ne 15th a les guerris descore, gates on safeguard de mere sans ne soit per les volunts des Seignors & Commons du Realme & ceo a novel grant faire in plein Parliament.*

Rot. Parl. 6. H. 4. N. 12. And Rot. Parl. 1. H. 5. N. 17. the same Protestation as before.

My Lords, that the charge of the defence at Sea, and that in a large proportion, by reason of the before-mentioned Duties, is to be born by His Majesty; I conceive that it will not be denied, that in *Subsidium*, and Aid of His Majesty, therein the Commons are not chargeable without their consent in full Parliament: In these three Records, there is not only these Protestations of the whole Realm, being made by the Lords and Commons, but likewise those Kings consents, by accepting the things granted, and that without any qualification of the Protestations. Those Protestations, that they are not chargeable to the guarding of the Sea

Sea in a certain way, as are 10ths and 15ths, do much more fail in a way uncertain, as here.

Anno 1637. My Lords, my next proof is from the practise of former Kings, in their frequent demands of Aids in Parliament for the defence of the Sea, as well before the Statutes of Tunnage and Poundage, as then; and sithence Monies borrowed by the former Kings for Ships and defence at Sea, and Indentures of Retainer for that purpose at the Kings Charge: And not only so, but upon Suit-allowances in the Chequer for Victuals, Mariners Wages, Archers, Prisoners taken in Sea-Fights, *pro defensione*, and also other things necessary for Shipping, when for defence of the Realm. Whereupon the same Argument may be made in this particular for the Sea, as was before, for the defence in general.

The last thing which I shall press, is that of the *Cinque Ports*. Their Service is certain in respect of the time, but 15 days in a year in respect of the Charge; but 20 Men and a Master, the number of Ships certain.

Besides, that they are discharged of Arms for the Land-Service, they have divers other privileges for the doing hereof; they were free from all Aids and Subsidies granted in Parliament, and are by Privy Seals discharged thereof, *H. 2. E. 3. Co'ia*, about the end of the Roll.

They are freed from all Tolls, Murage and Pontage throughout the Realm, which bringeth a greater Charge upon the rest of the Subjects.

My Lords, I shall thus offer it to your Lordships; If they that have these Privileges shall serve but 15 days in a year, how the others that have no Privileges at all shall do it for 26 weeks, as in the Writ.

Secondly, their Charge is certain in the number of men and Ships; how the rest of the Commons, that are so far from having any privileges or recompence for it, as that they do contribute to this Charge of the *Cinque Ports*, shall, as by the way in the Writ, be altogether uncertain in the matter of Charge, both in the number of Men, and of Ships, and of every other thing.

My Lords, I shall press this further, thus; when the Ports exceed their Charge in the number of Men or Ships, allowance by the King is to be made unto them. This, as it appears by the Quier of *Dover*, and the Patent Roll of 7 *H. 7.* before cited, that after the 15 days they were to be at the Kings Charge. So in the Patent Roll 19 *H. 3. M. 14.* because they found 40 Men in the Ship; the King promiseth payment for all over and above the number of 21. *B. R. Tr. 33. E. 1. R. 22.* allowance to Service in *Scotland*. The Scots, as appears by *Walsh. p. 53.* and other-where, having about that time burnt divers *English Towns* and Ships, and a School-house with 200 Scholars in it.

Visus Com. P. 33. E. 1. R. 70. Pro ingenti Ro. Scotland. 3. P. 34. E. 1. Ro. 37. Co'ia la Composition.

My Lords, if the Ports, who are bound to the defence at Sea, when they have performed their Service, be not compellable to any further charge; I shall humbly offer it to your Lordships, whether those that be not bound at all from the same reason, are chargeable at all?

My Lords, I have now done, and shall not further press upon the patience of your Lordships.

I know that, *Nullum tempus occurrit Regi*: the disuse thereof, I shall press it no otherwise than as it is an interpretation of the Statutes made against all Aids and Tallages in general, and of the complaints in the Parliament of 15. *N. 9. 36. N. 9.* and 37 *E. 3. N. 9.* That those Statutes had not

been duly kept. And further, as it is an Interpretation likewise of the before-mentioned Declarations, Petitions, and Protestations against this in particular, and as it is an Execution of them, and putting them into practice.

Proxis Sanctorum, (as the Divines say) *est interpretis Præceptorum.*

The Claims which anciently the Subject hath made upon the Crown, that none of the great Officers of the Kingdom could be chosen but in Parliament, nor that the King had power to sell any of the ancient Crown-Lands, the disuse it shews, that those Claims of theirs were not legal.

Bra. in his 4th Book, fo. 209. says, That *longa patientia trahatur ad consensum*; The Non-Claims therefore of so many of the latter Kings and Queens, I shall present unto your Lordships, as so many *le Voets* and Declarations of their several consents, that without assent in Parliament they could not have laid the like Sefs upon any of their Subjects, as is now laid upon my Clyent.

Finis Mr. St. John's Argument.

Sir Edward Littleton his Majesties Solicitor General his first Days Argument in the Case of Hambden, Novemb. 11. 1637.

May it please your Lordships,

At the 22th. last issued out a *Scire fac'* out of the Exchequer to the Sheriff of the County of Buckingham, to warn Mr. Hambden to shew cause why the 20 s. should not be charged on him, towards the finding of a Ship of War, with Men, Munition and Victuals, expressed in a Writ Dated 4 August. 11 Car. And the Sums and the Names of the Defaulters was certified into the Chequer by a *Mittimus* Dated 5 Maii, 13 Car. to be there proceeded upon, for the levying of the 20 s. according to the Law and Custom of England. Mr. Hampden appeared, and desired that all the Writs might be read to him: They being read, he demurred; and Mr. Attorney joyned with him in Demurrer, and adjourned out of the Exchequer into this Court, to have the Advice of all the Judges of England.

Before I enter into my Argument, because the true stating of our Question, in this, and all other things, doth exceedingly conduce to the clearing of the thing in question; I shall in the first place observe the Writ Dated 4 Aug. 11 Car. (the ground of this Asses) which was directed into Buckinghamshire, and others into all the Counties of England; and this was for raising Ayds for Ships for the Defence of the Kingdom, with a notable Circumstance, *Quia Salus Regni periclitabatur*; which being expressed in the Record, is confessed by the Defendants Demurrer; and not only so, but testified by the King himself under the Great Seal in the *Mittimus*, and in all Matters especially concerning the publick Safety, the King is *Recordum superlativum & superpræcellens*, as in the great Case of the Earls of Gloucester and Hereford, 20 E. 1. So that the Question is only this:

Whether the King finding in his Judgment the Safety and Preservation of the Kingdom and People, necessarily and unavoidably to require the Ayd commanded by the Writ, may not command

Anno 1637. mand such Ayd as the Writ for saving and preserving the Kingdom and People?

Having stated the Question, I shall now discard diverse things, as impertinent to the Question: not that I, that am sworn Counsel for the King, do agree in those things against the King; but that they are now in question.

It is not now in question what may be imposed by the King upon the Subject, for defence, at their Charge, for Conquest or for Conservation of Foreign Countries or Territories beyond the Sea.

Neither is it in question what may be laid by the King upon his Subjects, for vindicating Injuries done by foreign Princes.

Neither is it in question, Whether Arbitrary Impositions or Taxes may be laid at pleasure on the Subject for the meer increase of the Revenue of the Kings Treasure.

Neither, Whether an ordinary and common Defence, for preservation of the Kingdom, though necessary, may be thus imposed.

But the Question is, *Quando Salus Regni periclitabatur?* In truth the Question is, Whether we can be charged *salvatione nostri & nostrorum?*

Again, It is not in Question, Whether the Subject hath a property in his Goods, or can lose them without consent in Parliament? I shall shew that his Property shall remain unto him notwithstanding this Asses. And the Argument on the contrary favours more of Malignity than Reason, to say, That by this, the Subject shall lose his Property in his Goods.

It was rightly admitted, That the Law of Property must give place to the Law of Nature for common Defence. The levying of a Debt or Duty publick or private, upon any Subject, is so far from deferring the Estate, that it doth affirm it: He hath as good Property that payeth Debts to the King, as he that doth not.

We are agreed *de re* the Kingdom is to be defended; no man in his five Sences will deny that.

De Personis; according to that equitable Rule in the Writ, *Quod omnes tangit, & per omnes debet supportari*. We are in this, as in the Conqueror's Laws; *Sumus fratres conjurati ad Regnum defendendum*.

De Persona, whom the Law hath intrusted with the Defence of the Kingdom, viz. the King; the only difference is *de modo*, whether the right *Media* be observed by the King? And while we are disputing whether he may do it, I am told he may do it in Parliament; and I shall be sorry to hear that there is no Salvation for the People but in Parliament. And while this was the Question, though a great deal of Care was had, and though it was done with Advantage and Policy, yet the Bulk and Mass of what was said, shall appear to fall quite off, as nothing to the purpose. There were multiplicity of Particulars, and a pretty Survey of the King's Revenues, no ways concerning the Case, and as much mistaken in it as he that reckoned without his Host.

He hath done like a discreet Gentleman, and went as near the Question as his Client would let him: He hath agreed Cases more prejudicial than this: as thus; It was admitted, that if there be an actual War, though there be but light Skirmishes, the King may do it; nay if there be but a War denounced, though there be never a Blow stricken, sure then it cannot be done; *Quando Salus Regni periclitatur*.

This is the true State of the Question.

Before I go further, I am not ignorant, and therefore cannot but be sensible with what disadvantage I come to argue this Case, every man being a party interested that hears me; but I fear not but that I shall satisfy all parties: I have Truth to conduct me; *Et magna est Veritas, & prevalebit*.

The Method whereby I may maintain the Right of my Master and the Crown, is this,

I shall first ground it upon Reason. Every humane Proposition is of equal Authority; only Reason makes the difference.

I shall ground my Reason upon the Law 1. Of Nature. 2. Of State. 3. Publick Safety, Necessity and Conveniency; neither shall it be against the Statute-Law, Common Law, or any of the Hereditary Rights and Liberties of the Subjects of England, but consonant to, and warranted by all.

I shall not only prove it *ex rationibus cogentibus*; or as Lawyers say; *ex visceribus Cause*, but *de similibus ad similia*.

I shall confirm it by a Bedtoll of Examples and Precedents of former Ages, and compare them with this, and see if the Case be altered:

1. I shall shew it from the Foundation of the Kingdom, to that which they call the Norman Conquest.

2. From the Norman Conquest, to that of *Magna Charta*, made 9 H. 3.

3. From *Magna Charta* to the Statute *de Tallagio non concedendo*, made 25 E. 1.

4. From *De Tallagio non concedendo*, to the first time of granting of *Tunnage and Poundage*.

5. From *Tunnage and Poundage* to this very day; and that the *Petition of Right* doth no way concern the Dispute.

I shall confute all Precedents, Objections, Reasons, Inconveniencies, Authorities and Records, of which a great number were cited, that there shall not be a Syllable left. And in that,

1. I will either shew that the Record is mistaken, or impertinent, not to the Question.
2. Or those that are pertinent, I'll agree them, or take the force of them away, that none of them shall be able to stand in the way of the King in this way of Defence.

The Fundamental Reason is the exact Rule of the Law in the 10th Rep. (cited by that Learned Gentleman Mr. St. John) *Salus Populi Suprema Lex*: All other Laws positive are subordinate to this Law, and to be regulated by it. We are not to talk of positive Laws, till we have a Kingdom to use them. *Glanvil* saith, *Regiam Majestatem non solum Armis oportet esse decoratam, sed & Legibus*. Arms to defend us, Laws to protect us. *Bracton*, fol. 1. *In Regibus duo sunt necessaria, Arma & Leges*; and gives the Reason: If no Arms, the Kingdom would be at least as a prey to the Enemies: And truly it is a strange Imposture, that the Law should so provide, that the King can give us by his Writ a Remedy for *White Acre* and *Black Acre* for a Clod of Earth, and not to be able to give a Writ to defend the Kingdom when it is in eminent danger.

Nay, positive Laws are abrogated, by reason, when the Safety of the Kingdom and People are in danger: As in *Rome*, a man in the night might not come over the Wall; but if an Enemy did approach the City, then it was lawful for him to do it.

In

Anno. 1637. *Reaf.* 2. In the next place, I take that ground which is taken in all Laws. The Common-wealth is to be preferred before all private estates, 13 H. 3. fo. 15. Opinion of *Shelley*, rather than this shall suffer, the Law will turn some prejudice to particular persons, who are but a part of the Common-wealth, 21 H. 7. fo. 28. 8 E. 4. fo. 23. Bro.

40. 29 H. 8. *Dyer* 36. If the enemy doth approach; for the defence of the Kingdom, one man may make Bulwarks and Forts in another man's Soil, and shall not the King keep the Out-works at Sea, lest the Enemy should Land at our doors?

Reaf. 3. By the King's Command, Suburbs may be razed. In 88. when three great Land Armies, 20000 Foot, and 1000 Horse; 30000 Foot, and 1000 Horse; 20000 Foot, and 1000 Horse. Now lest other Armies should Land in other places, direction was given to keep them from Landing, but if they could not keep them from Landing, then that they should burn down Houses, and come and destroy all whatsoever, that they might not have food and provision to stay there. Where is the Law of Property in this Case, which is so much talked of? The publick and private are so near connext, that they can hardly be separated. The publick loss falls immediately, and by consequence upon particular persons. Be a man in what condition he will be, if the publick loss come to the State, though it fall on his Wedding-day, he shall suffer in it. It is impossible to save private fortunes, if the publick be lost, *Unaqueque pars amat Cor'a, bonum totius, &c.* And another saies very well: No man repines at that which is done for the Common-wealth. If a Subject then can be enabled, without Parliament, to make Bulwarks and Forts in another man's ground, shall not the King that is *Pater Patria* do the like for the defence of the whole?

Reaf. 3. My third Reason is, to inform, or rather to mind your Lordships, that the Crown hath many Powers and Prerogatives over the Estates of private persons. May not the King enter into another man's House, or at the least Out-houses, and dig for Salt-Peter, because it is for the defence, 11 Rep. 81. *Bowles* his Case; and enter into his Lands and dig Royal Mines? There is *Proprietas, Dominium*, that belongs to the Subject; but hath not the power over all without the property *Ratione protectionis Jurisdictionis, &c.* Private interest must give place to a common good. Private prejudice, that any man hath is very well repaired by the publick utility that comes on the Kingdom; Fishermen may justify their going on the Land of others to Fish, because it is *pro bono publico*, 8 E. 4. 18, 19. 6. 29 H. 8. *Dyer* 36. 21 H. 7, 28. A man may pull down the House of another, when the next to it is on Fire.

Jam tua res agitur, paries cum proximus ardet. The private must suffer for the publick Cause, 22 E. 4. fo. 2. 6. 26 E. 1. fo. 45. If two men are fighting, a man may part them and put them into several Houses, because it is for the good of the Common-wealth. If a mad man be abroad, he may be taken, whipped, and imprisoned, lest he do violence to himself and others, 22 E. 4. fo. 45. A Chirurgion may cut off one Member to save the rest, 22 Aff. Plp. 56.

Necessity is the Law of time and Action. Many things are lawful by necessity, which otherwise are not, *Quicquid necessitas cogit, defendit*; and

the Law of time must regulate the Law of the place in such publick things. If a Storm arise at Sea, to cast out Goods into the Sea is lawful for the safety of other Goods, and they whose Goods are not lost, shall be sharers with the others. If it be for safety of Lives, all must be cast out, *Dasseld's and Mowse's Case*, P. 6. Com. P. 16. but if the party hath taken more in than is fitting, and that be the cause of casting away the Goods and not the Tempest, there the party had his remedy.

48 H. 3. There was a sudden Summons to be in Arms both at Sea and Land; They plead there was not a just time of Summons; The King tells them that no man shall excuse himself for want of convenient time of Summons; nay, they shall not alledge the time of Harvest, &c. It being safer to be somewhat diminished in Estate, than the publick to suffer, *necessitas est lex temporis*; what ever is done for publick safety is best, the Laws are tributary, and must give place to the Law of necessity.

What talk we of Formalities, when we are like to lose the Kingdom, when the keeping of the Laws would end the Common-wealth? But this needs not, for I shall shew that his Majesty hath trod in the steps of all those Kings who have worn the Diadem, and swayed the Scepter of this Kingdom.

In the next place I shall shew divers exemptions, *A Custodia Maritima*, not only ancient but late, I will put you one, that is King's Colledge in Cambridge, 21 H. 6.

When these Grants are made, it extends to ordinary defence of the people, and not to extraordinary, no more than if the King Grant an exemption to a man that he shall not be of a Jury; yet if there be no other, that shall not excuse him; *Matth. Paris* 838. he speaks of Priviledges granted to the Archbishop of Canterbury, London, &c. All are granted in *Liberam Eleemosynam*, they are bound to do nothing but to pray, and yet not exempted from publick defence, *Nec adeo libertates, &c. sed propter publicam utilitatem Regni ut pro ea resisteret hostem*. I shall give Mr. *Saunders* John's Argument an answer by and by; yet by the way, if Tenures, Feods Military did begin as was alledged out of *Britton* in the Conqueror's time. How was the Kingdom defended before, if Wardships, Marriages, and Accidents thereupon did not go to the foundation of the Kingdom, what was before?

The King is as much Lord of Sea as Land; *Aequo Dominus Maris ut telluris*, *Selden Mare Claus.* 6 R. 2. Doctors and Students, lib. 2. 51. 5 Rep. 108. It is observed by a great Lawyer, of whose consequence it is to have power at Sea. The Naval Dominion of England is of great consequence and use, for it is called *Doxem Regni*. If then the Kingdom of England consist of Land and Sea, I hope we shall not stand at half defence to defend the Land, and leave the Sea. *Koll. Parli.* 2 R. 2. Ro. 25. It is a great advantage to have defence at Sea, else we should have hot Wars at our Thresholds; while the Sea is in safety, men may go to Plough, and have the Court of Justice open.

The King's of England, of themselves, of their Prerogative Royal, in times of Foreign War, denounced, intended, or suspected, for the preservation of publick safety, may seize the Lands of Priors, Aliens, 48 E. 3. fo. 10. 22 E. 4. 43, 44. 14 H. 4. 36. And can the Kings of England take the possessions of Aliens? and can-

not he enforce his natural born Subjects to defend the Land and Sea? God forbid.

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Nay if we would *parvis componere magna*, we shall find in lesser Cases of consequence, (if they have relation to defence) he may do it, as the King may lay a charge on the Subject for muring of a Town; the reason is, because they have benefit by it in time of danger, and hath not all the Kingdom safety by the Navy at Sea? 3 E. 3. Aff. 445. Westm. 1. ca. 3. 13 H. 4. fo. 14, 15. Sir John Davies Reports, fo. 13. Hist. fo. 58. 33 E. 1. 105. Parl. Book, Wals. 14 E. 1. 60. 7 E. 3. par. m. 2. And the King did not only command it, but took an account of it; and if it was not done, he took it into his own hands, Tr. 27 E. 1. m. 14. Ex Theff. Murage of Carlisle taken into the King's hands, Pat. 14 E. 1. pars 1. m. 14. and the surpluse paid into the Exchequer, and this agrees with the reason of all Laws, where they have a benefit, they must contribute to the charge, 10 Rep. 141. out of 44 E. 3. Nay, for lesser things, as for Paynage and Pontage the King may impose that for a publick good, and the King may distrain all Terr-Tenants, and Land owners, to make contribution, *Secundum statum & facultates*.

The King may dispose of the preparation for defence, he may compel men to be Knighted, because it was for defence, 19 E. 2. Cl. m. 16. Mar. Paris 12. 37. Westm. 465. No man is exempted from defence, Judges are not exempted, yet Judges are not to fight; yet when it comes to necessity they are not exempted, T. 5 E. 4. Moyle 13 H. 4. fo. 23. Clergy-men compelled; Nay, a Serjeant at Common-Law sworn at Common-Pleas is compellable; Sir Jo. Halbert in Henry the Seventh's time, was compelled to be a Knight, 9, or 29 H. 6. Rolfe, a stout Serjeant, Pleaded that he was a Serjeant at Common-Law, and not bound to be a Knight, but he is forced to it; but why talk we of these? There ought to be a Common-wealth before there are Laws, and private ought to give way to publick.

Eminent dangers and perils to a State, doth dispench with ordinary proceedings in Law, *Inter arma silent leges*.

Reas. 9. Nay, if there be but Rumours of Wars, Laws are silent, we must look then to the Kingdom upon Rumours and Opinions, p. 15 E. 1. B. R. Ro. 70. dorf. The Scotch Army they besiege Rippon, the People they promise a sum of Money to them to depart, and give them in Hostages; and that Money should be levied amongst themselves; when the War was over, they would not do it, but they were compelled to it in 14 E. 2. B. R. 60. The Scots besiege Duresme, but they must have ready money; they would not take Hostages. While this peril was on them they met together, and swore that what should be agreed amongst themselves they should stand to. It was ordered, They should go into the Houses of others, and take what money they could find for this purpose. They took from one man sixty pounds; Oh, he was not satisfied, he had a property in his Goods: He brought an Action, and at Duresme it was adjudged for him: but when by a Writ of Error, it was brought into Westminster-Hall, into the King's Bench, Judgment was reversed. And in the time of Queen Elizabeth greater things was done upon lesser occasion.

Reas. 10. The next thing, is the Ships taken from time to time, and the Command of Persons, Watches, Beacons, shutting up of Ports, which are the Gates of the Kingdom, 14 or 10 E. 4. Pa. m. 12. dor. 3 H. 5. 18. dorso. A number of other things commanded by the King for safety; when the Law considers what may happen, it is not material what doth happen; nay, if there be but *vulgaris opinio* it is enough, much more when the King, by his own Judgment, foresees it, 6 Rep. 64. Clark's Case, there they were compelled to build a Hall in St. Albanes for the Judges to sit in, much more in this Case; see Cleggat's Case for Triumphs; and if for State, shall not the King compel for safety of the Kingdom? 12 Jac. & Hill. Hawk's Case for paving of the Way, he may take Corn out of the Sacks of those that come by.

Reas. 11. It is a *Droit Royal* to meddle with War and Peace, Subjects have nothing to do withal, Parl. Roll 13 E. 3. no. 5. 19 E. 4. fo. 160, or 6. Bryan, Chief Justice, saith, That if all the Subjects of England do War with the Subjects of another Kingdom, this is no War, but if the King denounce it, it is War, 22 E. 1. Vascon, m. 16, or 10. they must have a power from the King; true, Henry the Seventh brought Military Discipline to the Parliament to advantage his own ends. Sometimes dangers are fit to be communicated to the people, and sometimes not. The King should best know what is done abroad, who hath his close Council of War, he knows what is done abroad, what can the people tell of these things? and it is very fit that preparation be made aforehand. It is not good to find the Kingdom without a Navy, especially when such combustion is abroad, 18 Eliz. c. 23. It is as much to prevent danger as to remove it, when it is in being, 1 E. 6. Mar. 1. A desired provision to be made before hand; and this hath been the practice of all times. *Jervaisius Tiliurienfis*, Black Book in Henry the Second's time, *Danegelt* before the Conquest paid Annually, but afterwards when there were *Bella* or *Opinioes Bellorum*, and *datum est nobis intelligi Audito Rumore*, &c. are frequent in the Records; nay, if there be but *vulgaris opinio*. Ay, but perhaps dangers will not come? But if they come unawares, where are we then? In the said Case between the Earls of Gloucester and Hereford, there was a great Tumult between them about the Marches of Wales, and this was contrary to the King's Command, and exception was then taken because there was no Record to warrant the *Scire Facias*. The King did affirm it, *Et Dominus Rex in multis casibus est suprallegem*, &c. *Dominus Rex est Recordum superlativum & superprecellens*.

It is Treason for any Subject to raise an Army, unless a Town be besieged.

Henry the Seventh was a wise King, and he had his Spies abroad in the time of Peace, to see how things went, and his Navy prepared; and the preparation of a Navy doth much more good than the spilling of blood: And so hath our Navy these two years done a great deal of good to the Kingdom, and Honour to the King.

Now I come to Authorities: But first we shall observe what an Authority shall be in this Case.

I conceive there may be, and are direct and full examples in point for compelling the Subjects at their own charge to guard the Sea and Land, though they are not ruled in particular Courts of Justice;

Anno 1637. Justice, nay, under favour, they are stronger than any Judgment. There were then no need of Suits in Courts of Justice; If men would pay, what need Judgment?

I conceive that though I find not direct Authority in Printed Books, yet Records are as good testimonies, and greater than Reports that are but Extracts, and but second Authorities drawn out of them, and those that concern *Jus publicum* came not into ordinary debate, but remains *inter Arcana Imperii*, and those will speak fully.

I shall observe that our Precedents are not only in open War and Hostility, but upon Opinions, Rumours, Relations, and Informations of War.

I shall shew this in all Ages to Queen Elizabeth; and if it be not so full in the years of King Stephen, and Henry the Fourth, who were Usurpers, 'tis no wonder if they had had right to the Crown, as his Majesty hath, they would not have used Complements, but *Fide & legiantia quibus nobis tenemini*.

Before the Conquest, I find that King Edgar had his Tenants, who swore to co-operate with him *per terram & per mare*. King Etheldred he did command, that he that had 310 Hides of Land, should find a Ship; and those that had less, should find other Arms, and at their own charge. For every Ship eight Oars *ut tempore præs.* That was *Canutus*, and it was *Tributum Classiale*.

My Lords for Danegelt, If those Kings that were called in by the people, did lay this on the people, much more our natural born King, which shews it to be an undoubted right: For it is not likely that they would put that in practice which was not an undoubted right.

In the Laws of the Confessor by Mr. Lambert, and the black book in the Exchequer, it was sometimes one shilling, sometimes two, annually in *usus Maritinus*, and still the charge lies on the Subject; this shews an inherent right in the Crown, and it was paid for several purposes, but still at the Subjects charge. And to say, it should not be so, because of the word *Statutum*, cannot be, for in those times *Statutum* (as in *Cicero*) was a Constitution; there was no Parliament then; and if it now doth alter from that way, truly petty circumstances, when the substance is observed, alters not the Case. There must be a defence, and it was not certain, doth not the danger *suscipere majus & minus*; and the King may say as E. 1. said, *Nay, I have heard him say, that he hath bought neither Mannors, Lands, &c. with it.*

After the Conquest, the Danegelt is supposed to be released by the Confessor, because he dreamed he saw the Devil dancing upon the Dane-gold. But the black Book saith that it was paid in the Conquerors time; it was then quitted till there were *Bella* or *opiniones Bellorum*. Neither was it released by W. Rufus, or H. 1. King Stephen swore that he would release it at his Coronation: but *Nihil horum tenuit*; nay, it was unpaid in H. 2. time, 4 H. 2. Pipe Roll, and though the name be altered, yet other things came in the room of it.

And now I'll begin with *Doomsday-book*, which began in the 14 of the Conqueror, and ended the 20 year. There were divers Towns and Shires charged, and there we may see what assistance they did give both for Sea and Land. In the black Book fo. 56. they that waited on the King's Revenue *liber non erit* for publick things. And in King John's time, which was a troublesome time, 5 Joh. Pat. no. 17. and 7 Joh. Claus. m. 9. they gave a fourth part of their Revenues for defence. And there was a

command for staying of all Ships, and to repair to a certain place appointed, and to come to those great things, when King John was deposed by the Pope; the King of France made preparation, and England made preparation. And all Ships were imbreviated, because he would not put all upon Land Forces. And so 88. Mat. Paris, fo. 312. It is said the people were *ad liberationes nostras*, but that voyage was to *Poitou*; if it were *ad lib' nostras*, yet the command of the persons and Ships were at the Kings; and true, all Mariners were paid, and no question immediately by the King's hand; but it was first raised and levied of the people.

Whereas for Escuage and Knights Service, the Summons was *quod intersuis cum equis & armis, &c. ex inde profecti nobiscum*; but this was only to come with their Horses and Arms, by reason of their Tenures. And it further appears, that Earls, Barons, Knights, and Free-men, all that had Arms were to come *ad defendenda caput suum & Regis, & quod nullus remaneat qui arma portare possit*; Nay, those that had neither Lands nor Arms, yet all must come; and if they had nothing to maintain themselves withal, they were to be *ad solidatos nostros*, which shews, all the rest were not at the King's charge, 5 Joh. Cl. o. m. 1. *Qui ad arma habet vel qui heret possit*. If the King could command for Land, he may for Sea, for both are one Kingdom. In H. 3. there are divers Arrayes, 14 H. 3. Cl. o. 7. dor. when the King went into France, there went a Command to all the Sheriffs of Englands Ports, to swear those that staid behind to Arms, as they were sworn in King John's time. All this shews they were bound to Arms.

The Statute of the Conqueror, which they stiled a Statute, That there should be no Tallage; Tallages must not be understood of those kind of Aids, as in that famous year of 48 H. 3. And observe when that year is; not only after Mag. Charta, but confirmed by 20 H. 3. when he was of full Age.

48 E. 3. Cl. o. m. dor. Divers Captains & Constabularii, and three divers not able to maintain themselves, and the King's command that they should be paid *de Co'i Comitatus*.

48 E. 3. m. 2. *de pecunia levand' circa tuitionem maris*. The King commands there, that they should come out of their Counties; Summons is two fold, 1. Of Escuage, which is *servitium debitum*. 2. General for defence *cum necesse fuerit*.

48 H. 3. Cl. o. m. 3. *pro Militibus secundi Johannis & m. 6. dor. quod omnes qui nobis & Coronæ nostræ jure astring', &c.* All Free-men must do this service, 48 H. 3. m. 4. dor. Cl. o. Vis. Essex.

48 H. 3. Cl. o. m. 3. dor. *Nullus excludatur sexus aut ordo*.

48 H. 3. Cl. o. m. 7. Citizens of London, and the men of Greenwich were commanded to keep the Thames that none should enter *per ora eorundem*, the men of Greenwich plead that they were distressed upon common Summons for their Service in Kent. And the King commanded, That they should be freed in Kent, and joine in defence of the Thames.

Cl. o. 48 H. 3. m. 11. dor. to excuse one who pretended he did attend in another place with all his strength. This shews that he ought to attend the defence.

Nay, 48 H. 3. m. 4. when they refused to come, the King commanded to seize their Lands, and take the profits, and answer them into the Exchequer.

48 H. 3. Pat. m. 5. He commands them to attend,

Anno 1637. tend, letting all things apart, 48 H. 3. *Pat'* 48 H. 3. *Pat'* m. 10. or 5. Like Writ to *Dunwich*, *Ipswich*, *Dover*, and *per Costera Maris*; nay, when some went away when their forty daies was expired, the King tells them that *propter Inopinatos casus* they should stay.

Pat' 48 H. 3. m. 4. 100 Marks paid by the Abbot of St. *August* for Stipends for those at Sea for defence of the Sea.

M. 5. dor'. when they would have went away they were commanded upon pain of all they had to stay.

Bracton lib. 5. 336. cum fuerit in exercitu cum Domino Rege, &c. speaking there of Law Suits, what may be a good excuse for absence, *saith, ex causa necessitatis, rei publice causa aut cum Rege in Armis*.

E. 1. Stat. of Winchester, 8 E. 1. finding of Arms begun not upon that Statute, but how in what manner they ought to be rated.

23 *E. 1. Cl'o m. 4. de contributione faciend'*, *Tarmouth, Fennmouth.*

A Command to the Collectors of Money *ad Custodiam Maris*, and he that was in *Gascoigne* was discharged of Grace, but not of right.

Pat' 22 *E. 1. m. 4. Ita quod omnes compellere possint ad custodiam maris cum necesse fuerit. Pat'* 23 *E. 1. m. 6. Pro Will' de Storks fuerint custodes Maritime & m. 5. & 7. custodes maris de Fennmouth, and divers men taken both Archers and Slingers.*

Pat' m. 5. *de hominibus eligendis ad arma, m. 7. omnibus & singulis Marinettis* between London and the mouth of the *Thames*. *M. 6. de Navibus capiendis.*

Cl'o 23 E. 1. m. 5. maris faciend' in diversis Civitatibus.

Pat' 24 *E. 1. m. 16. de partibus Maritinis muniendis & Custodiendis.*

M. 6. & 17. de Navibus & Galeis inter Villam de Linne & Barwick.

Tr' 24 *E. 1. Ro. 62. Inter B. pro Rege,* there a Writ issued to such and such men to find ten Horsemen; one affirmed that he had three Horses in *Scotland*, and some in *Cobham* in *Kent*. The King makes enquiry, whether it were so or not, and finding that he had not so many as he said, commanded that they should be distrained not only for the contempt to the King, but for the danger the Kingdom might lie in for want thereof, 24 *E. 1. Rot. 78.* power to compel men to make defence *juxta facultates*. And the County of *Berky*, which was an In-land County, upon refusal a *Capias in manus*, and to answer them in the Exchequer, and the form of Wages to be set down, 24 *E. 1. Lord T'ror' Remem.* A Writ from the Barons to Assess all the people without the King; news being of 1000 men coming, *Cl'o, 25 E. 1, m. 26. dor'. Willielmo de Ripo.* It was recited, that the people have been at a great charge, made, because Winter came in the King willing to spare them Watches; and Beacons were commanded to be set up and kept, and the People to depart, but to return again upon notice.

25 *E. 1, 2. pat' 5. Custodie of the Maritime* was with six Ships; by which it appears, that *Custodia Maris*, and *Custodia Maritima* are convertible.

Abbot de Robertsbridge, 25 E. 1. Roll 72. Cl'o pl'r. The Case.

The Abbot of *Robertsbridge* brought a Replevin against one in *B.* that lies in the Confines of *Kent* and *Suffex*, so (*Campestris.*) The Officers did avow, by reason of War between *France* and *England*, the Abbot was Assessed three several

years, at several sums; nay, the fourth time, and no hurt done. But now if the Writ go out but two years together (*ob inaudium!*) But what doth he Plead? Doth he deny the Writ? No, he Pleads he was Assessed for other Lands. He found a Horse *ad custodiam predictam*; so that the Horse for Land, and the Money for Sea. I conclude as *Selden, Aut ad ipsum Mare aut ad tam litus quam mare.*

After the Stat. *De Tali non concedendo, 27 E. 1. pat' m. 3. de Navibus congregandis, 31 E. 1. pat' m. 20. malefacientibus in Marchiis Anglie.* A Commission went out, That all shall be in Arms against *Scotland*.

In all elder time there was such a connexion between *France* and *Scotland*, that we had alwaies a double War, and therefore could not expect all Forces at one place.

In the time of *E. 2.*

Pat' 2. *pars 9 E. 2. m. 26. pro Rege de Navigio providendo variis sumptibus faciend'.* I see with what Policy Mr. *St. John* went, and what multiplicity of Records he cited, and opened them with as much skill as ever I knew any man; but I desire to go in the naked truth. It shall appear to all the World, that the King hath done nothing but what his Predecessors have done. And that there is not more testimony to prove *Lin'*. first Case that the Heir at Law shall have his Patrimony, than there is to prove this the King's undoubted right.

Pat' 15 *E. 2. m. 15. dor'. all between 16 and 60 to be ready.*

Parl' Roll, 5 E. 2. m. 4. Ordinances that the King, without the assent of his Barons, could not make War but those were repealed and damned, 15 *E. 2. Parl' Roll m. 31.* It was prejudicial to the Royal power of the King, a blemish of his Royal Signature.

Cl'o 17 E. 2. m. 10. dor'. not when they were warned to be ready.

19 *E. 2. pat' 2. pars m. 21. 19 E. 2. pat' pars m. 6.* To all Bishops of *England* to be ready for the defence. *Pat'* 19 *E. 2. pars 1. m. 29.*

Cl'o 20 E. 2. m. 2. & 7. de hominibus qui domi remanserunt, &c. should contribute to those that went. It was to 40 or 50 Counties. *Nos considerantes quod justum & consonum*, that those should expose both body and purse for the utility of the Kingdom, *Cl'o 20 E. 2. m. 7, Cl'o 20 E. 2. m. 11. or 10 dor'.*

In the time of *E. 3.*

Cl'o 2 E. 3. or 7. de Navibus muniendis. A command that all Ships of forty Ton and upwards, with the Men, Munition, and Victuals, that they should be in readiness at their own charge, *m. 2.* Mariners are warned to come *per duos menses* at their own charge.

7 *E. 3. Scoc. m. 19. de portubus contra adventum, &c.* Et datum est nobis intelligi, &c. it appears that it was done *tam per mare quam per terram*; and a direction to all Archbishops to be attending, and the *posse Comitatus* to be arrayed *secundum statum & facultates.*

Cl'o 9 E. 3. m. 13 dor'. All from 16 to 60 to be arrayed Armis competentibus. And now I come to that famous year of 10 *E. 3. Scoc. m. 31, or 23.* men for Land and Sea, *Scot. 10 E. 3. m. 21. dor'. omnes ad defensionem ex debet. Astring'. Scot. 10 E. 3. m. 23. dor'. & 24. de Proclam' faciend', to all Englands, and others. M. 12. m. 23. M. 20. in Villa de Lenm.*

M. 14. dor'. prout fieri consueverit, &c. To all Counties, *Nos considerantes quod omnes ratione ligeantie sue astringuntur M. 1. dor'* through all Counties the like observed, especially *nequimus resistere Correctionem, &c. sine auxilio vir'.*

Anno. 1637. M. 2. de Navibus supervidendis, and in that are the very words of the Writ.

M. 12 & 13. *Jernemuh.*

M. 25. de Portibus custodiendis In-lands as well as others, Berks, Wilts, Leicest^r, North^rton, &c.

M. 16. Navibus supervidendis, &c. nos advertentes circum quaque aut hec tempora.

Alium 10 E. 3. m. 13. 1. pars.

Cl^o 1 pars 12 E. 3. m. 13. dor^r.

Alium 2 pars 12 E. 3. m. 33. versus boreales duplici eskipamento, and to contribute, and those that refuse to Asses juxta statum.

Cl^o 12 E. 3. m. 14 dor^r. Archers.

Alium 12 E. 3. m. 6. 2 pars. Order that but one Bell should be rung, that when the enemies come, all should ring.

Alium 12 E. 3. pars 2. m. 3. supervidend^r quod omnes araiat. considerantes quod omnes, &c. se & sua exponere astringuntur pro salvatione, &c.

Alium 12 E. 3. p. 2. m. 10. because hostes nostri in multitudine non modica, &c. All that have redditus, &c. were to attend.

Alium 13 E. 3. m. 1. de supervidend^r Vili^r South^rton. Et in 5.

Cl^o 13 E. 3. m. 38. dor^r. A Writ directed Custodibus terre Maritima. The Abbot of Ramsey lived in Huntington, yet distrained for Sea in Norfolk. Cl^o 1 pars 14. dor^r.

Cl^o 13 E. 3. m. 14 dor^r. Wilts. All great men to draw near to save their own lives.

Cl^o 13 E. 3. m. 14. dor^r. County of Oxon^r, and an In-land, and yet Custodia terra Maritima m. 15. & 17.

M. 17 E. 3. B. R. Rot^r. 15. A Superseadeas granted H. 17 E. 3. m. 24. recovered wages of the Town for 40 daies Scot. 20 E. 3. no. 14 versus Scot.

M. 21 E. 3. Rot. 4. B. R. qu^r detain Souldiers.

M. 31. Payment of Wages.

22 E. 3. Parl^r Roll^r No. 4. There the Commons were at great Charge for guarding the Sea, and pray remedy; but not for the right, but for the excess.

Fran^r 21 E. 3. m. 24. dorso. 22 E. 3. pars 2. Pat^r m. 1.

Fran^r 22 E. 3. m. 5. dor^r pro Johanne Cooke, Fran^r 26 E. 3. m. 5. & 4. quia est vulgaris opinio &c. And this recited, Nos considerantes, &c. quod omnes per Juramentum, &c. And this was for the Sea, and goes to all Inland Towns.

And as they talk of Kings in Field, I hope Kings use not to go into the Field in person.

34 E. 3. Fran^r m. 34. pro Clero Araiando Cl^o. 33 E. 3. m. 89. dor^r.

Cl^o 43 E. 3. m. 1. de Navibus arestand^r.

Cl^o 43 E. 3. m. 14. or 13. de hominibus ariandis. 45 E. 3. Cl^o m. 8. ut intellectimus Parl^r Roll^r

46 E. 3. no. 20. The Commons complain that, Whereas the Sea was so noble, that all the World called the King, The King of the Sea, &c. They pray as of grace, &c.

Fran^r 47 E. 3. no. 20. for guarding of the Sea shore.

50 E. 3. per no. 105. 31 E. 3. per no. 25. The Charge is not put upon the people without common consent.

The King is not to do it but for the grand necessity, and for defence of the Realm.

In Richard the Second's time.

Cl^o 1 R. 2. m. 7. first part of Scardburgh, Pat^r 1. pars 1. R. 2. m. 12.

1 R. 2. Pat^r pars 1. m. 42. dor^r Beacons.

1 R. 2. Pat^r 13. dor^r. 2 R. 2. Fr^r m. 15.

4 R. 2. Scot^r m. 9. King of Castile pro compellendo homines pro custod^r Maritim^r.

7 R. 2. m. 9. Totus Clerus apponere manus adjutrices Archbishop of York.

Ro. Scot^r in 47. R. 2.

8 R. 2. m. 5. Archers.

Car. 13.

Mr. Solicitor his Second days Argument, Novemb. 13. 1637.

May it please your Lordship,

THE last day I left at the end of R. 2. I do not love to repeat; yet in regard the Records that are of weightiest evidence for the King to men of understanding, perhaps not so clearly understood by every one that hears them, I shall sum up what hath been read. It hath appeared by the Records that have been read, that the Sea and the Land have been guarded by the Commons when danger did appear to the King. If the danger were great, the whole Commons, no Age, no Sex, no Order to be spared; all Ecclesiastical persons bound to defend. If the danger were less, those parts nearest unto it to defend. No reason to trouble the whole Kingdom, when a few would serve the turn. Those that refused were compelled by imprisonment, seizure of Goods and Lands. The Writs have expressed fully and significantly, that no wages ought to be paid by the King. That when there was apparent danger, it appeareth by some Records, that one man should not serve for another. Care taken by Commission that all equality should be used in making of Contribution: And when complaint, as 25 E. 1. was made against it, it was remedied. Yet it was not *Ratione contributionis*, but *violenta extortionis*.

This constant usage of former Kings, is of much more authority and weight then scattered Judgments here and there, or Judicial proceedings in any Court; and these are not wanting. Notwithstanding I shall now proceed, and come to the time wherein so many great Lords did dye, and so much Noble blood was spilt in Civil Wars from H. 4. to H. 7. *Henricus Rosas Regna Jacobus*. There was not then such great cause to look to preparation for Sea, for the War was in the bowels of the Land: And the Sea and the Land make but one Kingdom, and the Reasons are the same for both. And for H. 4. when he was newly come to the Crown: It appears Cl^o 1 H. 4. pars 1. m. 12. dor^r. Writs directed to the Archbishops of Canterbury and York, and other Bishops; and it recites that the French had prepared a great Navy, which was seen on the Coasts, and intended to invade the Kingdom: And that Abbots and Priors should be arrayed, *sine deliberatione*, &c. & *juxta statum & possessiones*, &c. & *tridecim Milienis Centenis*, &c. *Korulus viagij* begins 1 H. 4. to 11 H. 4. m. 20. de proclamatione faciend^r to go against the Rebels of Wales de *Aratione faciend^r* in the same, and Barons assigned to the custody of the Marches of Wales, called *Battelfield*; less reason for this place of any, for they say there were Lords Marchers to defend it, m. 14. 23. De proclam^r faciend^r to go with the King in person against Henry Percy a Rebel, and there was an array of men by the Sea Coasts to resist the Enemies, &c. And in the same de *hominibus congregandis*, divers other Proclamations de *hominibus defensibil^r*.

In the same Roll de *Militibus infra Comit^r Lancast^r* upon the Insurrection of the Earl of Northumberland to bring them to Pomfret, m. 10. & 27. Again to go to the Prince, H. 5.

And in 1 H. 4. this goes to Northumberland, Darby,

Darby, Lancaster, by Robert Duke of
Anno to invade the Kingdom.

1637. All Lords, Noblemen, Vaillets, &c. & omnes
homines defensibil between sixteen and sixty; and
 that was *juxta statum* upon warning of two days,
 which was in *defensio Regni nostri*, to go with
 the King, m. 20. *De hominibus levandis & congregandis*.

And of this nature 4 H. 4. *Pat* m. 11. dor. &
 10. 5 H. 4. *Pat* in 28. dor. 2. pars, principal men
 joyned together to array and muster over all Eng-
 land; this hath appeared by the constant com-
 mon Law of the Kingdom.

Before *Parl* 5 H. 4. 24. Commons pray that
 the Commissions of Array should be considered,
 and the Judges advised with, and a Commission
 made for future *ad arand* & *triand* qui de corpore
sunt habiles, &c. *Juxta statum & facultates*, &c.
 & *ad assidend* & *apportionend* with power to dis-
 strain, 7 H. 4. per *Fitz-Harbert*, Thorney Title
Protection de Subjcts of England not to go out of
 England with their King. This was upon the
 King's going to aid the Duke of Flanders, Reg. 7.
 fo. 7. Calvin's Case. Not to go without wages
 when they were to follow the King.

In Henry the Fifth's time.

There were then great Wars with France; but
 when the King went, he took care that England
 should be provided for. 3 H. 5. *Pat* m. 37. dor.
 pars 2. *de Aratione faciend* care is taken that all
 should be arrayed, and being so arrayed, should
 continue so arrayed, &c.

Stat. 1 E. 1. It provides that they shall not go
 out of their Counties, but upon the sudden com-
 ing of strange Enemies, unless upon warning;
 they were not only to array them, but to lead
 them to the Coasts of the Sea out of their Coun-
 ties, when and where it should be necessary,
Cum aliud periculum emineat, notwithstanding the
 Statute (which is our Case). Nay, our Case is
 much stronger. And 3 H. 6. *verbatim*,
 with the other 6 H. 5. *Pat* m. 8. dor. pars 101.

8 H. 5. 16. dor. This was upon the threatening
 upon the King of Castile to all the Counties of
 England.

7 H. 5. *Baga Regis*, Divers privy Seals to all
 the Counties of England, to inform the King
 what able men of Aunceltry there were *ad defen-*
sionem nos in propriis personis suis *ad defensionem*
Regni. An the Return is *pur defence de son Realm*.

En temps H. 6.

3 H. 6. *Pat* m. 37. dor. pars secunda *de Aratione*
facienda.

7 H. 6. pars 1. m. 7. dor. *Pat*. There it is
quia datum est nobis intelligi for Isle of Wight, *Pat* 7
 H. 6. 5. dor. 1. pars.

13 H. 6. m. 3. *de militibus Congregandis &*
ducendis, &c. *versus Scotland*, *Pat* 13 H. 6. m. 10.
 dor. pars 1. *contra maliciam inimicor* &c. A full
 command to array all, and to bring them *ad toste-*
ram Maris and other places, & *juxta gradus*
suos.

14 H. 6. pars 1. m. 20.

21 H. 6. m. 40. dorso.

Pat 28. H. 6. 11. dorso.

Pat 29. pars 1. m. 45. dor.

37 pars 1. *Pat* m. 6. dor.

} *Arrayes.*

A Book Case. 28 H. 6. 11. 6. Pl. 22. Diverse
 of the Clergy had Charters to be freed from the
 payments of Tenths for the Defence of the King-
 dom; and the Clergy did grant two shillings in

the pound without Act of Parliament, and this
 sent by *Mittimus* into the Exchequer, P. 28 H. 6. *Car.* 13.
 Ro. 10. & Tr. 11. for levying Money upon Scire
Fac. 36 H. 6. m. 2. dor. *Regis* 1. *Pat*. array in
 the Isle of Tenet, and compel them by distress
pro defensione Regni 37 H. 6. *Pat* m. 1. & 6. dor.
 A Writ to many Counties; Because of the great
 hurt done to the People by the Sea Coasts, and
 the great preparation to do more hurt, thereup-
 on command to train and array all parts of Eng-
 land *pro defensione*.

And 39 H. 6. m. 12. *Pat* *de potestat*. to array the
 Isle of Wight being invaded, it went to divers
 Counties, & *juxta gradus & condiciones*, &c.

39 H. 6. m. 11. & 9. dor. A Commission to
 Edward Duke of York, who claimed the Crown,
 and was adjudged him.

31 H. 6. *pro Aratione faciend* *quedam persona*
fil *iniquitatis*, &c.

Therefore is a Command *pro securitate persone*
nostre & populi nostri ad invocandum omnes homines
defensibiles to destroy them, *Pat* m. 9. dor. *de vil-*
la de Stamford Custodiend m. 1. dor. A Command
 given to Edward Duke of York, H. 4. which gave
 power to raise money and men at Bristol, Here-
 ford, &c. which was cancelled, and other Writs
 given in the room.

En temps E. 4.

1 E. 4. *Pat* m. 8. dor. For reducing of H. 6.
 power *congregare* all the People.

1 E. 4. m. 8. *Southwales* on the Marches.

1 E. 4. Scot. Richard Duke of York *custos*
Westm *ad omnes homines defensibiles* in Cumber-
 land and Westmerland, between sixteen and sixty,
sint prompti in defensione Marchiar &c. against
 Percy Earl of Northumberland Scot. 10 E. 4. 11. 4.
 there are *custodes generales versus Scot* for arming
 all men, as there should be cause. *Pat* 3 E. 4. 3.
 dor. Continue *parati ad defensionem persone nostre*
 & *Regni*.

8 E. 4. fo. 23. Book Case. A Subject hath pow-
 er to make a Bulwark in another mans Ground.
 The King hath as much power over all the King-
 dom as any particular Subject to make De-
 fence.

9 E. 4. *Pat* 11 E. 4. *Arrayes*. 10 E. 4. *Pat* m.
 13. *Arrayes*, in *salvatione Regni*, when he was
 like to lose his Kingdom. A Commission to
 raise People against the power of his great Ad-
 versary and Rebel. 49 H. 6. *Pat* m. 8. dor. E. 4.
 who did lately enjoy the Crown by Usurpation.

22 E. 4. pars 1. m. 2. *pat* *pro conductoribus & Waf-*
fatoribus Piscar and at the Subjects charge.

22 E. 4. 2 R. 3. m. 2. pars *Pat* 1 H. 7. 3 H. 7.
 ut supra 3 H. 7.

Pat 1 R. 3. dor. pars 1.

Against the Duke of Buckingham, *quorumcunque*
comitat and this *juxta statum & facultates*.

En temps H. 7.

Henry the Seventh was a wise Prince; his Ma-
 jesties Progenitor as well as his Predecessor.
 He stayed not till he saw the tops of the Ships
 or the Drums beat, he provided for the safety of
 the Kingdom betimes, when War was denounced
 between Charles King of France, and the King of
 the Romans, though he was allied to both, he
 prepared to defend his Kingdom, *Pat* 1 H. 7. dor-
 so. A Command to the Sheriffs to make Procla-
 mation in England, That because we are credibly
 informed of War between Charles King of France,
 and the King of the Romans, and great hurt may
 happen

Anno
1637. happen to this Realm and the Subjects thereof, commanding all Subjects to keep watch and ward upon the Sea Coasts, and all Beacons to be made ready to be set on fire, as in old time; and this after Tunnage and Poundage granted to him for life.

And I am sure that there are greater Wars round about us now, then there were at that time.

7 H. 7. *Pat' Intus de potestate Commissa* Earl of Surrey to go to Conquer France. 7 H. 7. ca. 1. Statute in print.

1 H. 7. *Pat' pars 1.* A Command to Richard Fitzhugh and others to keep all in array for defence against Scotland, which intend to invade the Realm *ut informatur*.

Stat. 1 H. 7. ca. 16. Every Subject by his duty of Allegiance is bound to Assist when need requires.

En temps H. 8.

4 H. 8. *Pat'* A Proclamation to the Maritime Counties to be in readiness, considering that the French King had prepared a great Navy to enter this Kingdom the next Month ensuing, &c. and certain Captains deputed to lead them; and they were all to be in readiness at an hours warning upon their Allegiance.

Pat' 4 H. 8. The same Commission to Bouchier &c. in Latin.

14 H. 8. Which is not in this Roll, but in a Book of Proclamations; for before E. 4. his time, all between sixteen and sixty to be ready at one hours warning.

15 H. 8. Inhabitants of Stamford, Nottingham, and Salop, &c. to attend the Earl of Surrey upon an hours warning.

30 H. 8. Palace Treasurer *omnes homines ad Arma* to be ready *ad deservendum nobis* in Scotland, as need shall be.

Stat. 35 H. 8. ca. 13. Remission del Loanes reciting and considering.

Est dury & honour del People to assist their King in Body, Goods, Lands, and Substance in his Wars, and there it was only for offensive Wars.

Pat' 36 H. 8. *pars 2.* 37 H. 8. in Mr. Moyle's Book, &c.

4 & 5 Philip & Mary, Commissions of Array to go to all Gentlemen of Quality; but now but one Lieutenant of a County; and that power which the Lieutenant hath now in England, was the same with the ancient Commissions of Array in substance; so that it is no new thing. These are in force by 5 H. 4. and Common Law in Queen Maries and Queen Elizabeths time; and they did not go in the legal Array, but by the power of the Council board.

3 & 4 Phil. & Mar. 1557. Council board. Calis was besieged on the sudden, the Enemy making pretence of going into the Low-Countries, there went presently a Command to the Lord Warden of the Cinque Ports, Jan. 5. to make Proclamation in Kent, That all from sixteen to sixty should repair to Dover to save Calis, upon pain of death.

8 Februarij 1557. Letter of Thanksgiving to Sir John Egcombe for diligent mustering of 1000 men.

19 September 1558. Northumberland served without wages.

1 September to continue Watch.

8 April 1558. Whittipole for not finding demy Launces, is called to the Council Table.

These are to shew what proceedings there have been in former times.

7 Eliz. *Pat' pars 5.* A Commission to Muster all men against Scotland.

11 El. *Pat'* though not on Record, yet in a Book in the Crown Office in the Chancery with Mr. Willis.

A Commission to Array men, and provide all things *prout necessitas*, &c. and to inform themselves what Armour they had, and this to be done for our better service. But with those Commissions there went Instructions: Amongst which observe this one; We require you to consider how necessary this service committed to you is at this time for the benefit and safety of our Realm, wherein we think the more earnestness is the more requisite, because of our Subjects long continuance in Peace, and the notorious being in Arms of our Neighbours about this Realm.

If these times be not worse then that, I leave, &c.

27 El. *Watson's Roll.* A Warrant to the Lord Chancellor to make Lieutenants and Deputy-Lieutenants, which are the old Commissions of Array turned into English. And in 88. when that great Armado came, all the Realm was in Arms, and at the Subjects charge.

31 El. ca. 14, 15. The Subjects granted a Subsidy in consideration of the Queens charge. The Subjects were at great charge both for Land and Sea, and she took it by the power of her Council Table.

The City of London was desired to find ten Ships, and of themselves they desired to find twenty. This was the affection of those times; they did not dispute, but were ready to obey.

28 April 1588. A Letter to Sir Robert Wingfield, Whereas divers Towns in Suffolk were charged to set out a Ship, and that divers were poor and could not, a Command that the Richer should do it. A Letter to the Earl of Huntingdon, that York should contribute to a Ship charged on Hull.

A Letter to other Towns to contribute to Colchester; they refused; yet were compelled to do it for advancement of so necessary a Service.

The Clergy in 88. joyned, and the Archbishop was Captain.

And there were Letters for demolishing of Suburbs, 1 E. 4. Books are so for it. Town of Pool in the County of Devon, Stat. 3. Jac. c. 6. where the charge of the People in Queen Elizabeths time was remembred, for London was charged, and Forreigners and Sojourners were charged also to contribute, for that the charge was common.

In 88. 3000 l. Conduct-money levied for the Earl of Bath.

They did not stay here till the tops of the Ships were seen, but they made preparation in 87.

In 99. 41 El. great Troops assembled at London for defence of the Queen, when the Tumult was about the Earl of Essex.

And in 98. the Cause being common, the Charge ought to be born in common.

Nay, the Inns of Court have been charged with Arms upon the apprehending of the Earl of Essex. A Letter went to the Benchers of the Inner Temple to that purpose, and all the Gentlemen did find Arms.

Amongst

Amongst these Letters great levies of Horse and Foot at the Countries Charge: And where she would not have their Persons, she had their Purfes and Power to extend accordingly.

95. Among the Papers of the Lord of *Nottingham*, the People sent forth a Ship at their Charge. We have the Letter only to shew they did it, and how much they did contribute.

In King *James* his time there was not much; the time was not only peaceable, but he was *Rex Pacificus*: His Motto was, *Beati Pacifici*.

10 *Julij*, 2. *Car.* A Proclamation that the People should make speedy repair to several places, and should so continue during the danger.

And for a binding Authority *Car.* 12. The Resolution of all the Judges, under their hands, and enrolled in every Court at *Westminster*. A man would have thought that that would have given satisfaction: It would have done so in former times. And truly, that the King hath done nothing, nor the Judges, but what the Kings of this Realm have done before, is most apparent to all those who will read our Law Books. How often have the Judges been assembled by the King's Command, both in the outward and inward *Star-Chamber*, and there asked them Questions. 2 *R.* 3. fo. 10. 8 *H.* 8. 190. 6. 101. the King was there, and reasoned there; Is this a new thing for Judges to deliver their Opinions? A new Doctrine. But his Majesty hath been pleased likewise to give way that it might be brought to a publick Debate in a Judicial way. He hopes there is very few that do oppose it, do it out of any averfeness from the Publick Service, but to satisfy themselves, and so to submit.

To Answer the Argument.

Before I come to answer in particular to what was objected by this learned Gentleman, Mr. *St. John*, who hath taken a great deal of pains, and made as much use of it as was possible for a Cause of this nature to bear. I shall in the first place give a general Answer.

I say, That the testimony by Records given on the other side, whereof many are vouched, which I am glad to hear of, and that men look into a business of this nature. To make such a search, is for the honour of the King, that there is according to the Law, the freest access to the Records that ever was in *England*. And that great Lord (meaning the Lord of *Holland*) doth know the King commanded with his own mouth, that free access should be to the Records in this business. And I appeal to all Officers that keep the Records, that I did not only give that command from the King, but desired them my self, to shew to the other party what end I had. I say, these Records, take them at the best, they are not of such weight in point of Right, as the other are which are for the King: For if a King shall voluntarily, in case of his Subjects, or special Grace, do any thing, yet I conceive that is not of such weight as when he produces a constant use of compulsive Power from the Crown, and obeyed by the People: For if any of the Kings have spoken gentle Language, as King *John* when he was deposed from his Crown, I conceive that will not be so much as gentle words used in the Writs. I shall answer particularly to all the Records that have been cited: It doth much concern the King that this Argument be answered fully.

The first thing that was said, is, That to seize Goods without Suit or Cause is void in Law. But this was not used as an Argument, but as an Introduction: But in the next place he comes to a

high Objection, That there is *Voluntas interna & externa*; His inward Will, which he doth declare in his Chamber; and his Legal Will: And without that the King cannot judge himself. 2 *R.* 2. f. 10, 11. which was grounded upon that Book Case. But that is not our Case. The King cannot judge in his own Person, but hath left it to their Lordships, that are sworn to do equal Justice between him and his People. But to say that the King cannot judge himself, I question. Can that be wanting in the Fountain which issues in the Stream? That I utterly deny. Is it not said, *Coram Rege* in the *Kings Bench*; and in the *Star-Chamber*, *Coram Conciliis nostris*? This is a new Doctrine.

And shall not the King judge? Did not King *E.* 4. sit in Person in the *Kings Bench* in a Trial of Rape? And that famous Justice *Popham* sit at the King's feet, and other Judges sit at the King's side, and therefore called *Justiciarii à latere Regis*? Sure he forgot King *James*, who adjudged two Cases in the *Star-Chamber*, that of *Bellingham* and Sir *Thomas Lake's* Case, the Book doth no way warrant his inference. The Book doth not say, The King shall not judge; but saith, If a man be convicted before the Judges, the King shall not set the Fine, because he heareth not the Case: This no way concerns our Case.

Object. That no Law can be changed, but by Act of Parliament? As a Naturalization and Legitimation. Nay, no Writ of Error, but in Parliament, till by the Statute 27 *El.* And the Parliament is *Curia Regis*, and part of the King's Body, and cited 34 *H.* 8. *Crompton Jurisdiction*. The King is at no time in such his state Royal, as in Parliament. All that was made out of this was, That this was a change of Law, viz. the Writ for Shipping. We are so far from believing that it is a change of Law, as it is the custom of all Ages in former times. Now (he says) the Parliament is the highest Court, and the King is there at highest both for magnificence and power: But yet out of the Parliament the King is King of *England*. It doth not follow, that because he may do it in Parliament, that therefore he cannot do it any where else. And it is too poor a comparison to say that the King should have the ordering of War as a *Generalissimo* over his Subjects and Vassals. All other Generals have their power from him.

Object. Oh but the King hath provision for War.

This is but a cunning insinuation to make a survey of the King's Revenue, and to insinuate with the People.

And begin with Knights Service, Tenure, and these in dangerous places, as *Dover*, *Durresm*, *Chester*. 34 *H.* 6. *Britt*. That the King should not only have his Wards Lands to breed them up, but to maintain the War in the mean time. And that Knights-Service 37 *H.* 6. were instituted for ordinary defence, as Horsemen. And because the Kings of *England*, out of their care to have men trained up for Horsemen to follow them, that therefore they should have no aid when the Kingdom was in danger: Shall we have no Footmen, no Archers, nor Slingers to be used in War? No Guard at Sea, because he hath some Tenures of Horsemen? This doth not discharge the Subject. This is but for forty days, and was instituted to suppress the sudden incursion from *Scotland*, 19 *R.* 2. *Guard*. 165. *old Tenures*. They do restrain particularly *Escuage* and Knights Service to *Scotland* and *Wales*. 22 *E.* 1. for *Gascoign* afterwards discharged, but not for Mr. *St. Johns* Reason. 5 *E.*

Anno 1637. 2. *Cl. Ro. m. 27.* These were discharged of Escuage; because the King was not there in person, and because it was extraordinary. 5 *E. 1. Rot. Scot.* 27. That Record doth shew the Kings of England did conceive that they were somewhat less then Enemies, Rebels; for Forreign Service, I never meant to object it.

Object. Then he saith Escuage is to be assessed in *Parlamento*, though for the defence of the Kingdom.

Ans. If that were the proper Question, I could shew when Escuage was not by Parliament; for it was by another Reason. It was altered by an Act of Parliament 17 *Johannis Stat. Runney-Mead Nullum Scutagium*, for it was not so before.

Ans. 2. Because it concerneth the Subject as well as the King, 9 *H. 3. ca. 37.* The true Reason of the assessing in Parliament is this, Other men were to have Escuage as well as the King. Now it is a true Rule, No man shall be Judge in his own case; but therefore not the King, that holds no proportion. And Kings are thought to do no wrong. The true Reason why it was assessed in Parliament was, because the Lords would take too much. This is far from the business, I pass it over.

Object. That the King is in actual possession of the Wards.

Ans. That this should go towards maintenance of Wars, he cannot shew any Authority worth the value. Neither *Bract.* nor *Britt.* hath any such thing; for 35 *H. 6.* the words are *par ceo, &c.*

The Argument will be but thus; Because the King out of his especial care, out of his own Land provided some Tenures for that purpose, therefore he shall have nothing from the Subject.

The King did never give nor could give other mens Lands for those Tenures; for it was most apparent the *Normans* came not in as Conquerors. *William* was no Conqueror; for after he came in, men did recover their Lands which were their Ancestors. That was the wisdom when *H. 4.* took the Crown by Conquest, when he would have altered the Laws: No; take our Laws and take our Lands. An Argument no ways conducing. Because he hath some Horse by Tenure, therefore neither Foot; nor provision for Sea-fight, nor Trained Band, because provision is made by Tenures? This is contrary to all reason and experience. What obligation hath the Soakmans and Ploughmans Tenure? What do they pay to defend them? No consideration for it. These were rather Insinuations than Arguments.

Object. Then it was said, There are like Tenures for Sea; and cited two or three: One to hold the King's head at Sea, and some such like: As if two or three Tenures were like to defend the Sea.

Object. It is said the *Cinque Ports*, that they have priviledges to that purpose.

Ans. 13 *E. 3. Parl. Roll* 11. Is the *Cinque Ports* Service a competent provision to defend a Kingdom against Hostility? I know no Reason but the whole Body should defend it self. 13 *E. 3. no. 9.* appears expressly that the Commons made defence at their Charge. No man can be discharged of keeping a thing that he did not keep. So because the Subject is said discharged, an Argument that he was charged.

That of *Cinque Ports* is not for the defence of the Kingdom, but for intercourse of Merchandize, not *quando Salus Regni periclitabatur.*

Then they object, That Tenures in Ancient Demesne were Talliable without consent, and their Services for the King promised in their House, no reason that should excuse them from the general Service: For though it be true that the King's House employs such Tenants, yet the Kingdom must be supported by them and the rest of the Subjects together.

Then he did object, That there was another way of Supply of extraordinary means; as Mines in other mens Lands. And here remembered *M. 3. R. 2. Prerogative Communia*, difference taken between Annual and Casual for defence, 6 *R. 2. n. 42. Parl. Roll* The King would live of his own Revenues, and that the Mines should be for the defence of the Kingdom.

Ans. *Onslow* that argued the Case, said, The King was the most excellent person both at Sea and Land: Therefore the Royal Fish at Sea, and the Gold and Silver Mines at Land was given to him, because he was able to give a stamp on Money. And *fo. 2. R. 2.* they of *London* prayed that the King would not put them to Charge, but live of his own. Your Authority vanisheth into Smoak.

The King must live forsooth of his ordinary Revenues. *M. 3. R. 2.* which expresth that the King would at that time do so. That the King by advice, for salvation of the Kingdom, would use these things given unto him, that indeed was a reasonable thing for that time. But must it be now turned for a necessity, 6 *R. 2. no. 42. pars 2.* that good government be about the King? Then they Petition that he would live upon the Revenues of the Crown, and that all Wardships, Marriages, Reliefs, Forfeitures, &c. should be for the defence

le Roy de bon volunt, &c. The King is willing, and doth desire much to do and ordain in this Case by the Lords of his Realm, which may be best for his honour and profit. This is not a granting of the King, but referring it to his Lords; at best, it is but a temporary desire.

Object. But he hath objected the old Customs and petty Customs, Tunnage and Poundage, of the legality of taking it, he will not speak. If the King doth impose it on Merchants, he need not take it of other Subjects. Duties to the King in this year 11. were 300000*l.* and that Tunnage and Poundage was granted for ordinary and extraordinary defence, 3 *R. 2. 5 R. 2. 1 Mar.* on condition granted that by the Statute of *Winchester* they were bound to have Arms; and no such Statute for Sea.

I shall answer all this; but for Tunnage and Poundage reserve it for a peculiar place. They say the Courts of Justice are maintained by the Courts of Justice. The King hath a profit thereby; but the maintenance of them cometh out of the Subjects purse: And the first fruits were for defence of the Faith, that no Heresie should creep into the Church: Therefore because the King is Lord of the English Sea, he must defend it at his own charge, and not command the body or purse of his Subjects. Pretty Argument! He saith the King hath the old Customs, which are the ancient Inheritance of the Crown, and so for petty Customs, and that these must go towards defence of the Sea. See Judgment in the *Exchequer* in *E. 1.* time. Search into the *Fine Roll* 3 *E. 1.* and see for what causes these old Customs were. It was never said, till he spake it, that the old Customs, or lesser, were for this purpose. And for his saying, That the Statute of *Winchester*, 13 *E. 1.* doth enjoin to keep Arms, and thereupon all defence

Anno 1637. fence comes. That Statute is repealed in Philip and Mary, and set afoot by King James; and again by him repealed. I shall shew before 13 E. 1. many Records for Land Service long before; for that Statute doth only set a form of Arms, and is not the beginning of Arms. So for the Objection of the King's Revenues, it signifies nothing, be it more or less.

Now I shall come to Tunnage and Poundage, the darling Argument, which I affirm was never given nor taken of it self simply for extraordinary defence; I have seen all the grants of it. It may be when there hath been Wars abroad, and then the Subject in Parliament hath given Tunnage and Poundage with Tenths and Fifteenths; There they have been all said to be for the defence. That Tunnage and Poundage hath been given and taken merely for intercourse of Merchants. And in that sence the King said we do and must pursue those ends for which it was granted to the Crown, I shall make that appear by Reasons, and out of the Grants themselves and other Authorities.

If Tunnage and Poundage were merely for the defence of the Sea, How was the Kingdom to be defended before the time of the Saxons? At first time of it was six pence a year, then to two and three shillings for Tunnage and Poundage, then three shillings upon a Tun of Wine, and twelve pence a Pack on Merchandizes, that was all for Tunnage and Poundage, the rest was for old Customs. If this was for extraordinary, how was the Kingdom defended? When it was given for half a year; Truth, it was for the defence of the Kingdom; that is, with relation to the intercourse of Merchandize. *Recital 1. Jac.* saith, that it hath been taken time out of mind. Hath Tunnage and Poundage been given time out of mind, then it is since R. 1. time?

Henry the Sixth had it for life: The Statute doth expresse it as plain as can be. Time out of mind is beyond memory of any man living.

The very interpretation of the Statute explains it for safety of the Sea, and for the intercourse of Merchants. In all Ages before the granting of Tunnage and Poundage, the King upon a general Defence hath had other Aids then this by their own Power. Ordinary charge for an ordinary Defence. I could have given a legal Answer that it was not given unto the King. No Act of Parliament for it: Yea, but it is taken *de facto*. Shew your Instruments by which it was taken; that had been a legal Answer. But I shall carry the King's Honour along with his Power and Practice. 6 R. 2. Rot. Franc' 7 H. 4. no. 23. Ro. 11. Tunnage and Poundage granted to Merchants to guard the Sea for intercourse of Merchandize; which sheweth plainly it was for that purpose. To put it without all manner of question, 6 R. 2. no. 8. Franc' Roll. 2. Merchants & Mariners had *Custodia Maris*; and the King granted them 6 d. a pound. Doth any man think that he would trust the safety of his Kingdom with Merchants and Mariners? It was merely for the guard of the Sea for Merchandize; expresse exception in the very Grant, that they should not be bound by this to help against Invasion of Enemies, unless a Royal Power come (*Regali potestate excepta*) therefore this was for no extraordinary Service. 7 H. 4. Parl' Roll. is of the same manner. And in the Clause Roll, that the *Custodes Maris* should put there a lawful power, for the safeguard of the Sea against the Enemies of the King, except a Royal power, then notice to

the King; for it must be understood merely for intercourse of Merchants. I can shew you a Book *Car. 13.* Case for this, 9 H. 6. 12. Q. case title *Customs*, Bra. 26. He saith Aids and Subsidies granted to the King, to the intent that the King by his Admiral should guard the Sea, to the end that Merchandize may pass and repass. Not a word for the defence of the Kingdom. And in the year 11. Car. the King was at great charge with his Navy. Cast up the Accompts of the Sea Duties, and then it will appear there is not left to him a penny for the defence of the Sea. Impositions and prellage of Wine was to furnish his House, and not for defence of the Sea. Not only upon this, but there was an ancient Lawyer that wrote the *Doctor and Student* (whose name was S. *Jermaine*) who wrote in H. 8. time, he tells you, lib. 2. c. 15. fo. 153. The King out of the old Customs of the Realm, as Lord of the Narrow Seas, is bound twice in the year to scour the Seas, but not against all outward Enemies, but only to put away Pyrates and petty Robbers, *History of Tunnage and Poundage*. 25 E. 3. Parl' Roll' no. 11. The Commons did pray that 6 d. of 2 s. a Sack of Wooll and of Wine granted, that the Merchants might have safe conduct beyond the Seas; If it would please the King, the Merchants would make their own Conduct for the Customs.

* All the Rolls go in that manner, 3 R. 2. H. 4. and they cannot shew that Tunnage and Poundage was made for extraordinary defence, unless for some great Defence.

Object. Next, That Sea Duties are born by every man in the Kingdom, and that is *secundum statum*. 22 E. 3. no. 4. Parl' Roll, which saith, That it was in charge of the People, & ne my des Merchants.

Answer. All men must proportionably bear their Defence. What a Consequence is this? Because one penny or two pence a year out of the Subjects purse, for their Commodities, therefore their Land shall be discharged in case of extraordinary Defence. Oh! say they, but this may be by Parliament. By a may be a man may answer any Argument: But a may be will never answer a Nil.

23 E. 1. Rol. 3. dorso. The Writs were in October, the Parliament at St. Martins in Winter: In that to Archbishop of Canterbury, the King doth but a little complement with the Clergy, and telleth them he knoweth what dangers were abroad. The business of Shipping was done before the Parliament: So the Parliament might consider of it afterwards. That it was done before appears; This Parliament was not held at the day; but the King doth Prorogate it till after St. Andrews day, because he was busie in preparing his Shipping; so they came about Shipping when it was gone to Sea before: For the Writ of Summons was in 1 Octob. day of meeting after St. Martins; that to the Archbishop was the 3d of September; the Ship Writs August 28. and September the 3d. then the rest the 3d and 6th of October, but all long before the meeting in Parliament, and so all grounded upon (*it may be*.) And to say that the King, because he did a thing voluntarily, therefore he must be necessitated to it, I know not what Argument it is. H. 7. indeed did bring things to Parliament for advancement of his Ends. Did Queen Elizabeth send any of her Commands out of Parliament, and yet the Subjects give her Subsidies? 24 E. 1. Summons therefore the Clergy to come, if the truce did not hold with France. I think

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think it not fit at all times, when it standeth upon intelligence to communicate it to the whole people, August 26. Summons to Parliament divers Writs in February and April before. No Money granted these Parliaments: therefore to tell us it might be by Parliament, it is a poor Argument. The King had great business at this time.

Object. Walsingham saith, Allegiance bindeth the King to Protection, as it doth the Subject to Tribute.

Answ. The Subject hath a double Protection from Injury and wrong. In time of Peace by his Law, and in time of danger by his power. Must this be done by the King's single person? Nay it must be done by the body of his Subjects at their charges. Indeed it is fit that particular Souldiers should be paid.

Object. Oh but they tell us that Fortescue, Chief Justice of the King's Bench, to shew the Law of England to be better than the Law of France, saith, that nothing could be taken from his Subjects, that is, but in the ordinary way; Doth he say that no man shall defend himself in eminent danger? *Ne verbum quidem*, 27 E. 1. m. 7. *Pat's.* He did not buy Lands or Castles, but to defend the whole Realm: No more doth this King, but to defend himself and the whole Kingdom.

Object. In 33 E. 1. Ro. 12. It is Objected that the Clerk sued for his Salary, and had it allowed him. And the King supports the Courts by the Fines.

Answ. But they come from the Subjects, and may not the King give a Salary when he pleaseth? 14 E. 3. cap. 1. And this should be prest, that Aids, though granted in the Parliament for defence, shall not be brought into example.

Object. These were not to be spent upon the safeguard of England, but Scotland and France, and so it comes not to our Case, 48 H. 3. When the Tenants came with greater charge than their Services were, that then *non trahatur in exemplum*.

Answ. True, if Knights Service at that time did do greater services in time of danger; it is reason that it should not be drawn to be yearly to make their Tenures higher, *Plow. fo. 315. b.* *Wiseman's Case of Myne.* A Covenant to stand seized to the use of the Queen, in consideration she is the Head of the Common-wealth. No good consideration to raise an use, because there wanteth *quid pro quo*. And the King *ex Officio* is bound to do that.

Answ. Under my Lord Cook's favour, it was not in the Case; the Case was upon divers good considerations, and he put in this by way of admittance; I can shew when this was declared to be no Law.

Object. Next that the King hath the possession of the Cinque Ports, Tonnage and Poundage; and that this appears not to be expended, and other duties for the defence of the Sea. And that *lex non facit saltum & tempus Belli*, I reserve for another place, for that is one of the three things considerable in this Argument. That learned Gentleman Mr. Sr. John did confess, that (as necessity requires) when the safety of the Kingdom is in danger, the Subject is bound.

If it were material to make it appear whether any thing were spent or not, it should have been pleaded in the Exchequer, if he would have taken any advantage upon it.

But admitting that they had been all expended, yet the property of the Subjects Goods, say they, cannot be altered out of Parliament. He did

agree the Kingdom must be defended, and did yield thus far, that the manner of it did not belong to the people, 6 R. 2. 2 E. 1. Men and Money belong unto Wars. The Commons did write, it belonged unto the King for ordering of it. In all times, the Caution of former Ages, was to demand it in Parliament, we shall then in all Ages he did it without Parliament.

This is a pretty thing that the King is to direct the Wars, and yet neither Men or Money without asking his Subjects leave. And for that of Property, it being taken away, in the opening of my Argument I cleared it, I shall not trouble you with repetition of it.

Object. Oh but they tell us, the King hath borrowed Money to spend in the Wars, and promised to repay it, and that without any *salvo* of his Right: this is an Argument they think of consideration.

Answ. 48 H. 3. 16 *Patr.* I know no Law that barreth the King from borrowing of Money, as he hath occasion. Is it not of necessity that the King must borrow, notwithstanding both ordinary and extraordinary? Must the King carry Millions about him? His occasion may be such, that he must borrow, and also fit it is, as it should be paid again. Doth any man think, that if the King borrow 10000 *l.* of any particular man, he must not be repaid again? 48 H. 3. no. 15, or 16. Power given to the Earl of Leicester to resort to the City of London to have Money; great reason: Because it is the Chamber of the King; But the King's Money not being come in, desireth to borrow so much of the City, and shall be paid when the other Money cometh in: the end was for the defence of the Kingdom; But therefore the King cannot command his Subjects Aid, because he borrows of his Subjects, is no Argument.

Object. Next, The Law delights in certainties, as in the Aids *pur file Marriell*, and to make the King's eldest Son a Knight. Those are certain, 25 E. 3. All defence is uncertain till we know the offence, certain he must be a wise man that can do it. How shall a man know how to defend, and not know what the defence will require, whether ten or twenty thousand? And must it not be proportionable to the offence? Is not this to *suscipere maius & minus*? Where is the Argument, that because Aids which were uncertain by the Common-Law, are made certain by Act of Parliament, therefore must this be certain for which there is no Act of Parliament?

Object. Oh but the Tallage in Antient Demesne and Burgage, they are certain, and Mr. Hampden was at 20 *s.* it might have been as well 20 *l.* this is uncertain, it doth rest only in the King's mercy.

Answ. This Writ taketh care they shall not Sefs unequally: If Mr. Hampden be too high Selled, the Sheriff might be called in question for it; but the Sheriff of Buckinghamshire is rather to be Fined for setting him at so low a rate as 20 *s.* We know what House Mr. Hampden is of, and his Estate too; for anything I know it might have been 20 *l.* But to the legal part, some must be trusted with it, and who should be but the Sheriff, and the party is not without remedy.

Then they come at last to Authority by Jurisdiction, and that they that have priviledges are not Talliable to the use of the King, *Nisi per graund cause*, and that Escuage must be set in Parliament, which is by Act of Parliament, 17 *Job.* That it was called *Magna Charta*, and confirmed

Anno 1637. by H. 3. so it was in *Mat. Paris*; he speaketh of it as a thing of a story; These were for Foreign Wars, and so not for our Case.

Object. Next, Oh but it was admitted every man was to keep Arms, 13 E. 3. 11 H. 7. cap. 18. while they are in their own Counties, to be at their own charge, but not to be drawn out of their own Counties without wages, as in 88.

H. 7. afraid of his own Title, maketh a Law that no man should be questioned for being with the King in Arms; this was to take away the occasion of the peoples talking whether they went upon just ground.

That many Armies have been paid by the King, 2 E. 6. ca. 2. 28 H. 8. the Rebels in the North. The King promised satisfaction, 11 H. 7. ca. 1. the duty of the Subject is recited in it. What Argument is this? We shew in all Ages where the King commanded his people to attend him, or his Lieutenant, and you tell us that he paid other Armies, 19 H. 7. doth extend to Wars without the Kingdom as well as within, 11 H. 7. this last did expire by his death; this doth appear plainly, this was by a special gift by the King, 4 Eliz. Dyer 211. expressly it did not extend to the service of any other King but him, 25 E. 3. Ca. 8. None constrained to find men at Arms, but those that held by such service.

This must be understood with relation to the Tenure. They were not to come upon common Summons for Escuage; But when the whole Kingdom was in defence, that they should not come was no excuse.

Object. 26 E. 1. Reginald de Gray durst not Levy men without pay: The Marginal Note clears this, and so no part of our Question.

And it appears, *Walsingham* 74, 75. that the King was actually then in Scotland, where he fell from his Horse, and lost two of his Ribs.

Object. Tr. 31 E. 1. Next place here is a refusal to go without pay. The Wardens of the Marches of Cumberland, and Westmerland writ to the Barons, That whereas the Scots lay near the Marches with a great Army, and that the people could not march out of their Counties without pay.

Ans. Easily answered; There was the East Marches, and the West Marches of Scotland, several Counties belonging to each, What reason had they to go out of their own Marches, unless they had Money for the keeping of them in their absence? *Par. 2. pars 10.* or 11 E. 2. m. 26. for war of Scotland, 9 E. 2. the same discharged in the County of Norfolk, 13 E. 3. m. 38. Abbot of Ramsay, because he remained in his own County, it was no absolute discharge, but *dum sic intendit*, 21 E. 3. *Rott Franc.* Some are discharged from the custody of the Sea, because they were prompt at home; some from finding Hobblers and Archers, and this was by reason of a Grant in Parliament; some were discharged, because of stay at home to guard the Coasts: this proveth the right both of the personal service and contribution.

Object. Another Objection, 21 E. 3. *Rott Franc.* that they should not be kept continually in Array, but suffer them to stay in their own Counties: But they were to go as soon as any notice of an Enemies coming.

Ans. This was for the wars of France, and not for the defence of the Kingdom.

Oh but 20 E. 3. m. 6. *Scot. Roll.* There were *exploratores & vigiles*, which were *incole*, but how? *De assensu & voluntate*; But this was no-

thing, for it was with assent in the Northern parts, and had been done in former times against Scotland, 100. *Roll of Fenshaw* (which I conceive maketh for us rather than against us) for the Castle of Tunbridge is to Levy 15 l. for the King *pro insultatione* of the Castle, and to Levy it by distress, 14 E. 4. ca. 19. The King could not compel the Subject to sell Victuals for wars, nor to provide for the Castle in the Town, 29 E. 1. that was for Scotland, for payment of Victuals, And who can command a Purveyance but the King? And that of the Castle, it was the Victualling of his own Castle, and Subjects were bound to victual their Castles, 8 E. 2. Ro. 99. Marches provided for victuals, and particular men were paid for victuals, but they do not shew from whence those Monies came.

Next is Horses for the King's Service marked, that if they were lost, might be satisfied for, 24 E. 1. *Robert* lost a Horse worth twenty Mark, and received in the Exchequer somewhat for wages, cited also *M. 26 E. 1. Ro. 105, 106.* that is only a *Concordatum* how men should be paid, only an Order sent down from the King what the Horse-men should have, and what the Foot-men for *Yorkshire*, *Northumberland*, and *Cumberland* should have, no wages from the King, but to go against Scotland; yea, that is another thing, *Si contra Scotos*, and that distinction upon the stating of the Case, will go throughout, 14 E. 3. 34. for Castles.

24 E. 2. 72, 78. *dors. Jo. de Sandal.* Barwick was taken from the Scots; and for the furnishing of Barwick Castle the people compelled to trust them.

Object. Oh but the Prisoners and Hostages taken in war were redeemed at the King's charge, 8 E. 3. allowances in the Exchequer, 5 R. 2. ca. 11. examined in the Exchequer. The King hath a Prisoner taken in war, he is to have his Ransom, Shall not the King pay for his charges? 4 E. 2. Ro. 12. *Roger de Savage*, Scottish Prisoner; so because the King payeth for a Prisoner, for which he is to have benefit for his Ransom, therefore, &c. he is to defend the Kingdom, *Dyer* 162. A man in Execution cannot be forced to go to War.

Resp. Our Writ doth not desire to send men in Execution to war, for there are enough besides them.

Then again, Borrowing of Money; and they paid again for it *pro negotiis urgentissimis*. The King may have occasion to borrow Money, reason he should pay it. Nothing to the question.

But the Case is, Whether all the people, for their wives and their families safety, and for the safety of the whole Kingdom, may not be compellable, &c?

The Abbot of Gloucester gave Money to maintain a Damofel; the King took this Money, for the present, and paid it back again; this was *exoneretur conscientia Regis*, 26 E. 1. That for things taken away without warrant, the Ministers should answer for it, not pay nor repay, but shall hold themselves satisfied with reason.

But they **Object**, That in 26 E. 1. a Commission went out to enquire *de rebus Captis sive pro custodia Maris*, &c. and the King saies that *il fera taunt & se tendeont a payse per reason*.

True *se tenderent a payse*, &c. which is not the King, will pay or repay; but that they should hold themselves satisfied *per Reason*, that is, he would give them reason why they should be satisfied.

Mr. So-

Baronibus
eligendis
pro bonis
Scot.

Anno
1637. Mr. Solicitor his Third daies Argument,
Novemb. 14. 1637.

I Shall go on where I left, only inform you of one Record, 1 H. 4. The Writ that went for the Array of the Bishop of *Canterbury*, which doth recite that, Whereas there was danger upon the Sea, he and all the Clergy should *Manus opponere adiutrices*; I speak of this, because it was at so low a time as *Henry the Fourth*. And it was *pro salute populi*.

Co'ia Pl^o 14 Jac.

Common Pleas between *Weaver* and *Ward*; Command came from the King and Council, that the Bands in *London* should be Mustred for the Training and making of them ready to defend the Kingdom. One in Training hurt his Companion, and he thereupon brought an Action against him, and this was pleaded in Bar, that he was Mustred by Special Command, and this was adjudged a good justification, because it was for the preservation of the Land, 28 H. 8. which recited, that the King did pay them in *Lincolnshire*: But for the other, he saith, he will remember their pains.

Now I shall go on.

Object. It was Objected of the Statute of *William the first*, that the people should enjoy their Lands freely, *Sine omni injusta exactione sive Tallagio*.

This was for Money to be received for a general thing, but that it was not for this thing, appeareth in one Chapter, that Knights Service Tenure should do what belonged to it; the rest *Fractres conjurati ad Monarchiam Angl^{ie} defendenda*, 14 E. 3. c. 1. 25 E. 3. 1 E. 1. *Walsingham* 184. All these are set aside by the Statute, and concerns not our question. Ours is ratable and proportionable by old practice. And it is one thing to compel a particular man; and another thing, to set an equal rate upon the whole Kingdom.

Last of *Febr. 3 Car.* a Commission for Loans for the defence of the Kingdom, they meant the Commission, which was a consideration to Levy Money, by reason of the necessity of the time. It appeareth in the Journal Book Impositions, or otherwise to raise Moneys, not concerning this question. It appeareth by that the King gave a gracious answer unto it, and that it was done for the present time: a Warrant for advice only. It was done to raise Money in general, but no determination of right, and said that at your desires it shall be cancelled. Then there was a Commission of Loans, *Feb. 5. 2 Car.* and this they say was for the defence of the Kingdom. It appears that it was for the defence of the *Palatinate* and *Denmark*, and for that a Bishop was sentenced for this mistake, for *Mr. Pyme* brought up the Articles against him: I shall now come to an Objection worthy the making by *Mr. St. John*; and because it is a thing not truly understood, but taken at random, I shall crave your Lordship's patience: And that is the Statute *de Tallagio non concedendo*, 25 E. 1. made after the King went into *Flanders*, and agreed upon here by the Prince as Vice-Roy, and after sent into *Flanders* to be sealed by the, as it is put in some Books. The words are general. No Tallage to be taken without consent of the Lords in Par-

liament. For this I desire the liberty to inform you of the Story of the Times to make a better Answer. Car. 13.

1. This is not all, in some Statute Books it's not mentioned; in others, no Kings Reign mentioned. And in E. 1. no year of it, and now they would apply it to 25 E. 1. and this they would ground upon compelling of Aid, 23. 24 E. 1. and the Commission in 24 E. 1. did issue upon that, and consequently that this Aid was the Aid complained of, and then redressed. *Walsingham*, a Monk of *St. Albans*, they relye upon for this, that writ some seven score years after the thing done. *Sir Edward Cook* saith, Chronicle Law is not much to be regarded. True, he saith Chronicle Histories may shew us the Times, if it tell us what the Law is, not to believe them: No Historian that I ever knew that ever read the Record, therefore no true History; for the most part they are taken up in *Pauls* or the Streets. To take something in consideration, by way of stating the Case upon the Statute *Confirmatio Cart.* and the other *de Tallagio non concedendo*, that is, that no Aid shall be Levied but by assent in Parliament.

The first Statute is, That so such Aids shall be Levied, the nature of it, and the Acts themselves rightly compared, there remains no scruple against this Case. Three things for the true understanding of this must be considered.

First, What kinds of Aids had been in use before the Acts, 25 E. 1. and for what they were taken.

Secondly, How and what remedy was given by that Statute.

Thirdly, How far that Statute *de Tallagio* is in force and of Authority in this Case.

For the first, It appeareth in the common Story, that in 21 E. 1. the King of *France* had seized all the Dutchy of *Gascoigne*, upon pretence that he did not appear at his Parliament at *Paris* upon a Summons; thereupon *Edward* the first took a course for regaining of his Dutchy, and the War continued with various success till 25 E. 1. and had also wars with *Scotland* and *Wales*, for though *Wales* was taken 12 E. 1. yet there was one *Maddox* that pretended himself to be of the blood of the Prince, and he was not taken till 23 E. 1. And till that year they were not quieted; having all these wars against *Flanders*, *Gascoigne*, *Scotland*, and *Wales*, some at one time, some at another, and most together, upon these occasions divers Aids and Supplies were taken on several natures, some were by voluntary Grant of the people, some were by Impositions and Levies by the name of Tallages or Taxes to be paid to the King, some by Agistment of Lands. As the Abbot of *Robertsbridge*, 25 E. 1. All this appeareth in the Commission for Extortion.

Besides all these, some by prizes of Goods and Money taken from the Possessors, without any Payments, Rates, or Taxes; nay, there was then ransacking of the Monasteries, and taking of the Money, found there, *Mr. St. John's* Case for Money taken out of the Treasury; besides all these there were some by way of Ransom, as *Mr. St. John* rightly observed, and shewed his Learning and Industry; that the Clergy upon their denial to the King, were put out of the King's Protection, they did Ransom themselves by giving a fifth part of their Goods, *Par^o 25 E. 1. par^o 12. m. 11.*

The People being thus grieved with such Aids and Prizes, so extraordinarily taken for the maintenance of Foreign Wars, obtained that it might be enacted that such Aids, in a relative Term, may

may not be granted nor taken without their consent.

Anno 1637. Observe this one thing, The Merchants of *England* three years before had granted the King *Subsidium guerr.* upon every Sack of Wool five Marks, three Marks upon Wool-fells, upon every pack of Skins five Marks, and this was granted of their own Free-will, and to continue *per diennium aut triennium*, 22 E. 1. m. 2. *Fine Roll.* where it is there Registered. Next year before *Confirmac^o Chart.* all the Layety, except Cities, Burroughs, and ancient Demelines had granted to the King in *Subsidium guerr.* the eleventh of their Goods, 24 E. 1. m. 2. *Patt's pars 2.* And the Summer before *Confirmac^o Chart.* an eighth granted by all the Layety except the Cities and Burroughs, and they granted a fifth, and this was still for the War, 25 E. 1. m. 11. *Pai^o.* Application is this, those many Aids of these several kinds having been granted for the War, divers men of that time did doubt and fear, that however they meant it for a certain time; yet, being not so clearly expressed it might bind them for the future; that they so doubted, appeareth by *Confirmac^o Chartar.*

And forasmuch as divers people of our Realm are in fear, that the Aids and Taxes, which they have given us before time towards our War, and other business, of their own gifts and good will, might turn to a bondage to them and their Heirs; And likewise for the prizes taken, we do grant for us and our Heirs, that we shall not draw no such Aid, Taxes, or Prizes into a custom for any thing done heretofore, be it by Rule or by any other Precedent that may be found.

Then, my Lords, for no occasion such manner of Aids, Taxes, or Prizes shall be taken but by common consent. But it endeth not so, saving the ancient Aids and Prizes due and accustomed; this being the state of the Case, be pleased to observe the complaint of the people. This kind of Aid it is plain, was never meant there, when *Salus populi periclitabatur* and may be lawfully Levied notwithstanding the Statute.

Reas. 1. The Act is only such kind of Aids and Taxes as have been voluntarily granted by the people, some by Merchants, and some by others, that they should not be taken against them hereafter, but by consent in Parliament: (such) is a relative. It is not general, no Aids, but no such Aids.

Reas. 2. It refers to those that were voluntarily granted to the King for *Scotland*, and *Wales*, and his other Wars.

Reas. 3. Another Reason why these Aids that had been for the custody of the Sea, could not have been said ayd of their own good will: For observe the Abbot of *Robertbridge's* Case, it appears plainly it was done against their will, for the custody of the Sea by vertue of the Law, and the King's Writ.

August before *Confirmac^o Chart.* those that had given an eighth part, they did expressly obtain Letters Patents, that such their free gifts might not be hereafter in *Servitutum*, 25 E. 1. 2. that is the very thing doubted in *Confirmac^o Chart.* Now those that had granted an eighth, had no reason to do it, for they had a Charter to free them, but the other had not: And therefore the Statute might well say some did fear, not all did fear: So on the whole matter, there are no other Aids but these voluntarily granted at that time, none in the body of the Act, but those granted with a good will, for those Foreign wars, and upon the 40s. remitted by the King upon every Sack

of Wool with three Marks granted, 22 E. 1. was by the Merchants only; for the War in *Gascogne*, thereupon it was enacted the King should not take such things without common consent.

2. There is in the Statute *Confir. Chart.* an exception.

That all ancient Aids due and accustomed was excepted, and therefore what kind was meant in the body of the Act, the exception makes clear, ancient Aid excepted, this was an ancient Aid, and therefore never meant there; nothing to induce a new Law, that no Aid should be taken, but no such Aid, no Imposition should be taken, but the practice of all Ages shews that this was Levied ever since from time to time, which is an interpretation of the words of the Law. This I do open to make way to the Statute *de Tallagio non concedendo*; thrice in the Statute is this word (such) but that they would make use of that Statute *de Tallagio non concedendo* of it self, without relation unto that; whereas it will appear it is a meer extract out of this, and no Statute of it self, for debate of that, this *de Tallagio* is the same with *Confirmac. Chart.* it is a plain extract of it, or some other thing at some other time; sometimes in some Printed Books *Nullum Tallagium*. No Aid shall be taken by the King, sometime without notes of time, and at the best it is no more; but it is said it was in the time of *Edward the first*. If we shall compare *Confirmac. Chart.* and the Articles that are in this, we shall find it to be nothing but an extract out of the Statute, and that it was no Act of Parliament.

Now to make it appear that it was an extract taken out of it,

1. The several heads *de Tallagio*.
2. The Charter against Prises.
3. Another against Wool.
4. A general confirmation of Laws and Liberty.

5. Pardon to divers Lords there.

These are the things in which they would make it a Statute of it self, all expressed in *Confirmac^o Chart^o* they do not differ in substance.

6. A sixth head it is the very year of 21 E. 1.

For the pardon of those Lords was made 5 N. 25 E. 1. this same was sealed by the King, word by word proved by the Statute Roll, the very same Roll that hath the *Confirmac^o Chart.* the next fo. the Monk did mistake this Statute. No man will believe a Monk that writ seven score year after against a Record.

I shall shew what it was that was sent over into *Flanders*, and that was *Confirmac^o Chart.* and did bear date 10 October, the King being then in *Flanders*, and there Sealed by the King himself, that it may appear there is no manner of question of it, here is the very Copy of the Statute Roll, and the whole *Confirmac^o Chart.* is recited *verbatim* in witness, 10 October, 25 of our Reign, whereas *Walsingham* saith, that this very Charter word for word was sealed in *Flanders* under the great Seal of *England*, 5 N. 25 of our Reign, and sent back into *England*, for this Statute Roll of that time doth expressly say, that this was the Charter that was sent over into *Flanders*, and hath the same teste word for word, and this was sent back into *England*. To confirm it further, the next thing that followeth upon the same date and Roll, is, the pardon to the Earls; this was dated, 5 No. when this *Confirmac^o* was sealed.

They

Anno 1637. They have not yet shewed that this Statute *de Tallagio* was ever entered upon the Roll; nay, it could not be entered, Who would think that an Extract of an Act of Parliament should be entered upon the Roll?

If they can quit *Wallingham*, they are wise men; they must carry the practice of all times; Where did ever any man see that this Act of Parliament was ever shewed to discharge men of the defence of the Kingdom since 25 E. 1? Did no body know this mystery to plead not to defend the Sea and their Lands? Did no man hear of this till now? Shall this against all the practice of times since, take away the flower of the Crown to compell people to aid for themselves? A harsh construction.

If this should be true it would destroy even Acts of Parliament, to what purpose is that Statute made of 25 E. 3. if that were totally taken away before? and if no aid, those aids *pur file marrier*, &c. was taken away also; nay, if this be an Act of Parliament, When was it made? before 25 E. 1. or since? it appears not where. It is *Individuum vagum*, I know not what, but in truth an extract. Nay if this be an Act of Parliament under these words, no Tallage is equivocal as well as aid; that is proper Tallage that is laid upon Villages, 25 E. 3. 100. Avowry Entries 406. b.

8 E. 2. Execution 36. 15 E. 3. 106. Avowry. A rent may be released by the name of Tallage.

No mention of this in all Ages. Then it was further objected that 25 E. 1. m. 7. pars 2. expressed in the King's Proclamation, August 12. before ever he was going into *Flanders*, that he was sorry for the Aids demanded of his people; Let him remember for what reason he did demand them; these Aids, which he was sorry for, and sent over unto him, were Aids granted not for the defence of the Kingdom in general, but for the defence of the Kingdom mixed with Foreign defence, by reason of his Wars with *Gascoigne*, *Wales*, *Scotland*, and elsewhere; for that it was for Foreign Wars. Upon this followed the Commission, 26 E. 1. *Parl.*, that went to all the Kingdom that makes for us. There are three parts in that Commission, First, observe if the Officers did any thing without warrant, they should return it. Secondly, If done wrong, the King should answer it. Thirdly, They should be satisfied with reason, if the King did warrant it.

The Answer thereunto given, was upon another Construction made of the words of the Record in 2 R. 2. *Parl.*. The cause was this, the Chancellor declaring the causes of this Parliament, he doth shew that the King in the end of the last Parliament, had assigned some Lords to be of his continual Council for the year following; the number was seven that were assigned, and were sworn to give good Counsel for the aid of the Kingdom: These Councillors treating of the perils of enemies of all parts, and the matter requiring dispatch, they durst not undertake the ordering of so perilous a thing; therefore ordered a grand Council to be assembled; the grand Council was assembled, to whom was shewn the great peril and mischief of the Kingdom apart, by Wars, by Land, and Sea, that nothing was remaining in the Treasury for the maintenance of Wars for a final conclusion, that they might remedy this mischief; they say, that it cannot be granted without Parliament; this was the English of it, and in the meantime an Army might be Landed. And for the present Supply of the charge of such an Army, lent the

King great sums, which by great security, and other things, he did engage himself to pay; upon this the Lords did advise how it might be done at the least charge to them all, and how the King's right of his Crown, and other Inheritances beyond the Sea might be safe, and the Kingdom and themselves defended, to the confusion of all their enemies. To this purpose the Treasurer was directed to be ready to shew what was expended next Parliament, to be bestowed for the Marches of *Scotland*, *Wales*, and *Ireland*, and said in that great Parliament, they could not remedy that mischief of that time, without charging of the Commons, which cannot be done, say they, without Parliament.

It is plain, by the Story of that time, and the words of the Chancellor, that it was for the continuance of Wars in *France*, *Scotland*, and *Ireland*. And though the defence of the Kingdom be mentioned with these Wars, yet the main supply was for these Foreign Wars.

Next place in the Parliament a little before, the like Aid for the like occasion desired by the King, 2 R. 2. no. 24, 25. *Parl. Roll*; What did the Commons say now? They ought not to bear such Foreign charges: the King gave them a fair answer, admonished them, for *Gascoigne* concerned the Kingdom of *England*, for they are Bulwarks of the Kingdom of *England*; *Babacon* is an old Fort *de hors*, for the Aid demanded in that Parliament, was, with this relation, as consonant both together, concerned the defence of the Kingdom, that they might be Bulwarks for the Kingdom of *England*.

Next place, Who spake these words? The Lords said they could not remedy the mischief without Parliament; the Lords assigned by Parliament they durst not do it, it was dependant upon the other part; the Lords could not do it that way.

But shall we come home and speak plain English? We know this was 2 R. 2. a young King. It doth appear expressly, that these things were brought into the Parliament for advice, which were fit for Royal Authority for expence for Wars, and for Council, and for governing of this Realm. It appeareth further by the very Chancellors Speech, that the Council had been heretofore ordained for governing of the Kingdom, 2 R. 2. *Parl. Roll*. This Parliament taking notice of the King's tenderness of age, they took much power into their hands: There was to be a consent not only for the governing of the Kingdom in general, but the Councillors should be chosen to govern the State for two years, and these Councillors not to be removed from the King without Parliament. And more than that, his Treasurer was to be governed by the Parliament, and his Councillors chosen in Parliament. At the end of the Petition of Right, neither Lords joyn't nor severall can declare a Law without his consent, and that your Lordships, and none but you are Interpreters of Laws: Wife King James did, &c.

Next thing considerable is, *Tempus Belli*, to define it.

It is, when the condition of the Time is such, that the Current of Justice and Law is by such violence stop't, as Judges not to sit, nor Sheriffs dare execute, nor any Courts open, especially the Chancery, which is *Officium Justicie*.

Object. It was thus, that there was a time when the King might command this Levy to which they did agree.

They

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They do agree, That the King may command this Levy when he hath Proclaimed a War, though no blow stricken, nor danger, nor Arms, nor opinion of any force coming; this doth put it into the King's power by their own consent. And by all Reason, 19 E. 4. 6. Bryan's opinion how many Wars have been Proclaimed in this latter Age. No War denounced in 88, though consulted of in Spain, and they did not think fit to denounce a War, saith Sir Walter Raleigh; those daies are past. Now they begin by the Sword, not by the Trumpet, or Herald.

Next place they say, If the King be in the Field with his Banners displayed: This, they say, was *Tempus Belli*. Cannot the Courts of Justice sit then, but there must be peace? 39 E. 3. Ro. 10. Did not the Courts of Justice sit then, 10 E. 3? Our ordinary Printed Books shew what Causes of Law then was. And in H. 6. time in all our Civil Wars; and in H. 7. time also they sate then. But the true time to make it *Tempus Belli*, is to make it a war against the King.

In the North, towards Scotland, when the Enemies approaches, is it necessary that there must be a time of peace, because the Courts of Justice sit at Westminster Hall? There may be as strong a war in the North and West as ever was in England, when the Courts of Justice sit here.

That *Tempus Belli* may be in some places of the Kingdom, and in some places not, appeareth, 33 E. 3. And who shall discern if there be any danger? They agreed in general, the King will do it, and the power of discovering in his Majesty, I shall leave it to the King, till Mr. Sr. John find a third person to do it.

Object. 13 H. 4. For the Murage that this doth only charge things that are *Venalia*, for men need not go to Market.

Ans. How shall they then live? True, not compulsory, to go thither but compulsory to pay the money.

Object. 1 R. 2. no. 76. 2. pars, Petition for the City of London to have all owners of Lands to be rated with them in the danger of wars, not having Lands in Tenure to do it.

Ans. This doth make for us, that not only Merchants, but every man in the Lieu of Tenure to do it. Lord of St. Albanes saith of Henry the Seventh, that Kings may fall from their absolute power when they see cause, but not be compelled to do it. They say Supplies are called those things *Sine qua non*, the Kingdom may not be defended. And because there was a way in Parliament, therefore no other way? They say that it will not be affirmed, that the King hath the same power for an Offensive war, as for a Defensive war. I affirm nothing, nor defend. The Parliament is a great Body, and the Kingdom may be lost in the interim.

Object. There is forty daies for Escuage, like for Parliament.

Ans. Many times impossible, nor convenient to be done by Parliament.

First, Impossible, the necessity may be such, that it will not brook the delay of a Parliament, 48 H. 3. Summons ad Cinque Ports. They come day and night to the King when any danger is.

Object. It hath been said, There are seven Months between the Test of the Writ, and the Ships being at Portsmouth, in the mean time a Parliament might be Summoned.

Ans. The great one, and the true answer is, that this resteth still in the King's Judgment. If the King hath intelligence that Foreign States will set out the next Spring a Fleet. And for the conveniency of his people, sendeth seven Months before; Hath the people cause to complain of this? Mr. Hampden hath not paid his money yet, being two years after.

If they should have gone by Parliament, see what Rubs in this Case might be: forty daies is spent before the Parliament sit; then when they meet in Parliament, there is a Ceremony in choosing of a Speaker; Solemnity in these takes up time; then the Lords take things into consideration: then they must have Conference, Disputes, in both Houses, before they agree: the Kingdom may be lost in the meantime. Suppose this come in some reasonable time, there must be Writs made out, and that is not soon done, for all the Counties in England, some reasonable time to make assessments. First in the Cities, then in the Burroughs, then particular Assessments, then divisions; after all this, there must be Collectors appointed to levy the Money. What a deal of time is spent in this, every man may see.

Our Case, say they, is an In-land County, they cannot find a Ship suddenly, therefore the greater the King's favour to lend them his Ships instead. When all this is done, and Ships provided reasonable time to Sail from the North to Portsmouth; But this doth rest in the Judgment of the King.

31 H. 8. ca. 8. An Act of Parliament, not to take any of their Inheritances or Lands.

Here is no Lands or Goods taken away. Only let them contribute to the defence of themselves. Mr. Hampden hath had none of his Goods touched.

Object. They say for Shipping, it was not done in King John's time at the Subjects charge, they do not meddle with Land Service at that time.

15 Fo. 13. dor. Cl^r Roll, King John had business beyond the Sea, that this was rather for beyond the Sea than for the Kingdom, appeareth thus. The Writ saith to have such Ships as would carry eight or six Horse; and that must needs be, for some Foreign service, not for service at home. N. 1. dor. Cl^r Roll. The King was well Landed at Rochell.

Object. For the terms of the Law which concern Hidage, and other things, Brac. fo. 37. Some services introduced by common consent, and not so from time to time, I will not trouble you with it.

To come to the Case of the Abbot, that Arms was laid on by the Statute of Winchester; that will not serve, Arms were long before that time. They say the Assess was in time of war.

The French had burnt Dover, 23 E. 1. and that the Sefs was not made by the King's Authority: But it appears, it was by the King's Authority by ver tue of his Writ, 25 E. 1. Lord Treasurers Remembr. Layborne was Admiral of all the Kingdom, and was *Custos Maris Maritim* of some parts, but that it was for Land service and not for Sea.

Ans. *Custos Maris & Maritim* are verbal, he that hath one defends the other.

They have left no stone unturned to take away the force of this Case. They tell us now the Clergy was put out of the King's Protection this year, and so appeared in the Exchequer, but they have not shewed any such Writ delivered into

into the Common Pleas, only *Spencer's* word of mouth, that they should have no privilege there. Suppose it were so in other Courts, 25 E. 1. it appeareth plainly that the Clergy came all to be in the King's Protection, and gave Ransoms; and this Cause was not till *Michaelmas* after. And whereas it is said, This Abbot's Case did only concern the Land Service, it proveth both the one and the other Land and Sea Service Money for Sea Service; Horses for Land Service.

Oh they say, 29 E. 1. *Magna Chart.* was not observed; *John de Gray*, and *Philip's* Case, whatsoever was the practice of that time not material. And for that of the Charter of the Forest, they say, though it be said, *Nullus amittat vitam vel membrum pro veneratione nostra*, yet one was beheaded; but what is all this to the safe custody of the Sea?

Nay they have not shewed your Lordships, that there was any thing in that great Charter for the custody of the Sea, 51 H. 3. fo. 84. *Brist.* 177. *Fleta & Fit.* 2. L. Co. Littleton.

Perhaps question might be about this in the Exchequer. At this time the Case of *Shoreham* discharged of Land service, because they found Shipping.

They that were nearest danger, most fit for that defence, as the King in the tenth year sent only to Maritime Towns, 2 R. 2. m. 42. *Beverly*, they say, were discharged because that it was an Up-land Town, therefore no In-land ought to pay them.

Writ directed to *William Russell*, Admiral, commandeth only the Sea Coasts.

13 E. 3. 35. m. Cl. 1. *pars* afterwards discharged, because of other Service. And for that of *Beverly*, a complaint that they were to contribute with such a Town to find a Ship, and they say they have privileges; and the special Reason why it was freed for reverence they bear to *St. John de Beverly* discharged, *Rott. Franc.* 21 E. 3. m. 17. there was a discharge of, &c.

Mr. *St. John* knows it, 120 Ships granted to the two Admirals, *North* and *West*, for service beyond the Sea, 31 E. 1. *de inveniend'* Horses, because of great business in his Wars abroad; he bound them to make Gallies for Foreign service. Truth, at this time, the King was in *Scotland*, and kept his *Christmas* there. Then they come to 31. as though he should do it by service of the Cinque Ports.

Object. *Newcastle* upon *Tyne* at their own wages, but when into *Scotland* at the King's pay then they came to this, 10 E. 3. Cl. 6. *Roll.* sent for Ships into *North-Wales* and *South-Wales*; the Writs did say that wages were not used to be paid for such service, and did express in his Writ satisfaction should be made unto them, not of right but *de gratia*, and reciteth the clause that the people were bound unto it, 2 E. 3. 16. *dors.* that there should be 300l. to relieve the Fishermen, the King should not have it of the people of that Town, they say all these Records being matter of Fact, did occasion the making of divers Statutes of redress, 14 E. 3. ca. 1. Great Aid for *France*, *Scotland*, and *Gascoigne*, 15 E. 3. no. 9. contrary to *Magna Charta*, 22 E. 3. no. 4.

36 E. 3. 9. No Goods taken without consent, these are things comprehended within the Petition of Right, 37 E. 3. n. 2. speaketh only of the great Aids.

23 E. 3. Gallies made; they said the King paid

for them; that is, upon the King's own promise, but they said that is *nudum pactum*; then they say, Is the King's words nothing? 13 E. 3. no. 9. called a Parliament propounded as on the King's part not liable to the defence of the Sea. If the Commons have nothing to do with the guard of the Sea, Why is it propounded unto them?

10 E. 3. no. That the guard of the Sea be made henceforward at the charge of the King, as hath been promised, and there the people discharged. They do not affirm in their own Case there was any right, 21 E. 1. *Fran. Roll.* m. 9. 2 s. on the Merchants, and 6 d. poundage for a certain time, and to cease *ram quam*, &c. 22 E. 3. 2 s. upon a Sack may cease.

Answ. All these things granted for Foreign Wars, and if the Cause cease the thing should cease.

2 H. 4. Commission for building of Gallies; the King would confer with the Lords about it; then 19 H. 4. 17, 21. touching the guard of the Sea not bound unto against *Wales*.

4 H. 4. 28. m. Tonnage and Poundage not to be taken without common consent, protestation of the Commons doth not bind the King.

Thus to conclude, if upon ordinary occasions, or for Foreign Wars, this Aid have not been Levied, &c. or if any disusage thereof, these are no Arguments in this Case, not the last forty, *Nullum tempus occurrit Regi*.

Mr. Holborne's first daies Argument,
Decemb. 2. 1637. in the Case of
Hampden.

May it please your Lordships,

IN obedience to your Lordships Command, I am ready though not as I desire, nor as the Cause deserveth, it being impossible for one in so short a time to be fitted to make a reply to the life of the Cause of an Argument so long learned, and so full of Records, wherein neither labour nor learning was wanting; I may say of him as one said once, *Eriam hac defensa fuisset*. I shall now rather shew your Lordships what I might do than what I shall for the present, I shall proceed well, hoping the Subject will excuse, and your Lordships greater care supply my defects, which have been without any default.

My Lords, The Case upon the Records stands thus: In *May* last there issued out of the Exchequer a Writ of *Scir. fac.* to the Sheriff of *Bucks* to warn my Client to shew cause why he should not pay 20 s. assessed upon him by the late Sheriff of that County, for the finding of a Ship of War upon the Writ of 4 Aug. 11 Car. sent into that Inland County, and the 20 s. certified into the Chancery to be unpaid and sent over into the Exchequer by *Mittimus* to be Levied there. Mr. *Hampden* hath appeared and demanded Oyer of the Writs, 4 Aug. of the *Mittimus*, &c. and upon the reading of them all hath Demurred in Law generally; and the King's Council joined in Demurrer and I humbly conceive Judgment ought to be given for my Client.

My Lords, I shall proceed to the stating of the Questions, which are three.

The first, which is a chief one, is this, Whether upon the whole Record the Case so appears for the King that 4 Aug. 11 Car. being the day of the date of the Writ, the King could charge the County of *Buckingham* to find a Ship at their costs and charges

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Anno 1637. by way of admittance? If he could, yet whether the King can give power to the Sheriff to assess the County, as in this Case, by a further admittance? Admit that the King have power to charge and to assess, whether he can Levy the Money unpaid by this course of *Certiorari* and *Mittimus*, as he might do if it were his own proper debt? Of the three Questions, whereof the two last remain untouched, and not Argued by us.

For the first Question, though Argued fully, yet I doubt as yet whether it standeth rightly stated, Not but that I conceive Mr. Solicitor had good colour to state it as he made it, partly by the Record, yet somewhat out of our admittance, yet by admittance only, and so expressed. Again another reason which I conceive, there was a necessity on the King's part, so to make it as the Solicitor stated it, or else to waver the debate.

The first Question is, Whether or no upon the whole Record the Case so appear for the King, that 4 Aug. 11 Car. being the date of the Writ, the King could by his Writ charge the County of Buckingham for finding a Ship of War. This on his Majesties part hath been stated in those words whether the King finding in his Judgment, the safety and preservation of the Kingdom and people necessarily and unavoidably to require this Aid commanded by this Writ, might not command such Aid by Writ for saving and preserving of the Kingdom and people, wherein I confess there is not one word but hath its weight as to this Question thus made. I shall take three Exceptions which are things taken in to be granted, which I shall not argue if I can avoid them.

First, That at least in the King's Judgment, the safety and preservation of the Kingdom was endangered, 4 Aug. that is, that the Kingdom was in danger to be lost.

Secondly, If it be so that the Kingdom was in such danger, and that the danger was so instant and unavoidable, that it necessarily required this Aid by this Writ, that is, it required a present charge of Shipping presently, 4 Aug. 11 Car. to be forthwith commanded, and that the expectation could not expect a Parliamentary consideration and Supply.

These be things wherein we differ. And lastly, For the truth of it the Certificate under the Great Seal, was sufficient in a legal way.

My Lords, To find out whether the Record doth warrant these three things, is of great importance. Firstly, I shall seek for them in the Writ 4 Aug. and next in the *Mittimus*; there is no colour elsewhere to look for them.

To open the Writs rightly, will clear these differences, as I humbly conceive without any great Argument: And first, the Writ dated 4 Aug. 11 Car. I shall read the words wherein the dangers of the Kingdom are expressed, and then explain what words give that sense that is taken out of them.

Quia datum nobis intelligi quod predones quidam pirata & maris grassatores tam nominis Christiani hostes Mahumetani quam alii congregati, Naves & bona & Mercimonia non solum subditorum nostrorum verum etiam subditorum amicorum nostrorum in Mare quod per gentem Anglicanam ab olim defendi consuevit nefarie diripiunt homines & spoliantes ad libitum suum deportaverunt homines — in eisdem capti & acutissime mancipantes, cumque ipsas conspicimus Navigium Indiarum preparantes ad Mercatores nostros ulterius molestando & ad Regnum gravanda nisi citius remedium apponatur, eorumque contra viriliter obvietur, & consideratis etiam periculis que undique

his guerrenis temporibus imminet; Ita quod nobis & subditis nostris defensione quam poterimus accelerare convenit. Nos volentes defensione Regni tuione Maris securitate subditorum, &c. Here are the causes and occasions; all that come after are not material to the stating of the question. My Lords, In the opening of this Writ, it is true there was mention of loss by Merchants of some particular Members of the Kingdom.

And this loss but by *predones Pyrate quam Mahumetani & alii*, and though *alii*, yet Pyrats still and no more. Then it saith *ipso* still those Pyrats daily prepared Ships, but not armed with men, What to do? Molest the Merchants *ad gravandum Regnum*, as Pyrats still hitherto. I conceive there is not a word of danger from an Enemy but from Pyrats; not a word of danger to the Kingdom, but to Merchants, however all this is *quod intelleximus*. The Record goes on thus, *Consideratis etiam periculis, &c. imminet*. This part as I conceive is not so positive, the dangers are but *consideratis*, nor the danger to the body of the Kingdom. No word of that, or if to the Kingdom, yet nothing whether it be in point of safety, but only in point of molestation, none of all these appears; and besides, the clause is too general, not expressing any particular danger from whom or how. However, be the danger to the one or to the other, be it to the Kingdom, or to the Merchants; be it for trouble or safety, hitherto I may say that there is no mention of any such instant danger as necessarily did require this instant command in the Writ, not so much as in the King's Judgment.

For ought it appears, a Parliament, even in the King's Judgment might have been called, and consideration taken for defence, here be all the premisses upon which the conclusion must arise, and hitherto nothing material to make a danger to the safety of the Kingdom, and so instant that a Supply *nunc aut nunquam* must come in.

Although the premisses I conceive are only considerable, yet in the conclusion will be but this *convenit accelerare*, but it is fitting to hasten, but no such necessity, and though it be *convenit accelerare pro defensione Regni*. If that were material, it cannot be construed but with relation to the premisses whereupon it is built, and whether in fear of trouble or danger or loss, *non constat*, and though it be *cum omni festinatione*, yet it is *quam poterimus*, and that is *possimus quod jure poterimus*, that is, by all the hast that by Law ye can make, which way that is your Lordships have heard.

Now, My Lords, under favour it appears on the Record, that there was no such instant necessity but that a Parliament might have been time enough; for as it was observed, that between the Test of the Writ and the Rendezvous, there were two hundred and odd daies, where a Parliament requireth but forty daies for meeting, in the remainder of these two hundred daies, the Parliament might have considered of the means of defence, but I leave it to your Lordships to judge, notwithstanding those expences of time cunningly numbered up to your Lordships by the Solicitor. And though it be true that things are oftentimes long in settling and in deliberation; yet nature tells us, that they can be sooner done, if there be a necessity, we know that will force.

I have but opened this Writ, 4 August; I am now come to the *Mittimus*. The only doubt which I conceive in the Writ of *Mittimus* is only

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To this I have many Answers, but I shall select few from many others, on which I shall relie.

My first Answer is this, Here the words are that *Salus Regni periclitabatur*; these words in show seem to be positive, but in substance but relative, and is rather but a Comment on the Writ or an abstract in point of those dangers mentioned in the Writ, for the clause was brought in on the return of the Writ, and if we have the Writ it self, the Comment thereupon or further explanation thereof is not material.

Second answer, I doubt, I say no more, If the King put particular reasons into the Writ of 4 Augusti, whether the Law (I speak of the legal course) doth permit an after Writ to put in further clauses of the same nature with the former, and to the same end.

If the Case be thus, our Demurrer will be no confession of any such danger.

In the next place admit the words in the Writ had been positive and materially expressed, yet according to our Rules of Law, it cannot make use of that sence they are now applied unto, for at the least the word *Salus* being only proper to a Physical natural body is applied to a body Politick. It is but a Metaphor which the Law will not indure in Writs, for it would bring in great mischief. In Writs and Pleadings Metaphors are dangerous, we know not how to take Issue upon it, and therefore is not regularly allowed, but I leave it to your Lordships Judgment.

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My Lords, Before I answer to this matter, I profess for my Client and my self, that we make no doubt of the King's word, and believe that there was danger, though not so apparent to us, but only both to allow it as sufficient in a le-

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That though it do now appear by the *Mittimus* that 4 Augusti, the Kingdom was in danger of being lost, yet it is not sufficient in Law, nor can our Demurrer hurt us, because it must have so appeared in the Writ 4 Augusti itself, for the Writ and Declaration in Law must ever contain precisely so much of matter as is necessarily true to warrant the demand.

In this to see the mischief, if a danger now declared makes the case, how shall the Subject know by the Writ 4 Augusti, whether to obey or no? The Law binds no man to divine.

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But lastly, Admit that the King had said that the Kingdom was in such instant danger of loss, and that there was an instant necessity of the command this way, and that this could not have expected consideration in Parliament, yet if the contrary appears in the Record, then neither was the Demurrer a Confession, nor the Certificate conclusive.

I could stand on many other things as that the danger should be more particular, for so are all the old Precedents: to say *Salus Regni* is in danger, is too general. As in a Protection they must alledge in what place the party protected is.

Anno 1637. But it is said, That the Law will not presume any such thing.

The Law doth not presume a will, but the Law looks on things that may be, as well as what will be.

True, the Books say, *The King can do no wrong*; which proveth it is possible for a Governour in his inclination to incline to wrong, and therefore the Law hath taken a care that he should do none; for he cannot make a disseisin, nor discontinue: There may be an inclination to an entry, but the Law, because he should do no wrong, hath made this Act void; which is not a disability in the King, but a Prerogative to make him come nearer to the Divinity in the Attributes.

I shall offer the Judgment of the several Ages in England, they ever thought it a dangerous thing where they thought any restraint fitting to allow any Exception whatsoever, though there were cause for it, lest the party that was meant to be restrained, should be judged, and then go out when he would.

Thomas a Becket he would not swear to the Laws of King H. 2. unless he might put in this Exception, *Salvo honore Dei*. The King never meant to violate any of these. But if that had been allowed, the Clergy had been Judges of that, therefore they would not be satisfied; at this day we have an experience of the opinion of Kings themselves in this Case. I shall proceed to the practice of our Kings; in all Acts of Parliament, where they had ever a desire to declare the King limited or restrained. If they did admit of an Exception, they would have it in words so punctual, that they would not admit of any matter of evasion, for fear hereby his proceeding to be at large. In the grand Charter of K. John, when there was a Clause, *Nullum Scutagium apponatur*, true, there was a reason to except how all (not as E. 1. would have done) saving the Aids due and accustomed, but the *pur faire fuz Chevalier*; and so was *Magna Charta*, though not on the Roll; so careful they were to leave no words that give any such light.

I come to the Statutes of 25 E. 1. against Aids, saving the ancient Aids due and accustomed, no doubt but in these words there was no more saved than the Law must allow the King, and the Parliament did so mean; yet when that same Act came out, the Subject was not satisfied, and therefore the Statute *de Tallagio* was made to take away the Exception in that Act.

Stat. de 28 E. 1. after the confirmation of two Charters, and divers additions, there cometh at last *Salvo jure Corone*, your Lordships will find in Histories how all this was satisfied. And 29 E. 1. a Parliament held at Lincoln, the King made a confirmation without a *Salvo*, and yet none will deny the right of the Crown; the Lords did intend to preserve that. Thus your Lordships see the Opinion of the Kingdom from time to time, how careful they ever were in all their Acts, to leave any way, whereby that which they did intend for their good might be avoided: Now whether in this case there might not be an avoidance, I humbly leave it.

But before I go further, it might be demanded, How came in those *Savings* into those Acts, if the Parliament did not like them, and if they were put in here was a trust?

I shall give a double Answer in the Case: Though a *Salvo*, yet it will differ from our Case; the King was not Judge there, but your Lordships to be Judges between the King and his People: But in this Case the King is to be Judge of the necessity.

But to give you the true Answer, the exception never came in originally from both Houses, not from the Commons, but from the Lords themselves. Car. 13.

This may seem strange. It was the difference of their time and ours, in making Acts of Parliament, that was not a time of granting all, or denying all, but to answer some, as to some part sometimes more alteration, and sometimes an exception; and this being read, the Act drawn up upon the whole by the Kings Council, and upon the whole course we shall find this mischief was found out 5 H. 4. And from that time all Petitions were wholly granted. So your Lordships see how these *Savings* came in; not by the Subjects, but by the pennage of the Act by the Kings Council.

Last Example is in late times, in the late Parliament, in the *Petition of Right* now printed, which was long in debate in Parliament against Loans and Billeting of Souldiers; after the Petition had passed the lower House, that those things were against the Law, there was a Proposition in the upper House concerning the addition of a Clause of *Saving*.

Upon the Journals it appears, that there were several Conferences between both Houses, where the Reasons are mentioned and do appear.

And on the several Conferences the Commons did not yield, but the Petition passed absolutely; and the reason was, Because to put in that *Saving* was to undo the Petition.

To conclude this, to shew the experience of such an Exception, *sine assensu*, what it hath wrought in former times, as that of Normandy, though Forreign, yet to shew what such a thing did work there; It had the same priviledges we claim, and much of their Law came in here. Lewes the 11th taxed them high: They made complaint; he on the complaint, acknowledgeth it, and would tax them no more, but on great occasions, cap. 7.

Having, as I hope, taken off the Bulk of that distinction, I shall further shew how it doth not stand with the practice of our Common Law.

It is a fundamental Rule in our Law, Rather a Mischief then an Inconvenience: For when nothing can be so absolute in Government, but that there may be one case or other, wherein there is no provision made, all the care that men take is to choose the least. Now his Rule is rather a Mischief then an Inconvenience. Now Mischief is that which perhaps may fall out, perhaps never; or if it doth fall out, yet seldom: For if it were a thing that might commonly fall out, it were an Inconvenience. On this fundamental Rule, the Law concerning Lands and Liberties was grounded. True, there might be a Mischief for want of this power in a case extraordinary, but the Mischief perhaps never falleth, or seldom; but to allow the other, would be a Mischief daily.

I desire your Lordships to cast your eye upon a learned Writer *Communeus*, fo. 107, 131, 180, 181. where in the whole, putting them altogether, speaking of the danger that might come to a State for want of power to raise Supplies for resistance, giveth a commendation to the Government of England. True, he doth not go so far: saith he, It is hard in a Defensive War, that any preparation, which must be great and long about, can be so acted, but that Princes may take a timely notice to call together and advise by Parliament.

Anno. 1637. In the Low Countries, where there are Wars, though they have an Excise for ordinary, yet they do it not for extraordinary without consent in Parliament.

My Lords, I go on; Admit an Enemy ready to Land, no possibility for a Parliament, so how the case will now stand, I shall leave to your consideration, Whether there be an absolute necessity *infra & extra* to command; and then to shew there is a command, and by what Law: And by that Law that is stronger then the positive Law of the Kingdom, and doth work more in the point of fear. I put this by way of admittance.

In that case there goeth out a Writ, a *Mandamus Rogantes*; but it is in *Articulo necessitatis*, & *quatenus a mandamus rogantes*, not *sub pena forisfacturae*, of all you can, but for your own salvation, and safety of the Kingdom. These Writs have gone forth in such times when there hath been a near danger, and that hath served the turn: For that instinct of Nature that did make some part of the Kingdom desire Government for protection, the same instinct of Nature doth force to contribute for Defence. Nay, that is a stronger Law then ours; for that Law which ariseth from ones own Breast, as it doth command, so it doth compell. There needs no Law without, when we have a Judge within. Now in necessity there is a Law that doth compel; nay, there is a stronger penalty then our Law can imagine: For our Law can make but a penalty of all that you have; But how? To the King. But when there is a danger from an Enemy, there is not only a danger of losing all that he hath, but losing Lives and Lands, and all into the hand of an Enemy.

Put the case an Enemy were landed, to shew what the powers are by our Law; for in that case, for defence, when there is particular appearance of instant and apparent danger, in that case particular Property will yield much to Necessity. These Cases our Books warrant, as building of Bulwarks on another mans Land, and burning Corn. In 88 there was an actual Danger, and then just to take Corn or Horse, or any thing to raise Supplies. But where do any of our Books say, That upon fear of danger, though in the King's Case, any can without leave make a Bulwark in my Land, I do not read, as your Lordships do observe in this case of apparent danger of the power of the King; observe withal the power of the Subject, and out of what Principle this doth grow, Whether out of a form of Law, or out of necessity? In these cases of instant Danger and actual Invasion, it is not only in the power of a King, but a Subject may do as much in divers cases: For if there be an actual War, the Subject, without any direction may do any Act upon any Land, and invade any Property. It is the Law of necessity that doth it. Nay, in that case the Subject may prejudice the King himself in point of Property. If an Enemy be landed, and a Subject take away the Horses of the King, he may justify it in an Action, as in case of a Castle or City. If they can justify that there was a necessity, they may pull down the Walls, and blow up the City.

In this case there is no manner of Mischief, if Subjects Goods be taken by the King, or any man, and in that instant necessity employed to the Publick use.

Now *levis timor* will not serve, for then a man cannot enter for fear of force, but such a fear as must arise from an actual and apparent Danger; then there can be no loss to the Subject in that case.

Secondly, on the other side, If Goods taken, what was taken for publick good, was taken by way of Loan, and I shall shew satisfaction made. Car. 13.

Mr. Holborne's second days Argument, Decemb. 4. 1637. in the Case of Hampden.

May it please your Lordships,

TO remember the Question whereupon I left off my Argument the other day, Whether a King of England can charge the Subjects for finding of Ships at their own costs only out of the King's Judgment and instant danger: 1. Whether for defence of Merchants against Pyrates? 2. Or for ordinary defence of the Sea? 3. Or for defence extraordinary against an Enemy, only out of the King's apprehension of an instant danger, which cannot in his Judgment expect a Supply elsewhere?

Not to repeat, yet in a word or two I shall open my proceeding in this Question, and the rather for that I find some misapprehension, as if I had granted more then I meant, which is fit to clear.

The sum of all was but thus; That the King could not charge the Subject in any of these cases. The Reason I used was but shortly thus, That the Subjects of England, having an absolute property in their Goods and Estates, and the policy of the Parliamentary advice, being to prevent charge only, then on no occasion one might erre by weakness, by any evasion, or by will; That therefore a King could not charge in any of these cases without Parliament, for that so he might charge, if he would, as on occasion, so on no occasion. As to 7 l. so to 17 l.

That if this held in ordinary charges, you may not expect extraordinary occasions, though instant in the King's opinion; for so a King intended by his policy to do nothing without Parliamentary assistance he may; if he would so declare to charge at pleasure on ne necessary occasion, or beyond all property.

This distinction I endeavoured to take off, shewing it did destroy the end of the policy.

That there was no necessity of such a distinction here, I shew'd, there was one thing which I forgot, for destroying of the distinction from necessity, and leaving the King Judge of the necessity; that in Judgment so to do, it is all one to leave it to him arbitrarily, if he will, which is that only which was intended to be prevented, if he will. Part of the charge, if not the principal, in the lower House of Parliament against the Divine for his Sermon, I have seen; the charge for holding the King had a power in case of necessity, and leaving the King Judge, and so at liberty and pleasure if he will. This I do but touch here; for I must make use of it in the main, and shall, under favour, make the case somewhat like.

For the other two matters, that when danger is apparent, there was no need of positive Law, I urged it thus, (Not admitting any thing wherein I desire not to be mistaken;) Admit no Writ of positive command, yet the Subject will be then under a stronger Law, which as it doth command, so it doth compell, that is, the Law of Necessity, which is the strongest of all Laws, with which the Judgment carrieth an Execution; and that this Law commandeth under as great a penalty; for though not under pain of forfeiture to the King, which, as to the clause of forfeiture, is but in *Terrorum*. Yet

Anno 1637. by way of admittance? If he could, yet whether the King can give power to the Sheriff to assesse the County, as in this Case, by a further admittance? Admit that the King have power to charge and to assesse, whether he can Levy the Money unpaid by this course of *Certiorari* and *Mittimus*, as he might do if it were his own proper debt? Of the three Questions, whereof the two last remain untouched, and not Argued by us.

For the first Question, though Argued fully, yet I doubt as yet whether it standeth rightly stated. Not but that I conceive Mr. Solicitor had good colour to state it as he made it, partly by the Record, yet somewhat out of our admittance, yet by admittance only, and so expressed. Again another reason which I conceive, there was a necessity on the King's part, so to make it as the Solicitor stated it, or else to waver the debate.

The first Question is, Whether or no upon the whole Record the Case so appear for the King, that 4 Aug. 11 Car. being the date of the Writ, the King could by his Writ charge the County of Buckingham for finding a Ship of War. This on his Majesties part hath been stated in those words whether the King finding in his Judgment, the safety and preservation of the Kingdom and people necessarily and unavoidably to require this Aid commanded by this Writ, might not command such Aid by Writ for saving and preserving of the Kingdom and people, wherein I confess there is not one word but hath its weight as to this Question thus made. I shall take three Exceptions which are things taken in to be granted, which I shall not argue if I can avoid them.

First, That at least in the King's Judgment, the safety and preservation of the Kingdom was endangered, 4 Aug. that is, that the Kingdom was in danger to be lost.

Secondly, If it be so that the Kingdom was in such danger, and that the danger was so instant and unavoidable, that it necessarily required this Aid by this Writ, that is, it required a present charge of Shipping presently, 4 Aug. 11 Car. to be forthwith commanded, and that the expectation could not expect a Parliamentary consideration and Supply.

These be things wherein we differ. And lastly, For the truth of it the Certificate under the Great Seal, was sufficient in a legal way.

My Lords, To find out whether the Record doth warrant these three things, is of great importance. *First*, I shall seek for them in the Writ 4 Aug. and next in the *Mittimus*; there is no colour elsewhere to look for them.

To open the Writs rightly, will clear these differences, as I humbly conceive without any great Argument: And first, the Writ dated 4 Aug. 11 Car. I shall read the words wherein the dangers of the Kingdom are expressed, and then explain what words give that sense that is taken out of them.

Quia datum nobis intelligi quod predones quidam pirata & maris exsultantes cum nominis Christiani hostes Mahumetani quam alii congregati, Naves & bona & Mercamenta non solum subditorum nostrorum verum etiam subditorum amicorum nostrorum in Mari quod per gentem Anglicanam ab olim defendi consuevit nefarie diripiunt homines & ipsos ad libitum suum deportaverunt homines — in eisdem capti & ante miseriam mancipantes, cumque ipsos conspicimus Navigium Indiarum preparantes ad Africae nostros ulterius molestando & ad Regnum gravando nisi citius remedium apponatur, eorumque covas viriliter obviatur, & consideratis etiam periculis que undique

his guerrenis temporibus imminet; Ita quod nobis & subditis nostris defensione quam poterimus accelerare convenit. Nos volentes defensione Regni tui & Maris securitate subditorum, &c. Here are the causes and occasions; all that come after are not material to the stating of the question. My Lords, In the opening of this Writ, it is true there was mention of loss by Merchants of some particular Members of the Kingdom.

And this loss but by *predones Pyratae quam Mahumetani & alii*, and though *alii*, yet Pyrats still and no more. Then it saith *ipsi* still those Pyrats daily prepared Ships, but not armed with men, What to do? Molest the Merchants *ad gravandum Regnum*, as Pyrats still hitherto. I conceive there is not a word of danger from an Enemy but from Pyrats; not a word of danger to the Kingdom, but to Merchants, however all this is *quod intelleximus*. The Record goes on thus, *Consideratis etiam periculis, &c. imminet*. This part as I conceive is not so positive, the dangers are but *consideratis*, nor the danger to the body of the Kingdom. No word of that, or if to the Kingdom, yet nothing whether it be in point of safety, but only in point of molestation, none of all these appears; and besides, the clause is too general, not expressing any particular danger from whom or how. However, be the danger to the one or to the other, be it to the Kingdom, or to the Merchants; be it for trouble or safety, hitherto I may say that there is no mention of any such instant danger as necessarily did require this instant command in the Writ, not so much as in the King's Judgment.

For ought it appears, a Parliament, even in the King's Judgment might have been called, and consideration taken for defence, here be all the premisses upon which the conclusion must arise, and hitherto nothing material to make a danger to the safety of the Kingdom, and so instant that a Supply *nunc aut nunquam* must come in.

Although the premisses I conceive are only considerable, yet in the conclusion will be but this *convenit accelerare*, but it is fitting to hasten, but no such necessity, and though it be *convenit accelerare pro defensione Regni*. If that were material, it cannot be construed but with relation to the premisses whereupon it is built, and whether in fear of trouble or danger or loss, *non constet*, and though it be *cum omni festinatione*, yet it is *quam poterimus*, and that is *possimus quod jure poterimus*, that is, by all the hast that by Law ye can make, which way that is your Lordships have heard.

Now, My Lords, under favour it appears on the Record, that there was no such instant necessity but that a Parliament might have been time enough; for as it was observed, that between the Test of the Writ and the Rendezvous, there were two hundred and odd daies, where a Parliament requireth but forty daies for meeting, in the remainder of these two hundred daies, the Parliament might have considered of the means of defence, but I leave it to your Lordships to judge, notwithstanding those expences of time cunningly numbered up to your Lordships by the Solicitor. And though it be true that things are oftentimes long in settling and in deliberation; yet nature tells us, that they can be sooner done, if there be a necessity, we know that will force.

I have but opened this Writ, 4 August; I am now come to the *Mittimus*. The only doubt which I conceive in the Writ of *Mittimus* is only

1637. only that where the Case stands but thus in this Writ is recited the tenor of the Writ, *Aug. 4.* and then the Writ goes on, and saith, *Quia Salus Regni, &c.* and that is all the clause in the Record that gives colour to the Case so to be made. And to the whole Record we have Demurred. Here it hath been said, that we have confessed all by the Demurrer, and if that hold not, the King, who is the Judge of the danger he hath said, so he hath certified it by the Great Seal, and on these depends the weight of both these Processes.

To this I have many Answers, but I shall select few from many others, on which I shall relie.

My first Answer is this, Here the words are that *Salus Regni periclitabatur*; these words in show seem to be positive, but in substance but relative, and is rather but a Comment on the Writ or an abstract in point of those dangers mentioned in the Writ, for the clause was brought in on the return of the Writ, and if we have the Writ itself, the Comment thereupon or further explanation thereof is not material.

Second answer, I doubt, I say no more, If the King put particular reasons into the Writ of *4 Augusti*, whether the Law (I speak of the legal course) doth permit an after Writ to put in further clauses of the same nature with the former, and to the same end.

If the Case be thus, our Demurrer will be no confession of any such danger.

In the next place admit the words in the Writ had been positive and materially expressed, yet according to our Rules of Law, it cannot make use of that sence they are now applied unto, for at the least the word *Salus* being only proper to a Physical natural body is applied to a body Politick. It is but a Metaphor which the Law will not indure in Writs, for it would bring in great mischief. In Writs and Pleadings Metaphors are dangerous, we know not how to take Issue upon it, and therefore is not regularly allowed, but I leave it to your Lordships Judgment.

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For that, To ask the question, Whether or no raising Forces thus is left to his Majesty, that stands or falls on the main cause.

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But these Cases will not match ours. As for that great Case of 20 E. 1. concerning the Lords Marchers, that the King was *Superlativum Recordum*, to say no more, it is but an allegation of the King's Council.

My Lords, The reason whereon I shall most relye to avoid the sence of the Writ, *Salus Regni, &c.* is thus.

That though it do now appear by the *Mittimus* that *4 Augusti*, the Kingdom was in danger of being lost, yet it is not sufficient in Law, nor can our Demurrer hurt us, because it must have so appeared in the Writ *4 Augusti* itself, for the Writ and Declaration in Law must ever contain precisely so much of matter as is necessarily true to warrant the demand.

In this to see the mischief, if a danger now declared makes the case, how shall the Subject know by the Writ *4 Augusti*, whether to obey or no? The Law binds no man to divine.

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Anno
1637.

Secondly, In the *Mittimus* it should not be that *Salus Regni, &c.* but it should have been how *Salus Regni periclitabatur*, I believe it is meant so. But we must now look to Rules of Law; true, it might have been in danger before, but not *tunc*, as in the Case of Indictment upon the Statute of 8 H. 6. for an entry upon White-acre *existens Tenementum, &c.* The Law will not take notice of the time without saying *tunc existens*, at the time of the entry.

My Lords, In the conclusion upon all this discourse, it appears I have so pared the Case, that in the Writ dated August 4. there appears no danger to the Kingdom being then lost, and that in the *Mittimus* there is no home express words of danger to the Kingdom instant or unavoidable. If it were so, it cometh not time enough, for it should have been in the Writ dated August 4.

And if there had been such expressing of such instant danger in the Writ, Aug. 4. and *Mittimus*, yet not material if otherwise on Record.

And lastly, This Certificate doth not conclude us. Thus then to shew what the Case is, and what it is not, I have put out of the consideration of the Case, all consideration of such danger to the safety of the Kingdom as are unavoidable.

I have left nothing in the Case but consideration of protecting Merchants against Pyrats: But for ordinary defence of the Sea. If the Case do fall thus, I humbly conceive that in this place without further Argument, I might with some confidence venture my Client upon your Lordships Judgment, notwithstanding any thing offered on the King's part.

Then by your Lordships command, I shall proceed, having laid aside the *Mittimus*, and *Salus Regni*, and taking the Case only on the Writ, Aug. 4. which, as I take it, is nothing of danger to the Kingdom, but against Merchants, and but of common defence. The Case stands thus,

That though there be no actual Invasion, no known or declared Enemy, yet the King out of his Judgment, Aug. 4. 11 Car. apprehendeth and foreseeeth danger to the Kingdom in point to be lost, and that the danger is so instant and unavoidable, that it requireth this Aid, whether the King, out of Parliament, by his Regal power can command this Supply.

I have endeavoured not to mistake Mr. Solicitor; it were an injury to requite him so ill. In my Arguments I shall desire leave to hold his course, because the two main Questions are both of one nature though different in degrees.

Our question is in case of common good against Pyrats.

Upon the whole, My end is to shew that by the fundamental policy of *England*, the King cannot out of Parliament charge the Subject neither for common good, unless in special Cases, and of a different nature, or upon different reason, nor for a necessary defence, though in the King's Judgment instant and unavoidable.

My Lords, In the Debate of these two Questions, I have learned of Mr. Solicitor, not to say all that I could, but so much as is necessary, and as he hath chalked out the way, I shall enquire of this power by Arguments upon practice constant and allowed in time of good Government, when the Liberty of the Subject was not trampled upon, and shew it by Acts of Parliament, reason and Authority on both.

My Lords, I am now come close to the Arguments on the main. Before I begin, give me leave to profess that I am in a *Dilemma*. The Question

on will be, What the King can do in these Cases by his Regal Power? It much concerns him, and I have learned out of a Speech of his late Majesties what it is to debate such questions. Not to Argue it, were to disobey the Assignment of the Court, and to desert my Client and the Cause.

For my part, As your Lordships see I have laboured to decline the main Question, I should be glad it might so sleep.

I shall offer it if happily the Case fall off in the penning of the Writ, and not of the King's Power, I doubt whether the way of Argument shall do the Crown a disservice.

Out of my duty to his Majesty and Service to your Lordships, I humbly offer whether your Lordships, may not think it fitting to determine the Question upon the framing of the Case before it be further Argued. And here I shall rest, or upon your Command, am ready to go on.

Lord Finch.

We do not use to Judge Cases by Fractions.

My Lords, Since it is your command, I shall obey, and go on notwithstanding the *Bicornium Argumentum* which on each side threatneth.

I hope his Majesty will excuse us for Arguing of that which cannot else be determined; and as he hath given way to an Argument, I hope his goodness will excuse us while we do our duty for our Client; and if I err in my materials, or in the way of my Arguing, it is from the defect of my wisdom, I cannot be wiser than God hath made me, and not out of my disaffection to the service.

My Lords, I hope neither his Majesty, nor your Lordships will think it a presumption if I make strict enquiry into a point of a higher nature; yet thus far I assure your Lordships, that if any matter or consideration of State come in my way, I shall tread as lightly as I can; yet I must crave liberty to pick out some to refer to your Lordships consideration, and forbear these things which are unfit.

Lord Finch.

Keep you within the bounds of duty as befits one of your profession at the Bar at *Westminster*, and you shall have no interruption.

My Lords, I shall be very wary and tender, I shall now open the division and parts of my Argument.

My Negative part is this, That the King cannot out of Parliament charge the Subject, not only for guard of the Sea against Pyrats, but also not for the ordinary defence of the Kingdom, though the King Judge the Kingdom unavoidably endangered to be lost. And in this I must take in the defence; as well the defence at Land as Sea.

My positive part regularly is, The King is to be at the charge for guarding the Sea against Pyrats, and for defence of Land and Sea against Enemies so far as he is able, and further, if he were more able; and the King hath provision and consideration for both, and especially for Sea Service.

In the prosecution of these two general parts, I shall not only propose my own consideration, but join them with Mr. *Sr. John's*, as I can further enforce them or justify them against the Solicitor's denial or evasion.

And the course will necessarily bring in many of his Arguments, which I could be glad to spare if the Cause would bear it, because your Lordships should not think that I do nothing but repeat; in this way, I shall humbly endeavour to clear each part

part, by giving a Reply before I descend to other Particulars; and where I conceive a new Objection, which will not fall within any former Answers, I will raise it, and endeavour to lay it: Into these General Questions will fall many others of great consequence.

For such as not being the main, I will not draw upon particular Debate: Where there is any thing concerning State or Revenue, I hope to admit such, and save my Clients Cause.

Having thus unfolded my form of Argument, I descend to my Negative, That the King in none of these cases, without Parliament, can charge the Subject.

First, I'll prove it from Reason, which is the Master of all Authority, as said Mr. Solicitor; and from Reason drawn from the fundamental Policy of the frame of this English Government, in the necessary attendance of the publick advice in Parliament upon the Royal Power.

And secondly, from the absolute property the Subject hath in his Lands and Goods. From these two things I shall draw my Reasons.

For the Political advice in Parliament, I shall hereby decline all School Disputes. The Spider may make Poison out of which the Bee sucks Honey: I shall omit the consideration of some points; I shall make my rise from the Judgment of King James, 1619. in his Speech in Parliament; wherein his Majesty agrees, That the King in *Concreto* can do no more then the Fundamental Laws of the Kingdom alloweth; for more I assure my self his Majesty desireth not.

Before I enter into the Argument further, Whether the Law hath intrusted the King out of Parliament in either of the Cases put, I here profess for my Client and my self, that while we speak of Political advice, and how far a Governour subject to error and will, may use a Regal Power; we do always, with thankfulness to him, acknowledge our present happiness, to be blest with so just a Prince, and we fetch it from our hearts. And were his Majesty so immortal as he deserves, and that his Successors may be Heirs to his Vertues, as well as his Crown, we should wish that the Regal Power might be free from Political advice, and unlimited.

L. Finch.

This belongs not to the Barr to talk of future Government: It is not agreeable to Duty to have you bandy what is the hopes of succeeding Princes, when the King hath Children of his own, who are like to succeed him in his Crown and Vertues.

My Lords, For that whereof I speak, I speak as looking farr off many Ages, five hundred years hence.

My Lords, Because I might run on to further error, if I should not take your advice, I shall slip over much, and the sum of all is:

1. An Argument from the Policy of England in the necessary attendance in the particular advice in Parliament.

2. It will be from the absolute property that the Subject hath in his Goods, taking that for granted against the Book of Cowell, the Proclamation against it in the Year of King James, that Cowell hath written under the word *Parliament*, of the Kings Power out of Parliament, saith, That the power in Parliament is but a pious Policy. But this was complained of in Parliament, and by Proclamation the Book was denied. Your Lordships know another Book that was sentenced upon the same occasion.

The use that I make of it is, If the form of

English Government stand in the Regal Power, and the Subject hath property in his Goods, then the adequate reason from both these, That therefore the King cannot without Parliament charge the Subject in his Estate, though in pretence of Common good; Then a Prince 500 years hence, if subject to error or will, may, if he will, upon any occasion, or no occasion, at what rate he will, charge the Subject to the height.

As to the advice Political, If the King can do this alone, what is become of the policy for which the Political advice was made attendant to the Regal Power; *Ne Respublica, &c.* Secondly, If the Subject hath a property in his Goods, how is it in the power of any one alone to charge that with any Impositions? This Reason I must not leave; for on this the Case stands or falls. Though there be many Books and Cases, yet all are from Reason, but especially when these stand together.

The Reason seems so strange, that it ever holds in ordinary power: It held *pro bono publico & pro defensione*, he cannot make a charge in ordinary things, and the Solicitor did not deny it. The force of this Objection Mr. Solicitor did foresee. His answer stands thus:

Admit it be agreed, That by the policy of the Kingdom the King cannot charge the Subject; yet the King may without advice in Parliament in cases extraordinary, when in his Judgment the safety of the Kingdom is in instant danger, and that the business will not admit the calling of a Parliament.

He fortified this part of his distinction with strong reason; for in such cases a property must yield: For *Salus populi est suprema Lex, & necessitas est lex temporis, & quod cogit defendit*, all are true: And to this some home Cases were put; as for building of Bulwarks on my Land, and burning of Corn in 88. And then foreseeing the encounter of a Reply, he saith, The Subject must not say (that although the power be in the King) he will enlarge his power; *For the King can do no wrong.*

This *prima facie* hath a fair show, and may go far; yet I hope to give it a full Reply. By this distinction the whole frame of Political advice is, under favour, destroyed, I shall shew the contrary by reason and experience.

For the distinction between danger ordinary and extraordinary, when the King doth think a danger, and a Parliament cannot be called, that distinction, I say, must destroy the policy in the whole: For, as I conceive, the end of that policy was but this; for else what could it be? As it will ever be in the will and desire of a good and wise Prince to do all good to the Subject, to whom this advice by Parliament can do no hurt; so in what Case soever should happen many Ages after, for that Posterity will look upon it: It should never be in the power of any Governour to become subject to will and error (if he would so do) to hurt the Kingdom.

That policy was not so much made for a good King, but looking many Ages after.

If you allow such a Prince power in extraordinary Case, and make him a Judge of the occasion, then in substance though provision be made, yet after his Declaration we must make further provision.

Yet may some say, Here is a *posse* and *esse*, because he may, so he will. True, it is unmannerly to say so of any ordinary man; but, under favour, it is allowable to say, He may if he will. Then if we leave him that liberty in such Cases, he hath no restraint but his will.

But

But it is said, That the Law will not presume any such thing.

Anno 1637. The Law doth not presume a will, but the Law looks on things that may be, as well as what will be.

True, the Books say, *The King can do no wrong*; which proveth it is possible for a Governour in his inclination to incline to wrong, and therefore the Law hath taken a care that he should do none; for he cannot make a disseisin, nor discontinue: There may be an inclination to an entry, but the Law, because he should do no wrong, hath made this Act void; which is not a disability in the King, but a Prerogative to make him come nearer to the Divinity in the Attributes.

I shall offer the Judgment of the several Ages in England, they ever thought it a dangerous thing where they thought any restraint fitting to allow any Exception whatsoever, though there were cause for it, lest the party that was meant to be restrained, should be judged, and then go out when he would.

Thomas a Becket he would not swear to the Laws of King H. 2. unless he might put in this Exception, *Salvo honore Dei*. The King never meant to violate any of these. But if that had been allowed, the Clergy had been Judges of that, therefore they would not be satisfied; at this day we have an experience of the opinion of Kings themselves in this Case. I shall proceed to the practice of our Kings; in all Acts of Parliament, where they had ever a desire to declare the King limited or restrained. If they did admit of an Exception, they would have it in words so punctual, that they would not admit of any matter of evasion, for fear hereby his proceeding to be at large. In the grand Charter of K. John, when there was a Clause, *Nullum Scutagium apponatur*, true, there was a reason to except how all (not as E. 1. would have done) saving the Aids due and accustomed, but the *pur faire fuz Chevalier*; and so was *Magna Charta*, though not on the Roll; so careful they were to leave no words that give any such light.

I come to the Statutes of 25 E. 1. against Aids, saving the ancient Aids due and accustomed, no doubt but in these words there was no more saved than the Law must allow the King, and the Parliament did so mean; yet when that same Act came out, the Subject was not satisfied, and therefore the Statute *de Tallagio* was made to take away the Exception in that Act.

Stat. de 28 E. 1. after the confirmation of two Charters, and divers additions, there cometh at last *Salvo jure Corone*, your Lordships will find in Histories how all this was satisfied. And 29 E. 1. a Parliament held at Lincoln, the King made a confirmation without a *Salvo*, and yet none will deny the right of the Crown; the Lords did intend to preserve that. Thus your Lordships see the Opinion of the Kingdom from time to time, how careful they ever were in all their Acts, to leave any way, whereby that which they did intend for their good might be avoided: Now whether in this case there might not be an avoidance, I humbly leave it.

But before I go further, it might be demanded, How came in those *Savings* into those Acts, if the Parliament did not like them, and if they were put in here was a trust?

I shall give a double Answer in the Case: Though a *Salvo*, yet it will differ from our Case; the King was not Judge there, but your Lordships to be Judges between the King and his People: But in this Case the King is to be Judge of the necessity.

But to give you the true Answer, the exception never came in originally from both Houses, not from the Commons, but from the Lords themselves. Car. 17.

This may seem strange. It was the difference of their time and ours, in making Acts of Parliament, that was not a time of granting all, or denying all, but to answer some, as to some part sometimes more alteration, and sometimes an exception; and this being read, the Act drawn up upon the whole by the Kings Council, and upon the whole course we shall find this mischief was found out 5 H. 4. And from that time all Petitions were wholly granted. So your Lordships see how these *Savings* came in; not by the Subjects, but by the pennage of the Act by the Kings Council.

Last Example is in late times, in the late Parliament, in the *Petition of Right* now printed, which was long in debate in Parliament against Loans and Billeting of Souldiers; after the Petition had passed the lower House, that those things were against the Law, there was a Proposition in the upper House concerning the addition of a Clause of *Saving*.

Upon the Journals it appears, that there were several Conferences between both Houses, where the Reasons are mentioned and do appear.

And on the several Conferences the Commons did not yield, but the Petition passed absolutely; and the reason was, Because to put in that *Saving* was to undo the Petition.

To conclude this, to shew the experience of such an Exception, *sine assensu*, what it hath wrought in former times, as that of Normandy, though Forreign, yet to shew what such a thing did work there; It had the same priviledges we claim, and much of their Law came in here. Lewes the 11th taxed them high: They made complaint; he on the complaint, acknowledgeth it, and would tax them no more, but on great occasions, cap. 7.

Having, as I hope, taken off the Bulk of that distinction, I shall further shew how it doth not stand with the practice of our Common Law.

It is a fundamental Rule in our Law, Rather a Mischief then an Inconvenience: For when nothing can be so absolute in Government, but that there may be one case or other, wherein there is no provision made, all the care that men take is to choose the least. Now his Rule is rather a Mischief then an Inconvenience. Now Mischief is that which perhaps may fall out, perhaps never; or if it doth fall out, yet seldom: For if it were a thing that might commonly fall out, it were an Inconvenience. On this fundamental Rule, the Law concerning Lands and Liberties was grounded. True, there might be a Mischief for want of this power in a case extraordinary, but the Mischief perhaps never falleth, or seldom; but to allow the other, would be a Mischief daily.

I desire your Lordships to cast your eye upon a learned Writer *Commeneus*, fo. 107, 131, 180, 181. where in the whole, putting them altogether, speaking of the danger that might come to a State for want of power to raise Supplies for resistance, giveth a commendation to the Government of England. True, he doth not go so far: saith he, It is hard in a Defensive War, that any preparation, which must be great and long about, can be so acted, but that Princes may take a timely notice to call together and advise by Parliament.

Anno.
1637. In the Low Countries, where there are Wars, though they have an Excise for ordinary, yet they do it not for extraordinary without consent in Parliament.

My Lords, I go on; Admit an Enemy ready to Land, no possibility for a Parliament, so how the case will now stand, I shall leave to your consideration, Whether there be an absolute necessity *infra & extra* to command; and then to shew there is a command, and by what Law: And by that Law that is stronger then the positive Law of the Kingdom, and doth work more in the point of fear. I put this by way of admittance.

In that case there goeth out a Writ, a *Mandamus Rogantes*; but it is in *Articulo necessitatis*, & *quatenus a mandamus rogantes*, not *sub pena forisfactura*, of all you can, but for your own salvation, and safety of the Kingdom. These Writs have gone forth in such times when there hath been a near danger, and that hath served the turn: For that instinct of Nature that did make some part of the Kingdom desire Government for protection, the same instinct of Nature doth force to contribute for Defence. Nay, that is a stronger Law then ours; for that Law which ariseth from ones own Breast, as it doth command, so it doth compell. There needs no Law without, when we have a Judge within. Now in necessity there is a Law that doth compel; nay, there is a stronger penalty then our Law can imagine: For our Law can make but a penalty of all that you have; But how? To the King. But when there is a danger from an Enemy, there is not only a danger of losing all that he hath, but losing Lives and Lands, and all into the hand of an Enemy.

Put the case an Enemy were landed, to shew what the powers are by our Law; for in that case, for defence, when there is particular appearance of instant and apparent danger, in that case particular Property will yield much to Necessity. These Cases our Books warrant, as building of Bulwarks on another mans Land, and burning Corn. In 88 there was an actual Danger, and then just to take Corn or Horse, or any thing to raise Supplies. But where do any of our Books say, That upon fear of danger, though in the King's Case, any can without leave make a Bulwark in my Land, I do not read, as your Lordships do observe in this case of apparent danger of the power of the King; observe withal the power of the Subject, and out of what Principle this doth grow, Whether out of a form of Law, or out of necessity? In these cases of instant Danger and actual Invasion, it is not only in the power of a King, but a Subject may do as much in divers cases: For if there be an actual War, the Subject, without any direction may do any Act upon any Land, and invade any Property. It is the Law of necessity that doth it. Nay, in that case the Subject may prejudice the King himself in point of Property. If an Enemy be landed, and a Subject take away the Horses of the King, he may justify it in an Action, as in case of a Castle or City. If they can justify that there was a necessity, they may pull down the Walls, and blow up the City.

In this case there is no manner of Mischief, If Subjects Goods be taken by the King, or any man, and in that instant necessity employed to the Publick use.

Now *levis timor* will not serve; for then a man cannot enter for fear of force, but such a fear as must arise from an actual and apparent Danger; then there can be no loss to the Subject in that case.

Secondly, on the other side, If Goods taken, what was taken for publick good, was taken by way of Loan, and I shall shew satisfaction made. *Car. 13.*

Mr. Holborne's second days Argument, Decemb. 4. 1637. in the Case of Hampden.

May it please your Lordships;

To remember the Question whereupon I left off my Argument the other day, Whether a King of England can charge the Subjects for finding of Ships at their own costs only out of the King's Judgment and instant danger: 1. Whether for defence of Merchants against Pyrates? 2. Or for ordinary defence of the Sea? 3. Or for defence extraordinary against an Enemy, only out of the King's apprehension of an instant danger, which cannot in his Judgment expect a Supply elsewhere?

Not to repeat, yet in a word or two I shall open my proceeding in this Question, and the rather for that I find some misapprehension, as if I had granted more then I meant, which is fit to clear.

The sum of all was but thus; That the King could not charge the Subject in any of these cases. The Reason I used was but shortly thus, That the Subjects of England, having an absolute property in their Goods and Estates, and the policy of the Parliamentary advice, being to prevent charge only, then on no occasion one might erre by weakness, by any evasion, or by will; That therefore a King could not charge in any of these cases without Parliament, for that so he might charge, if he would, as on occasion, so on no occasion. As to 7^l. so to 17^l.

That if this held in ordinary charges, you may not expect extraordinary occasions, though instant in the King's opinion; for so a King intended by his policy to do nothing without Parliamentary assistance he may; if he would so declare to charge at pleasure on no necessary occasion, or beyond all property.

This distinction I endeavoured to take off, shewing it did destroy the end of the policy.

That there was no necessity of such a distinction here, I shew'd, there was one thing which I forgot, for destroying of the distinction from necessity, and leaving the King Judge of the necessity; that in Judgment so to do, it is all one to leave it to him arbitrarily, if he will, which is that only which was intended to be prevented, if he will. Part of the charge, if not the principal, in the lower House of Parliament against the Divine for his Sermon, I have seen; the charge for holding the King had a power in case of necessity, and leaving the King Judge, and so at liberty and pleasure if he will. This I do but touch here; for I must make use of it in the main, and shall, under favour, make the case somewhat like.

For the other two matters, that when danger is apparent, there was no need of positive Law, I urged it thus, (Not admitting any thing wherein I desire not to be mistaken;) Admit no Writ of positive command, yet the Subject will be then under a stronger Law, which as it doth command, so it doth compell, that is, the Law of Necessity, which is the strongest of all Laws, with which the Judgment carrieth an Execution; and that this Law commandeth under as great a penalty; for though not under pain of forfeiture to the King, which, as to the clause of forfeiture, is but in *Terrorum*. Yet

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Yet under the true pain of forfeiture of all to the Enemy, from whom we may expect no mercy, Lastly, that of an actual Invasion and Necessity withal, that not by any positive Law of the Kingdom, but of the general Law of Necessity, which is above all Laws, for the publick good, private property doth yield on all parts.

Of these two last I have but touched here, to shew what I mean, I shall speak further on them both towards my Conclusion, in my Answers to Mr. Solicitors Objections.

I shall now proceed to make good out of the Books of Law, that our Law doth not leave it in the power of the Prince (in respect of such a Prince as possibly may be) to lay any charge upon the Subject, but only in such cases where the Law hath made such provision, that if he would, he cannot mischarge.

In this place, because it is taken for a Maxim, *That the King can do no wrong*; and therefore the Law doth repose this trust of charging in him, without any danger at all; I shall shew that the Law doth take notice how, and in what case the King can, as much as in him lieth, do amiss? And where the Law is sparing to leave the King any power to lay a charge on the Subject, even in small things, when the *quantum* rests in his Judgment. It is true, the Law doth allow the King to command payment of Moneys in some cases; yet where the *quantum* or occasion are subject to a trial, the ground of all this is, That the Law sees that the King may incline to mistake, though as a King, he can do no wrong.

This may seem a Nicety, yet, under favour, is clear.

This resteth in the distinction of a double capacity of a King. As a natural man; and in this respect, to say he cannot erre, is strange. Human Nature is not capable of that prerogative at best, and they are subject to natural infirmities of the Body, and can dye; even so of the Understanding and Will.

So you see the Law must take notice of possible mistakes in Government, and this possibility in another is no injury to a good Prince, but sets off his Merits: And this is not only true for smaller things, but even in the greatest. How many Acts of Parliament have we in print (of which your Lordships are Judges) declaring the Kings mistakes in the Acts themselves, by way of complaint, and providing remedy for the future, yea, in their own times.

To instance in one long since, cast your eye upon the beginning of the Acts of Parliament of E. 3. time, where we find a Statute for the Government of the Realm.

Distin^t. 2. As the Law saith, He may incline to mistake in the natural, so it hath taken care that in his politick capacity he shall not. And therefore lest the possible Errors of the natural Body should reflect on the Body politick, the Law hath provided ancient means to prevent it, which was a Writ of *ad quod dampnum N. Br.* in the Writ. That if any damage to the King's Subjects, the Parent is in Law naught.

As if the King grant a Fair, and an *ad quod dampnum* is brought to enquire what Fairs were kept by it, the Books are full. It is true, that in some cases the Books do allow the King to lay a charge upon the Subject, yet not in every case for publick good, but only in some few, which indeed have been ancient, and indeed of the very essence of necessary traffick and intercourse between one part and another of the Kingdom; as murage to

keep the Commodities sold the safer; Toll for a Fair or Market towards the maintaining of it; Pontage and pavage for the bettering of passages. And in all these cases the King may grant a sum of Money to be paid; yet as it is in this common good, some body must have the power to grant, and that same can be none but the King. So if the King should grant on no occasion, or howsoever (which is enough to me) a sum too great, greater then the benefit the Subject shall receive, it is void in Law.

If the Subject have not a *quid pro quo*, then no charge *Rep. 5.* and in this case there is a Judge of the justness of the proportion besides the King, and that is when a Patent cometh to be questioned, if a Toll be laid too high, then the same Patent is naught. Thus then you see how far it is that the Law doth agree that the King shall lay charges upon the Subject, only out of common and ordinary necessity, there must be some body to have power. But then there is a further remedy of a mistake?

Here, before I leave this, I make a double use therof: First, to shew that if the Law do not permit the King any absolute power in this trifle, shall the King do it in so great a matter, where you shall have no Judge but himself of the occasion and proportion.

I next observe where the Law permits the King to charge in any case arbitrarily; it is but where this power doth arise by original contract and precedent consideration and agreement for Land. And then not *quatenus* as a Subject, but *quatenus* as a Tenant only, as *ratione tenura* in respect of the particular Seigniorie and dependance, not in respect of the general Seigniorie of the Kingdom.

My Lords, it is true, at the Common Law, the King had a power of liberty, till he was restrained by Statute; which was as *aids pur faire fix. Chevalier pur file marrier pur ransome*, and taxing of ancient Burrows; and these Aids were in respect of the particular Seigniorie *quatenus* Tenants. Next thing that I observe, that the policy of the Kingdom so little delighteth in these uncertainties, though it ariseth out of contract and consideration, as in case of these Aids, The Law would not allow that inconvenience of leaving them to an arbitrary charge, but in some case settled a proportion.

It is true in case of Ransome, because no man can tell the certainty of that which is left at large.

This I further observe by the Common Law, where the charge is in respect of the tenancy, yet if the charge come often, as the King please, there the Law did not leave it to the King's Judgment. As in Escuage, which is a profit arising to the King in respect of the Seigniorie. Though the Law allowed the said Aids *pur faire fix. Chevalier pur file marrier, &c.* because they could hapen but once; but Escuage, that might happen often, the Law would not allow that to be uncertain: It must be assessed in Parliament, as in the Charter of K. John, which was always held no more then Common Law.

My Lords, upon the whole, I desire to consider how unwilling the Law is to leave the King a liberty to charge even in the Kings case at the Common Law, and how restrained by Act of Parliament; where the Common Law before did give liberty.

Next, I observe that the Law in none of the said cases, nor I believe in any other, doth admit a power to lay an immediate charge on the Subject, but only in laying a charge to be paid in respect of the benefit which he that receiveth it is fit to pay, but none compelled otherwise to receive it or pay it; for

for if he will not have the benefit, he may refuse to pay it even in Cases between King and Subject.

In the Case of Toll, Pontage and Paviage, it is not laid so on the Subject, that he shall pay it whether he will or no, but as there is a benefit by Pontage, &c. which cannot be maintained without charge, and therefore just that they that have the benefit should bear it.

Lastly, I shall offer that even in these Cases, where the King doth lay a charge *quatenus Rex*. It is not so left unto him either for the occasion or proportion, as that if he will lay never so much he may; if it be unreasonable the Law doth make it void; as in Case of Toll, if unreasonable.

My Inference is this, If the Law be thus careful in such small things as penny matters, whether or no the Law will make no provision in the main, but leave the Subject unto the absolute liberty of the King to charge, when he will say it is in danger, and where there is no Judge at all?

I will conclude with Book Cases in point, that the Law doth not leave a power in the King to charge, though it be in the King's Judgment *pro bono publico*, as in Case of granting an Office. The King cannot regularly, at this day, create an Office with a Fee, but in Law it is void, though the Office had in it self a show; nay, it may be *pro bono publico*.

P. II H. 4. 15, 16. and in 14 a Grant of an Office of Measurage with a Fee void. And that very thing 13 H. 4. was complained of in the Parliament, that it was against the Law, because in charge of the people to which the King answers, Let the Laws and Statutes be observed. In the Roll amongst the *Adjudicata* the reason is expressed, *Quia Sonat in prejudicium populi*.

16 R. 2. The King grants to one a rate upon every Barge that passed the Bridge, in consideration that the Patentee had taken upon him the Scouring of the River; in that Case the Patent was repealed.

So in case of Lights to be kept for the benefit of Seafaring men: this was in charge of the people. This *Pat* was complained of, and your Lordships know the order upon it. I omit many Cases, and conclude with that of *Fortescue, De Regibus Anglia, cap. 25.* speaking and commending the policy of the Government of England, prefers it before that of France, and shews the good fruit and effect of it, and laies down this for one, That the King cannot charge without consent in Parliament, and he was a man allowed for extraordinary Judgment who sheweth instructions for a Prince for future Government, being trusted more with the Government of him than any other. I conclude these Cases with this Observation.

This denying of Power of laying charges on the Subject is not only in the Case where the King would raise a benefit to himself, which a man may call *Tallagia vel auxilia*, but in Cases of charges which lie on the Subject, though not for the King's own benefit, though also it be *pro bono publico*, as in the Cases put before.

I shall now come from the Books by which I shewed what is the Common-Law, that by these grounds the King cannot charge the Subject, I shall now offer the consideration of some things which are Acts of Parliament, or have the force of Acts of Parliament.

I shall begin with that of *Will. 1.* for a Conqueror I shall not call him; for that name came in about E. 1. his time, for there being an *Edward*, because they could not tell how to give him a distinction from the Confessor they called him E. 1.

after the Conquest by the direction of Sir Roger Owen the great Antiquary. That which I shall urge, is that which he granted A. 4. That all Free-men should hold their Lands *Sine omni injusta exacc'one seu Tall'* nothing to be demanded but that which was by Tenures, as in *Eadmerus* by *Selden*.

Now whether or no this be an Act of Parliament, I shall not dispute, yet in those times where a thing was granted between the King and the Subject, though it had not all the Formalities that now it hath, yet it was binding: however this is called the Conquerors Law, and I take it for a Law.

Then it resteth to examine the words, whether the words will serve our purpose to clear the Subject in point of a Sefs. It is said that they should be free *ab omni injusta exacc'one seu Tallagio, Ita quod, &c.* by this all charges (but such as were by tenure) are called exactions; the Rule is *Ubi lex non distinguit nec nos debemus*; this is a Grant, if not of right, yet of Grace, and must be taken largely, *Favores amplificandi*.

The Subject could not have demanded of him, especially that of 40 s. if it had not been the Law of the Land before.

I shall humbly leave it, whether this be not the Law by which *Edward* the Confessor laid down the *Danegelt*: for the *Danegelt* was not only against Pyrats at Sea as Robbers, they were indeed Pyrats men strong at Sea, but all other Enemies. These called the King of Man *Archipirata*; that is, a powerful King at Sea, and that these Pyrats were only strong enemies, and it was to raise men not *obviare eruptionem* but *irruptionem*, not so much to keep them within their own Kingdom, as to keep them from falling on the Land. And by the History of those times, when this was raised by reason of the Danes Landing in Northumberland and Essex, and so upon that Eruption of the Danes, *Danegelt* raised is called by *Cambden* in his *Britt.* *Irrup'one Hostium*; and *Lambert* in his *Saxon Laws*; But let it be *irrup'one* or *erup'one*, or be it *Danegelt* to keep them from coming out or Landing here, both of them was for the publick service.

When this had been so much complained of in *Edward* the Confessors time, it is clear he dampned it, and *Ingulphus* is an Author without exception in this, and *Tilburienfis* not to be compared to him.

Ingulphus was a great Courtier and Favourite of *William* the Conqueror; and to think that he had not a better knowledge of what the Confessor did than *Tilburienfis*, who wrote many score years after, is much to be wondred at. And it is strange that *Ingulphus*, who was so much bound to the Confessor, should carry a Law down to *Croyland* to the prejudice of so great a Lord, if he had not been sure of it.

Tilburienfis was urged as if he speaks that it had been paid to the Conquest. He wrote in H. 2's time; and my Lords observe what he was: an Officer in the Exchequer, and for the rules of the Chequer he teacheth them well: But for History against *Ingulphus* I leave him.

If this were laid down by E. the Confessor, then I conceive this Law of *Will. 1.* was but the Law of E. the Confessor, and there was no ground for him to require a Law to lay any charge but what was before; *Tilburienfis* makes this good, for he himself saith that the Conqueror laid it down, and speaks of taking it up again; if it were laid down, I would know by what Law or particular direction it was laid down, if not by this; for nothing in all the Laws of the Confessor can cause to lay it down, but this, and thus far he standeth with *Ingulphus*.

Anno 1637. I shall further shew how these Aids and Tallages were meant here. It is a clear ground that *exceptio firmat regulam in non exceptis*. An exception often doth enlarge the meaning of the word beyond the ordinary sence: As if I grant to J. S. all my Trees here, my Apple-trees pass not; but if I grant all my Trees, except my Pear-trees, there my Apple-trees do pass, because this sheweth that I meant all my Fruit-trees in the word Trees: I apply it thus, here is a discharge of all Taxes, except by Tenures. Now I shall shew that Tenures were for defence and service of the Kingdom in the proper place, when I shall shew what provision and means the Law hath allowed the King for defence.

My last Observation is this, This was not a Charter betwixt the King and his Tenants: but betwixt the King and Kingdom, and so something must be laid down which was due to the King.

There are two kinds of Aids:

1. From the Tenants.
2. From the Commons: one was by command from the King without any more, the other by Act of Parliament.

But here Mr. Solicitor hath taken that grounded Argument, of which I have taken to find out a contrary sence, that is, *Sumus fratres conjurati ad Regnum defendendum*; wherefore these Aids not possibly meant here; But this is contradictory.

By inference to overthrow a thing express, is against the Law. If the words be express that there shall be no Tallage, then by an Inference to say, that the defence of the Kingdom is not meant, is hard. True, all in their Allegiance are bound to defend the Kingdom: all are to fight for it. Acts of Parliament tell us where we may do it, when and how, but that we must give Aid, is another thing.

It is one thing to supply with the body, another thing to give and pay money. And if there be any Invasion, *pro posse suo* every Free-man is bound to defence: But whether for every defence of the Kingdom we must give an Aid, is another thing; Acts of Parliament will be the best expositors of things so long since: For as Custom and use will make a Common-Law: So likewise will it declare an antient Act of Parliament.

Now I shall come to that of King John, *Quod nullum Scutagium vel auxilium ponatur*. The credit of this I shall first clear. It is not only in *Math. Paris verbatim*, who writ in H. 3's time, the only Historian than living. But,

The Original of it was shewed under Seal the last Parliament by Mr. Selden, and these very words were read, *Nullum scutagium, &c.* and my Lords, though this be no where on the Roll to be found, yet this no waies lessens the authority of it. It is no part of the essence of a Statute to be found on Record; if all should be burned by mischance, what would become of the Law? Though the Rolls be all burnt, yet the Judges know what are Acts and what not, though they have nothing to make it good but their own Manuscripts, or Printed Books, or Tradition. A man cannot plead against an Act of Parliament *nulla* Record, that is the Judgment in the Case in the eighth Report Princes Case. The Dutchy of Cornwall stands supported only by an Act of Parliament, not upon Record. That which I shall shew to make this an Act of Parliament appeareth out of the words. There are two things *Scutagium* & *auxilium*; *Scutagium* ariseth from the Tenant, and *Auxilium* from the Subject.

To shew that *Auxilium* is laid down; by this

it appears that he could not Assess Scutage without Parliament.

I hope to shew that Scutage was for the defence of the Kingdom, and is such a provision, that no King hath a better, and such a one as will raise in England above 40000 men.

Yea, but saith Mr. Solicitor not assessed, that is, not meant to bind the King but the Subject. The King can do no wrong; Dorth any man think that the Commons did come to the King to bind themselves and leave the King at liberty?

I come now to Argue from the exceptions, *Exceptio firmat regulam in non exceptis*. This exception sheweth the latitude of the words to be to discharge of all Aids. That there had not been care had of the particular Aid, *Quatenus* a Tenant, they were afraid even those were swallowed up; true, I do not conceive that was a thing of necessity. But as the King may have it in if he would: So the Subjects had no Reason to deny it him, for it was but just; and was never meant to be taken from him; nay, the Lords themselves had reason to take care themselves that this was not discharged: For in all these Cases the King hath no more than a Common person, for he hath *per se* marrier, so he hath his Aid *per se* faire Ransome. And that appeareth upon 21 E. 1. Release from a Lord unto his Tenant, so that there was reason that the King and Lords should take care of this, yet they were afraid that those words would be so strong against publick Aid, as that it would take away private Aid. Last Reason, That this *Auxilium* must be said publick: For look in all the King's desires (when they did desire Aids) still their Introduction is the defence of the Kingdom, which is a cause of the Parliament, which appeareth by Speeches there on Record. Nothing can be intended of these private Aids for himself. I have done with the Charter of King John.

I next come unto *Magna Charta*, 9 H. 3. For *Magna Charta*, I humbly conceive that this Charter at first when it was granted, was no more than *verbatim* the Charter of King John, and originally had in it, very probably, this very clause of *Nullum Scutagium*. My reason for it, First upon all Histories, That after King John had granted a Charter, the Pope he would have discharged him of it as far as in him lay, but that still the Lords and Commons made claim. He died, Henry the third cometh in: A difference between the King and the French. Then was promised this Charter should be confirmed. Histories say at his second Coronation, he gave his Oath to confirm the Charter of King John. Then in 9. the Lords demanded it; he was unwilling, because it was gotten by *duress*. But the King said, we are sworn to it and must confirm it. And in *Mat. Paris* it is said expressly, that the Lords did call for the Charter of King John, and there it was read and confirmed *verbatim*. And *M. Paris* lived in the King's Court, and he was *adeo familiaris*, that it is said he eat with him at his Table, and at that time he writ this Book, and sure he durst not have written it, if it had not been true. But we find it not now on Record? How this might possibly slip, I shall tell you, 1. We have no original Enrollment of *Mag. Charta*; no *Mag. Charta* but that of King John. If it be true which Histories say, that H. 3. did revoke his Charters, it is possible that these Rolls might perish in that time.

Authority of the King at Oxford did inforce them to bring in their Records; doubtless they would not leave the Enrollments.

Anno 1637. Next step to look for it is 28 E. 1. confirmed thereand is exemplified, the Original may be lost in so long a time. What became of all Parliament Rolls till 4 E. 3. All perished by fire or some other mischance. Things were afterwards put together, and upon the Roll, this was not the Original Enrollment of 8 H. 1. and written on the Roll, where Acts of later time are written, and with the same hand. If it were once in King John it must be left out somewhere.

Observe one thing more, that is, As this of *Scutagium* and *Auxilium* doth concern the Subject in their Lands. There is also a clause concerneth the Subjects in their persons. *Nullus liber homo imprisonetur*, that might be taken for ordinary imprisonment. But then there cometh provision for the King that he should not do it, which is *non super eum Mitteremus*; such words as that a man knoweth not what to make of them. But in the Charter of King John it is *Nec enim in Carcerem mitteremus*. In this great thing we see the mistake, and how the other happened I cannot tell.

I now come to E. 1. time, wherein I hope to make good those Acts of Parliament that we have vouched, and here lieth a main endeavour: 1. Was of 25 E. 1. which is not denied to be an Act nor cannot; the other is *de Tallagio non concedendo*, which is so full that it cannot be evaded, and therefore is denied to be an Act. 1. For the Act 25 E. 1. which is against Aids and Tallages not to be taken without consent of the Kingdom; I humbly conceive that by these words Aids and Tallages used in former Acts, that this was meant of charges for a publick defence of the Kingdom complained of, and not denied; I shall bring home the Roll of 25 E. 1. That the King doth not promise to pay them by reason, to have words for their Money.

But that they must have a reasonable satisfaction, I will shew that was the sence given upon the Record. 1. For the practice of the times, that there were Ship Writs went forth. These Writs went forth in more terrible terms than any I ever saw, *Sub poena forisfactur. vite & membrorum*, 24 E. 1. was the Writ; I am sure such a Writ by the Common-Law would not have maintained, that if they did it not, the King should hang them. This Writ was the grievance upon the Subject, and this Act refers to that. True, there was other grievances 4, and 5. but this was one; and these Aids which were then for the defence of the Kingdom, were included within the rest, appears. The King in reading the Articles, speaketh that what was done was done for defence. Though true, he had Wars in *Poitou*, and in other places beyond the Seas, yet as true that it was a War to be kept from hence by defence. That part was for the defence cannot be denied, and yet no distinction to be made between a Foreign War and defence, and both equally grievances to the Commons.

After this Act of 25 E. 1. there cometh out a Commission, and this was in pursuance of the promise that the King did make at his going into *Flanders*, and that was to enquire of those Grievances in the Articles; and amongst the rest there was *de Lanis & Coriis* taken away *pro defensione maris*; and to that the King saith there, that for those things *pays per reason*. There hath been an answer given unto this, and much stood upon that the King should say upon this Commission to enquire of Grievance *pro custodi maris*; if it were so he would *il ferre saunt que il tienerent appaid par reason*. That this should be no more than that the King should give a reason why he did it, I questi-

on; as if he should send forth Commissions and afterwards dispute it; or if he did do it, whether lawful or not: That is not the way of sending out Commissions.

Suppose that the King should say, he would give them a reason for it, this Commission did go forth to enquire of those Grievances. And if the King had not said he would give any satisfaction; yet it is enough that it is enquired of *us de gravamine*: It is a wrong upon the Subject, Princes may lay Taxes, yet the Subject doth not call for satisfaction: A Princely word that it should be done.

But when the King doth say *pays per reason*, to think that that is no more than that he would give some reason for it, is a strange inference.

In a Bargain they use to say, you shall hold your self content with reason, you cannot have your own demand, but he is satisfied one way or other, so here.

To begin with a Record 21 E. 1. Parl. Book *de Petition* of the Commons, and they did desire restoration of all their Moneys, 25 E. 1. there was 2 *de Lanis & Victualibus*, within that Commission, so the Money and the things taken, and enquired upon by that Commission, 26 E. 1. were for defence, and here *ordinatum est per concilium quod Rex satisfaciet eis quam citius poterit*, upon this Petition they desired satisfaction. The Commission twenty six ordered by the Parliament that the King should satisfy them as soon as he came, so that they should hold themselves content, *Ita quod se contentos habeant*, so you see not satisfaction by reason to justify them, but the King should satisfy them one way or other. It is that they should have something for it, and not that they should have reason why they should have nothing.

But I rest not here, There is one Parl. Roll remaining before 4 E. 3. and that was 8 E. 2. *pro Priori & Fratibus Sancti Johannis Jerusalem*. It is there set forth that E. 1. did command his Treasurer and Barons of the Exchequer to make satisfaction for wages taken in *Servitio*. To the Clergy and Layety *veluti pro Lanis & Coriis*, &c. and that satisfaction should be part by Money and part by releasing of debts, so as thus the King had no meaning, 26 E. 1. to pay Money back presently, but would give them satisfaction one way or other by payment of debts, or releasing of debts, as it was explained by that of E. 2.

Another Record P. 27 E. 1. Roll 36. satisfaction was there given for an eighth and fifth. These things which were taken before 25 E. 1. complained of, and that confessed by Mr. Solicitor. So as I conceive, though it had been enough that there had been an enquiry of these things as upon a Complaint, though there had been no more answer. If an answer make it better, it is no answer to say, that they should have satisfaction by words, but either in money or releasing debts; If none at all, Confession had been enough.

I shall now come to take of the Solicitors exception to 25 E. 1. where he endeavoureth to shew that this Money for Shipping could not be intended within the Body of the Act, and if it was, yet it was excepted in the saving of the Act.

Objection stands thus, No Aids were charged but such as were granted, and we do not shew that these were granted. And there is a word beyond that, and that is Prizes: How far that extends I leave.

But if in the body of the Act, yet excepted in the saving all ancient Aids due and accustomed.

For the saving of such an Aid due and accustomed

Anno

1637.

customed surely was meant there.

In this answer lieth this question, Whether these were the ancient Aids due or not by the Common Law? This will stand or fall on the body of the Argument.

I shall tell you what these Aids were and cannot be these. There were other Aids mentioned in the Charter of King John, as *pur faire fuz Chevalier, &c.*

That which takes off all, If these Aids were part of the grievance, though for defence, then they cannot be meant in the *saving*, for that destroys the purpose of the Act; and for that *saving*, it never came by the Commons nor the Lords, but the form being so to grant in part, and as the King would grant it, so they must take it. Histories say that they did not like the same, and therefore desired an absolute Act.

It was said that Aids and defences were meant of Foreign ones. If the King and Council were so wary as to put in such a *saving* as before was not in the Act; it shews what care they had to have what they could have, if by the Law they might have them for Foreign defence, and not at home; they that put in the *saving*, would have put in a distinction. I shall leave the consideration of this Act to your Lordships, how far it shall extend to Aids for the defence of the Kingdom in that Case. I shall go on and conclude with the Statute *de Tallagio non concedendo*, that Act of 25 E. 1. was indeed so well penned that it gave Mr. Solicitor a very probable colour to make those handsome Answers.

The Lords did desire a better Act, not with these words, No such Aids, for (such) is a relative word, and those are dangerous words. Next, if no more meant by the *saving*, than *pur faire fuz Chevalier, &c.* and yet to have left these in general and not in particular, had left a way open to question what they had been. And in *Walsingham* the Lords were not satisfied with it, though it was signed and passed the Great Seal. It is true, that at this time a Pardon did pass to these Lords: The words are so strong that this was denied, and much said, and very colourable too.

It is true, That this Charter is no where on Record, that we find, but for that an answer is given before.

It is said, That is no Act but only penned as a Charter, that exception was once made by the Council on other occasions.

Acts of Parliament were then penned; so *Mag. Charta*, and *Charta de Foresta* are but in form of Charters.

Yea, but we cannot tell when it was. How many Acts of Parliament are there which we know not when they were? Historians best tell that. It is hard to find it when the Records are lost: But this will appear to be in the time of E. 1. There is the Pardon to those Earls, 24 E. 1. Then we find a Parliament, we know that the Rolls of those times were miscarried and lost: sure it must be after the Stat. 25 E. 1.

But then there is an Exception from the diversity of the penning. Sometimes *Nullum Tallagium ponetur*, sometimes *ponetur*.

We know upon the Entry of the Rolls, there have been divers mistakes in the entering of *ponetur*, if it be with a dash it may easily be mistaken, and so only *virium scriptoris* and nothing else.

Then let us enquire what it was, if it be no Act.

It is said that it is no Act, but an extract out

of 25 E. 1. and that he urged several waies upon several occasions.

By the penning of it, it doth appear that he that wrote it was a Schollar, and not mistaken. To make a thing absolute, that was but relative, for *Nullum* to make it *Tale*, and to make that without a *saving* that had a *saving*, is a strange kind of *saving*.

Yea this cannot be an Act, for at that time there was a Pardon to divers Lords.

If that be true which Histories say, when this Act was published, the Lords were not satisfied with it, and these were the main Lords to whom the Pardon was granted, that were not satisfied. And to make their Pardon the stronger, they did weave it into the very body of the Act.

And for *Walsingham* he is of great credit. They say further, that this was no Act; for this takes away these 3 Aids and Tallages. This is not so, Acts speak of it, and Practice speaks of it, and therefore no Law and Practice of Ship Writs ever since, and for defence of the Kingdom.

For the Aids that is a good Act, yet those were not intended, nor included within that Act, and therefore that practice is not contrary, because it is not in the words of the Act, nor in the meaning of the Act.

For the Aids therein questioned, the Question was between the King and the Commons, and not between the King and Tenants. Then, that not being the question, there must be a consideration according to the occasion and the doubt made: But to take this *Nullum auxilium ponamus*. These are not Aids put on the Tenant but fruits of a Seignior: As the Dutchy riseth not in the King's Command but from the Law, and so not within these words, *Nullum Auxilium ponamus*. And so all the practice ever since, will well stand with this Act. And to say Shipping is not meant because of the practice since, is nothing. Let me establish once the Law, and no matter for the practice. If the Law be once settled, we must reduce Precedents to Law, and not Law to Precedents.

And for the practice, yet still the Subject makes a continual claim against them.

My Lords, To prove that this is an Act, *Walsingham* entred it in his time, who did not write very long after it.

Though it hath been said that he was a Monk, and what he writ he took up in the Street and Market-place, yet I will not think so of *Walsingham*, who was ever held an Historian of great credit. And no Historian whatsoever durst set down an Act of Parliament, if he had not a sure warrant for it, it had been little less than Forgery.

In the next place it hath been said, Histories are no Authorities in Law.

True, they shall not tell me what the Law is, yet they are good to tell us of *res gesta*, whether there hath been such things or no. He tells us not that this was for Shipping or not for Shipping, but tells us that there was such a thing.

I have seen and searched after this Act, and I have found it in an ancient Manuscript in *Hen.* the fourth's time, and it goes in the name of *Statutum de Tallagio non concedendo*, and find it mentioned no where, but still find it mentioned as a Statute.

I have an Abridgement of H. 8. and there it is put in as a Statute; I will not urge positively but probably, and that an Act in 13 H. 4. A complaint for laying of Taxes on the Subject. The answer is, Let the Laws and Statutes be observed. This is that positive Act that doth more reach it than any other.

But

But the main Answer that I rely upon, if they deny the truth of an Historian, for *Res gestæ*, is this.

1637. If from time to time it hath been conceived an Act, what more strong? What makes our Common Law, but general Opinion and allowance? And should we doubt of any thing whereof we find the Acts of Parliament themselves, I am afraid we should shake many things done by the Common Law.

That which I rely upon is, the late Judgment of the late Parliament, to which your Lordships will give all reverence. This, my Lords, did not pass *sub silentio*, but was made a Question, and something proposed on the King's part, Whether an Act or not? In the conclusion, it came into the *Petition of Right*. The very first Statute mentioned in that Petition was this, *De Tallagio non concedendo*, made in E. 1. time. How far this question passed at the Committee, it is better known to your Lordships, and is the thing whereon it is built.

If this had not been an Act, it had been dangerous to have put it into the upper House. But it being there read, your Lordships knew what was done upon it.

This Petition being thus debated in both Houses, I shall leave it to your Lordships, how far you will make this Question; and his Majesty in his Answer did not deny the same: But both King and Council agreed that it is a Law.

Mr. Holborne's third days Argument,
Decemb. 6. 1637. in the Case of
Hampden.

My Lords,

AS the other day, so now again, with your Lordships favour, I shall be bold to sum up my last days Argument in a very few words, and by the way clear my meaning, wherein I was any whit obscure, as also add where I was defective, yet briefly in both.

My Lords, the general Question the other day being concerning the Kings power to lay a charge of Mony upon the Subject, and my general ground against it being but this, That though the Law did instruct the King in many great powers of Government, and with the whole Government, according to the Laws, that yet by the doing of Acts which may charge or prejudice the Subject in his Estate, the Law did see that it was possible Kings, as men, might erre, and therefore did make provision that their Acts, if against Law, should be made void: As in case of a Disseisin or Discontinuance, or where they were to pass Grants, that there should go before an *Ad quod dampnum*; and also if they were passed, that if they were to the prejudice of another, that regularly in that Case the Law did make them naught, and that they were to be repealed. And I shewed how this did hold, especially in laying charges upon the Subject; I shewed that the Law was not willing to leave the King power to charge in any case notwithstanding, where the occasion might be common, and did require it for the maintenance of Traffick and Commerce between them, so to hold them still as within one Body. The Law must leave in some a power to charge, which charge could be left in none but the King as Supream Governour. The Cases for this were the Moneys to be paid for Murage, Pontage, Panage, Ferriage, and the like, that in those Cases, though the King were trusted with a power to lay a charge, yet it did not leave

the charge arbitrarily in the King's breast, so, but that if it were unreasonable, the Grant was naught, and the proportion was to receive trial by another upon whose Judgment it must stand or fall, which were either the Judges or a Jury; like to the Case which I might have put, but did not, of a Fine uncertain upon a Copyhold: I also shewed that in some Cases the Law did allow the King to demand arbitrarily, upon some Subjects, sums of Money, yet that was not upon the Subject, *quatenus* Subject, but upon some Subjects, *quatenus* Tenants, which did arise upon the *Fine Kemalare*, and the giving of the Lands as *pur file marrier*, to marry the Daughter to make the Son a Knight, or for ranome, or upon those which were little better then Villains, the Kings Burgesses, whom the Law did not so much regard; yet the policy of the Kingdom in those Cases, did afterwards restrain the King unto a certainty by Act of Parliament.

Afterwards I went to the Cases which were in point, That the King could not lay a charge upon the Subject, though for publick good; and instanced in the Case of the Grant of the Office of Measurage with a Fee, adjudged void, *quia sonat in oppressione populi*. 22 E. 3. Par. 31. The King granted to one Pawle an Office of Alnage of Worsted, and because in charge and burthen of the Subject, and a new Grant, adjudged void, and was repealed.

I began with that of 4 William 1. which I now find more clearly to be an Act of Parliament out of an ancient Manuscript of the Church of Lichfield, mentioned to this purpose in *Eadmerus*. Here I endeavoured to answer to Mr. Solicitor, when he said, That there was another Law of the Conquerour which explained this, and shewed that the charges for the Publick defence were not meant; because that it is said in another place of the same Laws, *Quod omnes sint fratres conjurati*. To this my Answer is, That they were so for their bodies, *fratres conjurati*, to serve, but not to be charged; yet I must confess it is *pro viribus & facultatibus*, to defend the Realm. Where *pro facultatibus* may seem to imply that they were bound to be subject unto charges *secundum facultates*: under favour, *pro viribus & facultatibus*, they are but words of like nature; *viribus*, that is, *facultates*, natural powers, not substance: For it is not only that they should be *fratres conjurati ad Regnum defendendum*, but also *ad pacem dignitatem Coronæ, &c. Et ad iudicium rectum & justiciam faciendam*.

I went next to the Charter of King John, which I observe to be but Common Law: It's enrolled, and remaineth under Seal, and recited *verbatim* in *Matth. Paris*.

I went next to the Acts of Parliament, 25 E. 1. against Aids and Tallages. There I laboured to shew that the Act was made against Aids and Tallages, though it were for the Publick defence; and that was out of the Articles whereupon the Statute was made, and upon the King's Answer to the Articles. Next out of the Commission, which was after the Statute, to enquire of the Grievances mentioned in the Articles, to the end there might be satisfaction, which was promised upon the Articles; where in the Commission, the whole enquiry was, *de Gravaminibus*, of Grievances.

It is enough for me that this Commission was grounded upon the former Articles, and that here this very thing, *pro defensione Regni*, was *inter gravamina*. It had been strange, when the King had confessed upon the Articles, that he would not legally justify them; and upon the Commission, in pur-

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purfuance of the Articles, had called them Grievances, and so to be enquired of; that now when they were found, he would juſtifie them in any point, and ſay, *a pays pur Reaſon*, give them a Reaſon for what he did, as Mr. Sollicitor ſaith.

Next, I did conclude with the Statute *de Tallagio non concedendo*; and there my labour was to prove this to be a Statute, and I am ſorry that I ſpent upon it ſo much time, if that were not denied to be a Statute by Mr. Sollicitor.

But now I underſtand by the Kings ſide, That this was no Statute, but made and ſealed at the ſame time with 25. and to be meant no more but 25. This ſeemeth ſtrange; for why ſhould they be both at one time? Next, How came they ſo much to differ, if made at the ſame time? Why are there ſome things in the Statute *de Tallagio*, which are not in the 25th?

But the Teſt will clear all. 1. For the Teſt 25. it was *Teſte Edwardo Principe*, and Sealed by no more then the King. To this, *de Tallagio*, the Archbiſhops and the Lords put to their Seals. But howſoever, I am glad that I hear it now confeſſed to be a Statute, for then we have no more to do, but to ſee whether the charges of defence were within the meaning of theſe words, wherein ſure the words are general enough, and what Reaſons have been given, why by the expoſitions of theſe charges of defence ſhould be exempted, you have heard, and what my Answers have been unto them, I leave unto your Judgments.

I come to E. 3ds time.

17 E. 3. *Parliament Roll*; Whereas Commiſſions have been awarded to the People, and Shires to prepare men of Arms for Scotland and Gaſcoign, or elſewhere, at the charges of the Shires, contrary to the Law. The King hath not before this time given any wages, whereby the People have been at great charge, and much impoverished; The King will that it be done ſo no more.

Ay, but it was ſaid, This was to Gaſcoign and to Scotland, that is Forreign Wars, and that was not denied, though not admitted.

I anſwer, That Scotland in thoſe times was in Fee of the Seigniorie of England. And in thoſe times the King of England was *Dominus directus Regni Scotia*. And ſo E. 1. when he determined that quarrel between Bruce and Baliol, and gave Judgment by Writ, ſettled Baliol King of Scotland, and did juſtifie it, and it is remaining in the Rolls of Scotland in Mr. Squire's Office.

26 E. 1. When there was a Treaty of Peace between Baliol and E. 1. yet he reſuſed to acknowledge the Seigniorie of England; and there the Parliament reſolves, That he ſhould rather have a War then loſe this ſo: See Selden upon Fortefcne. War in Scotland not forreign War, but like to that in Wales; and ſo was it ever held ſince the Conqueſt, to be within the Seigniorie of England. By Statute 12 E. 1. and by the Statute of H. 8. it appeareth to be within the Fee of England. War againſt one another cannot be called a forreign War. In the war to Scotland, Wales, and elſewhere, which is not meant of forreign parts, for then it would have been expreſſed where, as well as Gaſcoign. And by the Hiſtories of thoſe times, we ſhall find that there were Armies carried to no other place. Nay, to ſhew that this elſewhere is meant in England, 1 E. 3. *Parl. Roll*. before this Parliament. The Scots invaded England, as appears by a Writ of E. 3. where is mention of an Invaſion, and there-

upon requires Aid. If there be wars in Gaſcoign, and if occaſions to Scotland and England too, where the Scots are, and this a defensive war. Further, for the wars in Scotland, if that ſhould be called a forreign war, if the King ſhould go thither, and make a war, yet by the Rules of the King's Council, if a war in forreign parts is but to prevent war at home, this war is not forreign, but for defence.

Another Act made on this occaſion, That the King wills, 1 E. 3. ca. 5. that no man henceforth ſhall be charged to arm themſelves otherwiſe then formerly in the Kingdom of England; and not to be compelled to go out of their Counties, unleſs upon ſudden coming of an enemy, and in caſe of neceſſity, and then to be done as it hath been done in times paſt.

This Statute coming in the ſame year, when the complaint was for carrying men out of their Counties at their own charge; Here I obſerve that the Subject ſhall not go out of his County only at ſudden coming of Enemies, but likewiſe on neceſſity, and both together. And when it is ſaid, done as formerly, is an allowance that they had formerly been paid: So then if this be a ſtronger Caſe, admit here is an Actual coming of Enemies, nay, ſuddenly; nay, here is a neceſſity, and the Subject is to go out of his County, *pro poſſe ſuo*, yet he had his allowance.

Perhaps it may be asked, Why ſhould not the Subject pay? Is not the Kingdom in danger? Are they not to defend it *pro poſſe ſuo*?

They are ſo in their Counties; and if they go out, the Law hath provided a Supply.

Parl. Roll. 13 E. 3. There was a time when there were known Enemies, actual war at France; they intended to divert war by bringing it home to our own doors. The Enemy threatned, nay, did much hurt, yet did not E. 3. command theſe Supplies this way, but called a Parliament, and there conſideration was had in Parliament for Supply, and that the Kingdom had Ships enough, if they were willing, and this was in way of Defence. From all this I conceive that it is ſtrongly inferred, That he could not force them. And when the Lords and Commons did meet to take conſideration for the wars againſt France and Scotland, the Commons laid the whole charge on the Cinque Ports; they diſclaimed any thing to do with it: And for Land, they ſaid, Let thoſe of every County reſide there, but no charge on the Subject. In purſuance of this, *Clauf. 13. 1 E. 3. 11. 14. doſe. pro Villa de Bodmin*. doth ſhew the Execution of this Judgment; it being agreed that the Sea Towns and bordering Shores ſhould look unto it.

I ſhall agree, there are ſome Inland Towns are bound by uſe and Tenure, but no otherwiſe. 14 E. 3. ca. 1. That the people are not to be compelled to make any Aid out of Parliament, and that the Aid granted ſhall not be drawn into example. And that the Aid granted is for the defence of the Sea.

But it hath been ſaid, that they are Aids granted for forreign wars. For wars where? Then in France. True, they were in part granted, ſome for wars in France, and part alſo for defence on this ſide. And where there is no diſtinction, why not for one as well as the other? It muſt, under favour, be conceived for neither. And between this time of 14 and 25 E. 3. your Lordſhips have heard from Mr. St. John ſome complaints in Parliament for charging the County with Hobellors, and going out of their Counties, which

1637. Anno. which are not complaints only for proportion in regard of their excess, but also for the thing it self. 2 E. 3. n. 21. The Commons pray to be discharged of the guard of the Sea, and that the King would keep it at his own charge. This shews the Judgment of both Houses; and the weight of it is great.

For, when there is any difficult point concerning the Liberty of the Subject, or the like, it is referred by the Judges to the Parliament, there to be decided. Of that reverence is the Parliament.

But it hath been said, That this is rather a matter of Prayer than Right. Under favour, the matter shews that they claim in point of Right, and it is to be supposed that they would not make such an unreasonable request, as to lay that wholly on the King, if they of right ought to do it. And if words are put in a fair language, it was but a fit and humble language for so great a Prince as E. 3. was. But E. 3. gave no relief.

That doth shew the Judgment of the two Houses; and as there was no granting, so there was no express denial. A handsome prayer and a handsome answer. 14 E. 3. Parl. Roll. There it appears that there was a charge of two shillings on all Woolfells, &c. and this in defence of the Sea; and in 25. taken away in the Parliament.

I shall conclude this with that of 25 E. 3. No Hobellors were to go out of their Counties, unless by common consent. This Statute is general for defence; there is no Exception if any Enemy do invade. The Parliament believes that the Kingdom is provided for.

Yea, saith Mr. Solicitor, the Subject is not charged to go out of the County, that is, upon Summons *ad exercitum*: For Summons are twofold; 1. Summons *ad exercitum*; and there is a general Summons. By the Summons *ad exercitum* only, those were to go that did hold by Tenure; and they say it is *enconter droit* to be charged out of their County.

It is true, about this time there are some Records of 16 and 18 E. 3. at the *Exchequer*, where charges was laid on the Subject for finding of Hobellors; and those things you shall find in the *Exchequer*, as if the Money came thence, which was before the Statute. These things were Grievances complained of: So the practice there will not expound the Statute; for the contrary practice did beget the Statute. But the last of these, in 24 E. 3. who was an active Prince, and maintained wars, and so had great occasions for Money, and there charged the people higher then they would endure, for which he did afterwards repent, and desired to be prayed for; and therefore there were divers Impositions on Merchants, which I pass over all, only this out of the Roll, 30 E. 3. no. 24. It is the Lord *Lattimer's* Case, a Privy Councillor and Chamberlain to the King: There was a complaint in Parliament against him for divers things, whereof one was in laying an Imposition upon Merchandize. In his Justification he pleads the Command of the King; and for that Particular he was sentenced, imprisoned, fined, and ransomed; so careful were they to revive that Law. And that Act of him, 2 R. 2. made the great Lords so unwilling to talk of the defence without a Parliament. And so I am come to R. 2. upon which I must insist, for that it is of great weight.

It doth appear, as well by the consultation it self, as by History, That the Realm was in dan-

ger of war from several parts, from France, from Scotland, and the danger so instant that it could not stay for Parliamentary Supply; therefore the Council of the King were to consider it. They know not what to advise; they meet together; they had not time to call the whole Body, but the Lords both Temporal and Spiritual, and Sages of the Realm, and to consider what to do, when the safety of the Kingdom lay at stake. The Resolution of these Lords and Sages, which were as I conceive, the Judges *propter excellentiam*, conclude that there was no way but by Parliament; and all this was for defence, and against an instant danger, which cannot expect Summons of Parliament: And the Lords themselves rather lend Money out of their own Purfes, then adventure that which *Lattimer* did, which indeed was the ground which made them so wary.

To this there were many Answers, yet all will fall off. 'Tis true that it is no Act of Parliament, yet such a Resolution, as that had it been three hundred years before, would have done much. The weight of this is thus; If this had been a Parliament, there is but small doubt, what the resolution would have been for the matter. We have the Resolution of the upper House; and how the Commons would have resolved in a point of Liberty, we may easily conceive. Here we have the Judges in point of the Legal power of the King, What the King could do, as well as what he should do? And in things of this nature the Judges are the Council of the King; and as in the great Parliament they sit there for Council that belongs to matters of Law; so at this time, in this Assembly, which was in stead of a Parliament, these were not left out, being best able to give the Rule: And this was about two years after E. 3. his death; he could not have any other then the Council of his Grandfather, and of these the Resolution was, That the King could not charge out of Parliament. And though it was no Act, yet it was the honour to be accounted so, else it had been never entred upon the Parliament Roll.

But it is said by way of Objection, That R. 2. was an Infant.

True, he was; but he had a brave man for his Protector, *John a Gaunt*; and he had doubtless a select Council, and they were as fearful as might be, that nothing should be done to wrong the King in his Prerogative.

But he was not only an Infant, but the Parliament had gotten all Power into their hands, and made Ordinances that nothing should be done without Parliament.

It is true, they had a power of doing things by Parliament, yet that was no Act to restrain the King, but an Act of Necessity. The King was an Infant, and therefore it required, that during his Minority, nothing should be done but in Parliament, especially that concerned the Kingdom; which was not an usurping of the Regal Power, but a provident care of the Kingdom over him. And they do protest in that Roll against encroachments. And to say that is good which is to an ill end, is a strange construction.

They say that this Consultation was for foreign wars, for that *Brest* and *Calice* were in danger, and to be provided for. And for foreign wars it is agreed that the Kingdom could not be charged.

To this I answer; Admit a mixture of war, yet every one looks home. First, we have a care for our selves first, but they would have made no such difference

difference, if the Debate had been for both. However the Lords conclude, That the King cannot charge without Parliament. But I cannot leave this Objection, but shall give a particular Answer. Though *Brest* and *Calice* might be in danger, yet that was no part of the Consultation; for it is said in that Consultation, That in a former Parliament sufficient provision was made for them.

True, they were in danger, but provided for in Parliament before. And that which clears all, under favour, there is not a word in that Consultation, but is merely for defence, and no relation to a forreign war. I end this time with 8 & 9 R. 2. Roll. 10. where is a Consultation with *John of Gaunt* for forreign wars and other mixed together, it appears that the Subject is not chargeable out of Parliament: And so I come to *Henry* the Fourth.

2 H. 4. Hath been urged, and an Answer given to several Commissions for *Calice*, and for defence there was then a complaint and a desire that those Commissions might be recalled. 'Tis true, we find not this granted expressly; but as no grant, so no denial: And as we take it, was granted.

This time of H. 4. doth yield many instances, that the King cannot charge, though for Publick defence. And for the Sea in particular, I shall remember a Record which yesterday I vouched, *Parl. Roll. 13 H. 4. no. 43.* it was upon an Action of the Case, which we find in the Books 11 H. 4. which was ended in 13 H. 4. There was an Office of Measurage erected and granted, and a Fee granted on it; this was complained of in Parliament. First, an Action was begun at Law, 11 and in 13 complaint in Parliament; and they complain that this was against the Statute, that no Taxes and Tallages should be laid upon the Subject: And the Answer is, Let the Statute be observed. This use I make of it; This doth not only shew the confession of the King, that this ought not to be laid, but that this Statute *de Tallagio* was to be a Statute. And this Statute was not for Aids that come to the King in particular, but against any charge laid by the King on the Subject, though it be *pro bono publico*, and upon the Record, the Judgment was delivered so, because *sonat in prejudicium populi*.

I shall remember the grants of Tunnage and Poundage to H. 4. and the grants usually to him were temporary, upon occasion, and not for life, till afterwards; and in his time they were for defence of Sea and Kingdom; and it was granted, upon condition that it should be confessed of Loan and not of Right. 9 H. 4. no. 16. and 11 H. 4. no. 45. and 13 H. 4. no. 10. which is the fullest, they make a protestation that it shall not be drawn into example, yet all that time were on eminent dangers.

But it was said, We cannot shew that purely, and simply, and solely granted, that was but a mixture of other things, as that of Tenth and Fifteenths.

But the Parliament was so wary that they did sever them, and lay the Fifteenth by itself, and Tunnage and Poundage by itself: So though they are the same Acts, yet upon the matter they are several.

I am now come to H. 5. and for him there is not much, but like as H. 4. *Parl. Roll. 1 H. 5. no. 17.* A grant of Tunnage and Poundage for the defence of the Realm, and safeguard of the Sea, with a Protestation that they should not be charged for the time to come. I think after this time, we find no more Protestations or Grants upon condition.

But that which I argue from these grants made in that manner is, Sure it was the opinion of the Parliament, that they were not bound, and the King by his acceptance doth acknowledge so much. No Landlord accepts that from the Tenant as gift, which he may command of duty, and take it on terms so advantageous, and not only give an Acquittance for it, but put it on Record, as in point of Right.

But here is but an affirmation of the Commons, and they cannot make a Law? Yet that which they do, and the King accepts, shall be of a strong proof.

Again, it is true, that you shall not charge the Subject with Tunnage and Poundage without Parliament. But shall not the Subject be charged another way?

To what end would that Protestation have served, if the King should do it another way? And it is all one, if the Commons bear the charge of defence, Whether they bear it by Tunnage & Poundage, or otherwise; for that which falls on the particular, falls on the other. To charge them thus, were as if the King should say, Though I cannot charge you this way by Tunnage and Poundage, yet I will charge you another.

In the time of H. 6. there's little.

I come next to E. 4. wherein, though there is not much upon Statutes, yet there is a speech of his that shews much of this. 7 E. 4. *Parl. Roll. i.* There was a Speech made and entred; The King first protests, which was not immediately upon his coming to the Crown, that he will live of his own, and not charge the Commons, but in case extraordinary, and those burthens too should be *secundum morem majorum*, and that he hopes they will be as tender and kind to him as to his Predecessors, saying, That he would lay no charge upon them, but in extraordinary things.

This shews that which was granted by the Commons, though upon extraordinary Cases, was not out of duty, but out of tenderness; and this was a good while after his victory, and could not upon the matter be called a Brokage.

And this falls not under the Answer by Mr. Solicitor, That Money was borrowed of poor men, and reason that they should be paid again.

But these Loans were by way of Commission, and not to some poor men, but they did concern the general.

And though R. 3. had reason to bring in good Laws, because of the defect of his Title, yet my Lord of St. *Albans* called it a kind of Brokage, to get the Peoples will; yet however, this must be a Declaration of both Houses in Parliament, and it was not so much offered by R. 3. but because E. 4. had made many borrowings.

I come to H. 7. That which hath been pressed is, 19 H. 7. ca. 11. Provision that the King's Servants that were to attend upon the wars out of the County, should be paid if they were to have it, then *a fortiori* they that were not to attend. This shews that the King is to be at the charge, not the Subject.

The Answer is, This extends to forreign wars, and then no reason but that they should be paid, and so will not serve our turn.

If there be such a difference between forreign and home wars, Why doth not the Acts of Parliament make a distinction? The words are general, and extend to wars out of the Realm, and in the Realm; and where the Law doth not distinguish, neither I hope will your Lordships.

Now I come to H. 8. who was as unwilling to beg

Anno. 1637. beg, as powerful to command. 13 H. 8. ca. 20. The King desires, for some necessity of Government, and against instant occasion too, a power to make Proclamation for Government, and to do it under Penalties. A Law reasonable for that time, though not continued in E. 6. time.

As he would have liberty, which he could not have without Parliament, to lay these kind of Penalties upon men, so the Parliament was as careful to give him no liberty to lay any charge upon their Estates, Lands, or Goods: So as though for natural Government they leave him a power to lay penalties upon others; yet to lay any charge upon their Goods, that which is *Moen & Tuum*, he had no liberty, which is a Declaration of the Opinion of the Parliament, that by the Common Law he could not do it.

But in the Preamble of the Act it is said, That there is some intimation of the power of the King if he will, and upon that preamble indeed *Cowel* would have built the Regal power of the King; but *Cowel*, we know, was mistaken, and had his reward.

It is true, there is something in the Act that speaketh of the Regal power in necessity, but not absolute, and that too came in by the penning of it on the King's side. And 21 H. 8. your Lordships know his power, and was not to be resisted in small things. If he could pull down these Abbeyes, what could he not do? Therefore it was not for them to question with the King upon the penning of his Preamble, but a dutifulness in them to conform themselves. And when there was provision enough made against that in the Act afterwards, it had been a weakness in the House so to do.

Yea the Act was, That the King could not charge the Lands and Goods, but there is no such thing in our case. It is true, there is no immediate charge laid upon Lands or Goods, but in substance and consequence there is a charge. It is all one to me in substance, where my life and benefit is the same in either way. And if I am taxed *secundum Statum & facultates*, I must pay the Money out of my Estate, and in the pennage of an Act *non litigatur de verbis, sed de intentione*. And if I am charged and pay not, my Goods are taken away and sold, it is all one to me if it had been laid upon my Goods.

For the time of E. 6. Q. Mary, Q. Eliz. and his late Majesty King James, I shall put my observation of all these into one. I find not much upon Parliament Rolls for these, for few Statutes were made; yet if every one of these have afforded one Act of Parliament, which is a stronger proof than any of those which have been urged, and such a proof that doth not only come home to the Defence of the Kingdom against Pyrats or common Defence, but for defence of the Kingdom in case extraordinary and necessity, in case of Invasion. All this ariseth out of the consideration of penning the Statutes of Tunnage and Poundage in the beginning of every Reign.

This Act which I mention is 1. Jac. where it is said to this effect, That there may be times of necessity, where the treasure is not to be wanting, and it is unfit to be unprovided at any time upon necessary occasion, and therefore they grant unto the King Tunnage and Poundage. But how? Not for *quid pro quo*, not merely for defence, but towards the defence of the Kingdom. Then by the Judgment of the Parliament, these being not granted formerly but towards this defence, and towards his great charges, therefore by that the charge by the Law ought to lye on the King.

Now, my Lords, if the King were not bound to the defence of the Kingdom, Whether or no

would he accept it on these termes? And whether it seems not more then probable, that in case of necessity the charge may not be laid on the Subject. 1 E. 6. cap. 13. 1 Mar. cap. 18. 1 El. c. 19. 1 Jac. cap. 33. The several grants of Tunnage and Poundage.

I conclude this part with the times of his Majesty, which in the point of Declaration, have been stronger and greater then before, both in point of Law, and in matter of Example.

I take my beginning in this upon that Parliament of 3. upon the *Petition of Right*, and his Majesties Answer and Judgments to that are something home.

The Commission for Loans and Benevolences, the necessity of the time did require an instant supply; and it appears by the Commission, that there was a necessity which could not bear a Supply in another way: And your Lordships know what was done on this.

This Commission was not to borrow of a few, but it was general, with an equal and proportionable weight; and this, as it appears was for the defence of the Kingdom. It hath been said, That mention is of Supply for the *Palatinate*, and to send Aids to the King of *Denmark*.

True, it is so; but that of the *Palatinate*, and the danger of *Denmark*, do upon the matter concern us: For that War being upon our Resolutions, there was a kind of Engagement lay upon us.

In that Commission there appears a more then possible danger to the Kingdom; there was a necessity; yet this was laid down, it held not: And in pursuance of that, there was an Order, whereof we have a Copy, 'tis in the *Exchequer* moved by the King's Attorney for staying the proceeding for Money spent about Loans, which was by his Majesties gracious Command, wherein his Majesty did prevent the Commons desire.

The Petition goes on, That there were Soldiers billeted in several parts, and there was a charge, and this was after a late then foreign War, and Enemy then known and declared; there was a necessity for instant defence, and to stand upon our Guard; the Enemy might in a short time have been upon our Coasts, yet your Lordships know what was said to that.

And as the Petition looks back on those things which are taken off their hands, so it looks forward, and provides that no such things should be taken hereafter by the power of the King alone, though upon matter of necessity. And all this was a Petition, not of favour merely, but in point of right, according to our Laws and Statutes, which is Statute 25 E. 1. the Statute de *Tallagio non concedendo*, and *Magna Charta*, the ground of all. And to all these his Majesty promisseth such things should be done no more. And they not content with this, his Majesty gives this Answer, *Soit droit fait*.

I cannot leave this great strength thus, but bring it home to this very case. The substance of this Petition being for charging the Subject out of Parliament by the Regal power; When this Petition had passed the lower House, it came to the Lords, and there upon some motion, there was a Proposition of a *Saving* to be put in the end of the Petition: *Saving the Sovereign power which his Majesty is intrusted with for the defence of the Kingdom*. All this your Lordships know. And after several Conferences, in the conclusion, the Petition passed without a *Saving*. My Lords, upon what reason this *Saving* was left out, your Lordships

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That the Clause with which the Petition went on; Whether the *Saving* would stand with those Laws.

My Lords, it appears that the first Answer was, That the Laws should be put in Execution; yet in the close there is put in a *Saving* of the Prerogative. But this Answer did not satisfy, and therefore there was a general Answer, *Soit droit fait*. But now, what was granted by the last Answer, then by the former only, That the Law was left more absolute.

To that Commission of Advice, for consideration of means to raise Supplies, and it was for defence, and a necessary defence, and that did not bear delays. That Commission was laid down by his Majesty, yet in that there was no more then this, a consideration how Supplies might instantly be raised, which could not endure delays by Imposition, or otherways, that is, still lawful ways. If there had been any way to lay a charge on the Subject, by way of Loan, then that Commission had not been excepted against; yet his Majesty was pleased to lay down this upon the desire of the House.

I conclude with that which I conceive to be the Judgment of both Houses in point. It is the Judgment against the Sermon touched upon by Mr. St. John, which I shall press as far as it will be applicable to our Case.

The Sermon was to shew the power of the King in case of necessity, to lay a charge on the Subject without a Parliament.

When this came into the lower House, this was the main and principal charge, I say not the sole charge; when it came into the upper House, there it was pressed against the Divine by the King's Counsel. And it appears by the Journals of the upper House, that the Crime was, That he would shew the King's power to charge the Subject without Parliament. It appears by the said Journals, that the Doctors excuse was, That he meant nothing but to shew what Kings might do in extrem necessity of danger.

And your Lordships may read in his Sermon, That he speaks of necessity not attending the slow motion of Parliamentary Advice. So that it is pinched on an extrem necessity. But neither one excuse nor other did serve. The offence is acknowledged; submission made in both Houses; and the Sermon called in by Proclamation.

Ay, but saith Mr. Solicitor, This Sentence was for other matters? I say not that the Sentence was for this thing alone, there was other things, yet those were only by the by, only occasioned by this. Now how far this Case comes to our Case, I leave to your Lordships.

Mr. Holborne's fourth days Argument, Decemb. 8. 1637. in the Case of Hampden.

May it please your Lordships,

I Have thus far gone in my proof, from Reason, Book-Cases, and Authorities, all being of the highest nature, that is, by the Laws of England. That the King cannot charge his Subjects without their consent, though *pro bono publico*, or of necessity.

It now remaineth that I offer what either the practice hath ever been in the best times, and the contrary practice decried from time to time.

In this I shall do a work of Supererogation: It is not material what the practice is, if the Law be once settled. A Law once made over-ruleth all practice afterwards. And as a Law is Law before practice, so it is Law against practice; yet because practice may be an Expositor of Law, especially where the words may seem general. I shall shew from Age to Age, that without their consent they could not be charged.

From the practice of the Kings themselves, even in all Ages, that on extraordinary occasions they have resorted unto Parliament; and when they could not do good by that, then they have made many borrowings, as appears by the Parliament Rolls. What other courses they have taken, your Lordships have heard it upon the former Argument. And when the King did receive these Supplies, it was expressed that they came voluntarily, and with protestation that those things should not be drawn into example.

I shall go now to the practice on the Subjects part.

First, I shall go as high as the Saxon time; That of *Danegelt* did begin by a common consent: And in the very Laws in *Lambert*, it is said *Statutum est*. Though it did not always signify a Statute, yet when it was written by one that knew the Law, and wrote of the Law, it must be so. *Tilburienfis* saith, As it was the Act of the King, so it was the Petition of the Commons, *Statutum est a regibus*, still the King. It is strange in that time of *Esheldred*, when *Danegelt* was so great and common as it was, that the Subject being easily drawn unto it, that the King should not ask, when he might have it for asking.

But this *Danegelt* being raised by *Esheldred* upon emergent occasions, as it was not like to be always, so the provision was not for all times. After him came in some of the Danish Kings, and they continued the *Danegelt*: And what became of those that were the Collectors of the *Danegelt* between King *Esheldred* and the Confessor, appears in *Huntington*: And how the people did decry it in general. Then it was laid down, *ut gravissimum*, as appears in *Ingulphus*.

Edward the Confessor, he laid it down in the Conquest; still they go on with the *Danegelt*. It was part of the terms with several Kings, that it should be laid down: And King *Stephen* did promise to lay it down; though notwithstanding they did ever now and then take it up. In *Henry* the Second's time yet still more complaints, and that was left out of the Charter of King *John*. The use of all is this, that though there were a practice under pretence for the defence of the Kingdom, yet the People did decry it. It was not such a practice as could bring in a Law.

When the *Danegelt* was thus now laid down for the time of King *John*, H. 3. and E. 1. in which times practice for Shipping will not be material; for in all these times the very Shipping itself was decried. *Parl. 25 E. 1.* There the very charges of the Subject for Shipping were the complaint. The Complaint is the thing I am upon.

After 25 E. 1. and the Statute *de Tall. &c.* the course of their proceedings did alter; for before in 24. he sent forth Writs under a great Penalty: And 29 E. 1. m. 10. he contracts for Ships, and they go at his charges.

P. 36 E. 1. R. 35. dorf.

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Reignald de Gray; That when the Scots entred the Kingdom, he was commanded to bring Seamen out of their Counties, and he durst not without Money; and thereupon he had Money out of the Exchequer. But the Answer was, This was for Scotland.

For that there is no doubt this War was at home; for in 26. the Scots had entred the Kingdom.

Br^y T^y 32 E. 1. Ro. 11.

I come now to E. 2. There is not much against us, but for us. This I shall observe, That the first Writs that went out was 9 E. 2. It is true, a *Mandamus* went out for Shipping, and against an Enemy, and for defence of the Kingdom. But how? Not a *Mandamus firmiter Injunctus*; nor *Sub pœna forisfacturæ*; but a *Mandamus rogantes*; and the means of compelling; *quatenus honorem nostrum & saluationem vestram diligitis*. So you see how the course of the Law altered in that time.

I come to E. 3. for I will but touch upon every time, and offer but one thing to shew the practice in it; as I find a Statute in the beginning of his Reign concerning provision made for War, so I find an Execution, Ro. Sco. 1 E. 3. m. 8. There went out two Writs, and they were concerning raising of Shipping; and in respect of the Scots entering that year: This is that I put it for, to shew that upon that occasion, 1 E. 3. Souldiers were not paid, although for the war in Scotland. It doth recite that the Scots had entred the Land that year, and did make further preparation, and if they could not have their Peace on their own terms, they would proceed: *consideratis etiam periculis*, for it was in *Articulo necessitatis*, He giveth a Command that there should be Ships, but it is a *Mandamus rogantes*, nothing at all for compulsion or forfeiture in the Writ, but *sicut honorem nostrum*. It appears by the Writ that he said He had sent Money in that time for victualling of the Souldiers: And this very Writ was *pro saluatione Regni*, and that we could not be safe without Shipping; and this was in a poor and innocent time.

I will not say, That in all the Actions of E. 3. he never broke this Rule. Your Lordships know what wars he had, and what necessities, and what those necessities brought him to? But he was so far from justifying himself, as it appears by Daniel's History; that he sent to the Archbishop of Canterbury to pray for him, and desired the People not to think ill of him for laying those charges upon them in the point of necessity.

12 E. 3. Rot. Alm^o. Your Lordships shall see upon that acknowledgment how he began to alter his course.

Parl. Roll. 13 E. 3. Though he laid charges before, now he calls a Parliament, and desires supplies for Shipping that way; and that acknowledgment, 12 E. 3. will answer home that famous year of 10 E. 3.

Next, my Lords, to shew the decrying of the People in this time of Shipping it self. In the Rolls of 21 and 31 E. 3. there the People said they were not to bear the charge; so it was; no practice, for the Commons did decry it.

That for Hobellers, they were at the charge

of the County before 25. but they were complained of in Parliament, wherein the Statute of Car. 13. 25 E. 3. was made.

But all that I aim at in this is, Whatever the contrary practice was to out-balance it by the contrary opinion and claim of the Kingdom, and that practice I hope shall not be able to make it Law.

I come now to the time of R. 2. For his time I shall remember but one, Tr. 7. R. 2. m. 15. *de contribuendo ad custodiam Maris*, there is a recital of *Danegelt*, and that the Subsidies that the King had was not sufficient, and therefore commanded an Aid but to do it *gratuitè*. I observe all Ship Writs do end in the time of E. 3. one or two perhaps may be after, and therefore I do end with the practice of those times; but from those times downward to H. 8. this was offered, and not denied, that there are several Records, how the Kings of England, both at Sea and Land, did bear the charge of defence; and all the Answer was, That it appears not how the Kings did raise those Moneys.

For the time of H. 4. 2 H. 4. Parl. Roll. complaint of the Commons for building of Gallies for defence; and the complaint was, That it was done without consent in Parliament, which ought not to be; and this Commission is repealed. This shews the decrying of the Subject, and that the practice hath been, That the defence was at the charge of the King.

I have thus finished the Negative part of the Argument, that the Subject is not compelled to find Shipping for defence at their own charge.

Next, for the Positive part, That the charge both in cases ordinary and extraordinary, lyen on the King, and that by the Common Law; and that the King hath provision and consideration for it.

My Lords, for provision regularly, whatsoever Estate is in the King in the politick Capacity, is in him as *in Rege*, and not in his natural capacity; and what is in him so, is for the benefit of the Kingdom, and that hath ever been the ground of the Acts of Resumption; and some of Resumption made by H. 7. where Lands are aliened by him, he made a Resumption; and those many Priviledges that the King hath, are in him as King in his politick Capacity. All which Cases are put together in Calvin's Case, in the 4th Report, and not only in England, but in all Christendom, all Estates that are in Princes are held for the benefit of the Kingdom, as well as for themselves; and that is not denied by King James in his Answer to Perront. He would have it absolutely to be to that purpose. All that is to the advantage and honour of the King is for the benefit of the Kingdom.

My Lords, from this consideration of the interest of the Kingdom in the Estate of Princes, the Parliaments have so often offered their Service to the King. And the Parliament in former times did require a hand in naming of a Treasurer; they called it *Antiquus mos*, and he was 5 E. 3. in a Parliament; but this repealed in 15 E. 3. And for ancient Lands in the Crown, they were not devisable out for that reason, and that none should buy the Land of the Crown, for it was not alienable in that time.

My Lords, in the form of our Government the King by supposition of Law had all these, by the Books cited by Mr. Sr. John, all was in the Crown, and being so, they were for the Service of the

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Kingdom, and that is the reason that all Land is held immediately or mediately of the Crown.

As the Lord of a Mannor, when he hath a Circuit of Ground, letts part to one man to Plough in Knights-Service, and part he keeps himself; So the King, when all was in him, he disposed of some for himself, and some for the Service of the Kingdom. Hence ariseth the Tenures originally: As they kept in their hands Palaces and Demesnes, so for publick Service they made distribution of certain Lands for publick defence, some by Knights Service, some by Scutage, some by Cornage; and so for Castle-guard and grand Serjeancy, all for the Service of the Kingdom; and Tenures by *Baronagium*, which was an eminent Service, as appears by the Book of the Knights Fee.

Petty Serjeancy for meaner Offices, and grand Serjeancy for greater Offices.

Divers Lands were given to find Ships, as in Doomsday, besides the *Cinque Ports*, which were to find a certain number; and so some Inland Towns did find Ships: But how? as by Tenure, not generally as Subjects. And though Mr. *St. John* did urge one or two Presidents by way of Example, yet he said not that there were no more. Mr. Solicitor did give an Answer, That all those came out of the Estate, what was that charge to the Publick.

It is true, if the King had that for himself originally, he said well; but if it was in him originally *pro Regno*, as well as for himself, then it is otherwise. But it hath been said, What are a few Men, or one Ship?

But it appears in *Doomsday*, that the King had a great Navy. There were 60000 Knights Fees in the Conqueror's time: And though divers Serjeancies are turned into Rents, yet the Revenue is the same.

I shew it for this, that there was a provision in the satisfaction of our frame of Government.

But for the guarding of the Sea, more particularly, The King for the guarding of the Seas hath all the natural profit of the Sea, as all great Fishes, Whales, Sturgeon, &c. and all other Profits of the Sea, if the King would take them. And so Letters of Mart, and though they are got into the Subjects hands, yet originally they did belong to the King.

So the old Customs by the Common Law, *An- tiqua consuetudo*, and so holdeth Sir *John Davies* in the Customs of *Ireland*. So Prizes and Impositions are for the defence of the Sea.

So Tunnage and Poundage, which was originally granted, sometimes for ordinary, but oftentimes upon emergent occasions, it appears that it was granted *pro Salvatione Regni*, and not granted amongst other things, but by itself.

But of latter times, when it was settled on the Princes for lives, then it was for extraordinary defence, and to have Money in readines for an instant occasion. For it is said in the very Grant to King *James*, that the King must not be without Money, and therefore towards his charges upon an instant he must have it. And though it was granted for particular occasions, yet that is enough that it was granted on great occasions; and this was granted out of their love to him: The words of the Act 1. *Jac.* speaks of a sudden Invasion; now whether this is by Sea or Land, it is general.

My Lords, I shall now upon the whole observe what I have made good, either upon those general Statutes, That the King shall lay no charge,

or rather by the Books, That the King cannot charge for little things; or upon the practice of times, where in every time the King hath been at the charge, and where it hath been on the Subject, they have decried it. How you, my Lords, believe it in point of right, I leave it.

My Lords, I shall go on to the Answer of Mr. Solicitor, I have made a Reply to all his Answers to our Positive part: It remains that I should offer an Answer to his Positive part.

First, I shall give a general Answer to his whole Argument: For if the case be, as we conceive it is, that the point of *Salus Regni* is not now the Question, then the Argument will fall off.

How far *Salus Regni* is in the case notwithstanding, I shall argue over, and examin the nature of his proofs.

I am sure he had none from Parliament, either Act or Declaration of both Houses; what there is, is against him. The Answer of the King, with the Judgment of both Houses, is a main thing in point of Right.

I did not receive any material legal Record, but that of the Abbot of *Roberts-bridge*, nor any Book Cases in point where it is said, The King shall charge, but the Book 13 E. 4. I shall Answer these first, and practice next, and reasons last.

To begin with the Case of the Abbot of *Roberts-bridge*, 25 E. 1. which opened by both sides, The Abbot had Land agisted *ad custodiam Maris*, and in an Action brought the Abbot pleads he had found a Horse for the same Land. Here is an Argument that the Abbot doth admit that the King might agist *ad custodiam Maris*. Now if that admittance in this Case should be of any Authority to alter your Judgment, I shall leave it.

The Abbot's Counsel did no more then a discreet Counsel would have done.

If an Action be brought for words, and it appears the words will not lye; If the Abbot had a Plea that he was agisted to find a Horse, what reason had he to put himself on matter of Law with the King: So the Authority can be nothing against us; and at the last the Case did rest there, and went no further.

For the Book Case, 13 E. 4. where it is said, That the King can lay a charge; that Book is with reference to Toll, and such things are nothing to our main Case: For the main Case in that Book will prove strongest against the King. The main Case was concerning a new Office of Measurage erected with a Fee, this was *pro bono publico*, yet an Action brought; it begun in 11. then cometh the Parliament in 13. and this was complained of to be against the Statute, that provides that no Aids should be laid.

The Answer is, Let the Statutes be observed.

To the Case of Toll, which is for common necessity to maintain Traffick, and because there must be a power in some body, and without a Fee not possible to maintain the charge: But in our Case here is no common necessity; here is a thing that may seldom or never happen. The ground of granting Toll in other Cases is, That it is *pro bono publico*, yet not for common necessity, the King could not do it.

Next, the Toll is not so much as a charge, yet it is *quid pro quo*. In the fifth Report it is said there, That it is no charge, the benefit in the thing itself will quit the charge.

Again,

Anno 1637. Again, The Toll is but *inter minima*, this is of weight. And though an Argument will hold a *minori ad Majus* in the negative, because a man cannot do a less, therefore not a greater. But it holds not in affirmatives, because he can lay those, therefore greater, *non sequitur*.

Next for Toll, No man is forced to pay Toll, because no man is compelled to come to the Market. If he will come voluntarily and receive the benefit, then reason to pay it, but this is not our Case.

Lastly, The Law doth allow in this necessity, in case of Toll, a power to grant; yet the Law doth not leave the King absolute Judge of the *quantum*: For if the Toll be not proportionable to the benefit, the Patent is to be denied, as in a Case of a Fine uncertain. Now, my Lords, in our Case here is no Judge of the proportion but the King, so the Argument is thus: If the Law admit not the King to charge, but in common necessity, then not in Cases which may happen seldom or never; if not in small things, then not in greater.

I come now to practice.

And for practice where there is no opinion either for Records or Books to warrant it, it is something weak especially when no urgent occasion.

For the practice, I shall give this general answer: If I can satisfy your Lordships by Authority of Parliament, how the Law standeth, the contrary practice either before or after, is not material: And for that, I must leave it too; your Lordships have heard, we have read the words of the Acts of Parliament, and explained our meaning and brought them home to our Case; it will be hard to make an exception by exposition, if the Act be general.

For, my Lords, for the practice it consists of two parts.

1. Arrays of men.

2. Of Shipping, and for Shipping *de Navibus congregandis*, or *munientis*, and *inveniendis*.

For practice of Arrays, I shall lay them by, and give them a general answer for very few or none that went from the beginning of R. 2. are but only to see if they be Armed & *prompti*, and that is made by the Statute of Winchester. It is one thing, to see that they be armed and in readiness to go; and another thing, at whose charge they shall go. That appears not out of those Arrays. There is no doubt but the Subject on the Stat. of Winchester ought to be ready with Arms, and in his Country to make defence, and upon occasion he ought to go out of his County, but at whose charge that is the Question. And if those Writs of Array were the same with the Commission now to the Lieutenant, yet I know not how, this is my Argument in the Case. And so your Lordships see that a great number of the Arrays 9, and 10 fall off this way.

But if Arrays had been and at the Subjects charge, yet if against the Statute I leave how far practice shall be an Argument.

But for Shipping for Writs *de Navibus congregandis*, those are nothing, for the matter is whether they shall be paid before they go, and many of the Ship Writs are of that nature. No doubt but the King may command *ad congregand. Naves* to use them upon occasion, but the matter is at whose charge, and for all the Writs that are to find Ships, I hope those Writs are not concluding.

My Lords, For those Writs that are *sumptibus propriis* a Writ, and no more without execution

is not a practice sufficient to make a Law: nor more than in a common evidence when to prove a Right by usage.

Now whether or no they have shewed a general execution by obtaining and doing it at their own charge, or Money levied upon them, I leave it to your Lordships, I see no proof. It may be such Writs might be, but that there was such an execution of them at their own charge, or money levied on them, we see no such thing. And if Writs were to find Shipping in those times, it is like the Moneys, were returned by the Country, and so the Receipt might shew it, especially of the In-land Counties, where nothing could be had from them but Money.

But, my Lords, to examine on those grounds whereby a practice must make a Law.

If this charge be within the words of the Law, no practice can take this out of the way of exception.

The practice that must either shew what was the Common-Law, and so *generalis consuetudo*, or which must declare the meaning of a Statute by a constant consent, which must be of those that could consent, and those which did not express a dissent.

We are now upon enquiry as on practice, though the King cannot generally lay a charge, yet whether he can do it in this Case to make an exception of Law. It must be done by use and practice; as to make a Law: practice doth not make Common Law, but as it is a proof of a constant consent.

For all Laws are made two waies: First, by express consent in Parliament, or by use from time to time, whereby it doth appear this was excepted, and the use becometh a Common-Law, so as still if a use do make a Law, such use it must be as must prove a tacite consent.

Next, as the use must bind the Kingdom, so it must be general over all the Kingdom: It is not enough to be at some times, and seldom, but it must be *semper eadem* practice.

And lastly, It must be reasonable, I shall examine on those Rules, for these are undoubted Rules to examine a Law by.

The Writs of H. 3. E. 1. and E. 3. in all those times, the practice as to this will not make a Law; here will be no proof of a consent. First, for H. 3. to 28 E. 1. here the Subject, for as before the Complaints which begot the Charter of King John was upon the charges; so afterwards till 25 E. 1. the Law of the liberty of the Subject was not settled: For though King John did grant his Charter, yet the Pope did dispence with him, and he broke it, so it did rest till 9 H. 3. So all this time the Subjects of England, were under power, and what in that time he might do by *Dureffe* was not a consent.

Then 9 H. 3. He makes a Charter, yet from time to time he broke it, though he desired to be excommunicated, if he did it, and so it rested until 25 E. 1. and therewith much ado was gotten a *Confirmatio Chartar.*, yet this satisfied not all till 28 E. 1. *Magna Chart.* not observed. I could shew diverse Cases point blank against these.

The Statute 28 E. 1. saith expressly that this Charter was not observed. And it was once a punishment for those that were the breakers. Now when Acts of Parliament declare that the Law of the liberty of England, was not observed, I shall not need to shew any Record how it was broken.

So that all the practice in Henry the thirds time, though much, yet that will not serve the turn, for

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Kingdom, and that is the reason that all Land is held immediately or mediately of the Crown.

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For the practice, I shall give this general answer: If I can satisfy your Lordships by Authority of Parliament, how the Law standeth, the contrary practice either before or after, is not material: And for that, I must leave it too; your Lordships have heard, we have read the words of the Acts of Parliament, and explained our meaning and brought them home to our Case; it will be hard to make an exception by exposition, if the Act be general.

For, my Lords, for the practice it consists of two parts.

1. Arrays of men.
2. Of Shipping, and for Shipping *de Navibus congregandis, or muniendis, and inveniendis*.

For practice of Arrays, I shall lay them by, and give them a general answer for very few or none that went from the beginning of R. 2. are but only to see if they be Armed & *prompti*, and that is made by the Statute of Winchester. It is one thing, to see that they be armed and in readiness to go; and another thing, at whose charge they shall go. That appears not out of those Arrays. There is no doubt but the Subject on the Stat. of Winchester ought to be ready with Arms, and in his Country to make defence, and upon occasion he ought to go out of his County, but at whose charge that is the Question. And if those Writs of Array were the same with the Commission now to the Lieutenant, yet I know not how, this is my Argument in the Case. And so your Lordships see that a great number of the Arrays 9, and 10 fall off this way.

But if Arrays had been and at the Subjects charge, yet if against the Statute I leave how far practice shall be an Argument.

But for Shipping for Writs *de Navibus congregandis*, those are nothing, for the matter is whether they shall be paid before they go, and many of the Ship Writs are of that nature. No doubt but the King may command *ad congregand² Naves* to use them upon occasion, but the matter is at whose charge, and for all the Writs that are to find Ships, I hope those Writs are not concluding.

My Lords, For those Writs that are *sumptibus propriis* a Writ, and no more without execution

is not a practice sufficient to make a Law: nor more than in a common evidence when to prove a Right by usage.

Now whether or no they have shewed a general execution by obtaining and doing it at their own charge, or Money levied upon them, I leave it to your Lordships, I see no proof. It may be such Writs might be, but that there was such an execution of them at their own charge, or money levied on them, we see no such thing. And if Writs were to find Shipping in those times, it is like the Moneys, were returned by the Country, and so the Receipt might shew it, especially of the In-land Counties, where nothing could be had from them but Money.

But, my Lords, to examine on those grounds whereby a practice must make a Law.

If this charge be within the words of the Law, no practice can take this out of the way of exception.

The practice that must either shew what was the Common-Law, and so *generalis consuetudo*, or which must declare the meaning of a Statute by a constant consent, which must be of those that could consent, and those which did not express a dissent.

We are now upon enquiry as on practice, though the King cannot generally lay a charge, yet whether he can do it in this Case to make an exception of Law. It must be done by use and practice; as to make a Law: practice doth not make Common Law, but as it is a proof of a constant consent.

For all Laws are made two waies: First, by express consent in Parliament, or by use from time to time, whereby it doth appear this was excepted, and the use becometh a Common-Law, so as still if a use do make a Law, such use it must be as must prove a tacite consent.

Next, as the use must bind the Kingdom, so it must be general over all the Kingdom: It is not enough to be at some times, and seldom, but it must be *semper eadem* practice.

And lastly, It must be reasonable, I shall examine on those Rules, for these are undoubted Rules to examine a Law by.

The Writs of H. 3. E. 1. and E. 3. in all those times, the practice as to this will not make a Law; here will be no proof of a consent. First, for H. 3. to 28 E. 1. here the Subject, for as before the Complaints which begot the Charter of King John was upon the charges; so afterwards till 25 E. 1. the Law of the liberty of the Subject was not settled: For though King John did grant his Charter, yet the Pope did dispence with him, and he broke it, so it did rest till 9 H. 3. So all this time the Subjects of England, were under power, and what in that time he might do by *Dureffe* was not a consent.

Then 9 H. 3. He makes a Charter, yet from time to time he broke it, though he desired to be excommunicated, if he did it, and so it rested until 25 E. 1. and therewith much ado was gotten a *Confirmatio Chartar²*, yet this satisfied not all till 28 E. 1. *Magna Chart.* not observed. I could shew diverse Cases point blank against these.

The Statute 28 E. 1. saith expressly that this Charter was not observed. And it was once a punishment for those that were the breakers. Now when Acts of Parliament declare that the Law of the liberty of England, was not observed, I shall not need to shew any Record how it was broken.

So that all the practice in Henry the thirds time, though much, yet that will not serve the turn, for

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for that Government was more of force than Law.

But for that of *Henry* the third's time, I shall give a further answer. The very Courts of Justice were shut up then, and it was in *flagrante Bello*.

And for *E. 1.* all the main ones considerable, were immediately before the making of that Statute, if rightly apprehended, they did particularly occasion that Statute: so that the Subject did deny it; and here is a dissent.

After 28 little considerable, and *Edward* the First, when he made 28 *E. 1.* when the Charter was confirmed, yet he had his *salvo jure Corone*, which would not please the Subject, and afterwards notwithstanding he made some grants in Parliament, yet sometimes he did revoke them, your Lordships know what a great revocation he made; but as some of our Historians observe, when he had occasion of War and Money he did grant, but otherwise did not, so that in all his time the Subject did not consent, but as much as he could he did dissent, and in 25 you see how the practice did alter for command of Ships.

Next to *E. 2.* for his time, we see how he went. In the beginning he sends but a *Mandamus regantes*. In the end of his time whether his Government was more of Law than of power, I leave to your Lordships. That little practice that way (if it do come home) is not sufficient to make a Law who was under will.

Tempore E. 3. For him in his best time, you see how he went, he laid not the charge on the Subject at the First, afterwards there is no Age wherein there were so many complaints as in his time. And from the first to the last, and not only in this of Shipping, which as often as it was, there was still complaint, but in impositions on Merchants, whereupon *Latimer* was punished, so that in point of charge the Subject did inforce him upon it in time of necessity. So that in those times the practice will not be any Argument against us.

That of 10 *E. 3.* he confessed that he laid too heavy charges on the Subject, and did ask forgiveness, so here was no assent, but a several dissent by their several complaints.

And if I take off these three Kings Reigns, I take off all the force of practice concerning Shipping: For from that time afterwards, you shall find very little, for what cometh afterwards is but for matter of Arrays.

The next thing is, That every practice that must bring in a Law, must be constant and continual so long together as may bring it into a custom. Now out of what your Lordships have heard, if you conceive that in the time of those three Kings, that they had one way and the Subject another, then there is no constant practice to lay it on the Subject.

And for Arrays, I conceive them to be no part of the Case.

And for the next, If practice make a Law it must be general through the Kingdom, for this is our Case. We are in an In-land County, and observe how few Writs we have that went over the whole Kingdom. Nay, have you any that proveth it home indeed, that they went to some In-land County, but that it went through all the Kingdom you shew not.

Now if you will have a practice to bring in a Law, you must not bring your practice into one part, but over the Kingdom, and not a practice by pieces, at one time one part; and at another time another part, for one part of the In-land alone will not be justifiable, for that were to lay a

charge on the one for the maintenance of the whole, and that is against reason, and the reason. *Car. 13.* of this Writ so to charge the whole Kingdom, you must shew that they went over the whole Kingdom, and were obeyed by the whole Kingdom, for obedience in some part will not bind all.

So once or twice will not do it, for the Writs which have been produced, many of them went to the Sea Towns only. Next, My Lords, admit that the practice had been constant from King *John's* time down to *Henry* the third, so to this day, under favour, as the Case standeth, your Lordships cannot find such practice as could now introduce a Law.

The custom which must be of a Mannor, you must not shew the beginning of it, that within time of memory the same was not so true if the time had been long; and I cannot shew when it hath not been, that is time out of mind.

To examine this upon the Rule, it hath been said from the time of *H. 2.* *Danegelt* was taken; true, it was taken *de facto*, but not *de jure*.

The Subject was not at that time charged both with *Danegelt* and Shipping too; then our course of charging the Subject to find Shipping, must begin since that time.

But peradventure it will be said as Sir *Henry Spelman* in his gloss, when *Danegelt* was done this other should come in.

But peradventure it will be said, This is enough to shew that this begun but in memory, then it is but to see by what warrant of Law this begun.

If *Danegelt* had not been legal, then this to come in lieu of that which was not legal, is not sufficient. Now for *Danegelt*, it was not legal, and so *fallit fundamentum*. If it had been legal, yet not so pursued in the course as is legal, so that there is one ground for it, either on right or wrong.

That *Danegelt*, when it went, it went over all the Kingdom, and in a proportion to all, yet this was commonly to Sea Towns, but sometimes to some In-land Towns.

If *Danegelt* were on the Land and certain, this on the person and uncertain.

This respects both Lands and Goods, the other not; there is no such assurance of equal charge in this as in the other.

If *Danegelt* had been legal, yet whether this coming in lieu of *Danegelt*, being of a far different nature be legal, I leave it.

Next, to examine it upon another Reason, upon the Reason of the practice. If the practice went over the whole Kingdom from time to time, there was the more equality; but if the practice went over the Kingdom but by degrees, sometimes to one part, sometimes to another, though over all the Kingdom at times, yet this is not sufficient to make a Law, for that Act which is unreasonable in itself, and not agreeable to Justice, will never make a Law, for a Law will never arise out of an Act illegal. Now, my Lords, when a charge is laid upon a part of the Kingdom, which the whole should bear, it is not reasonable. I will not deny but in Mannors, where you are to have a Custom, a Custom sometimes on one piece, and sometimes on another, this may be good, though it go not over the whole Mannor, because in this Act there is nothing against Justice, for here one man doth not bear for the whole, but otherwise in our Case.

My Lords, I shall go further, as for the In-land Towns, so for the Sea Towns, we do not find a general practice of all Sea Towns, sometimes on

on some, if on all, yet not all oftentimes.

My Lords, Admitting Arrays would be material in this Case, as I conceive they will not, yet under favour, they will be no Precedent for defending of the Sea; the Case doth differ.

For though the King be Lord both of Sea and Land, and hath in them both the sole Dominion: So in the Sea he hath the whole property, and in a manner all the considerable profit and privilege. The Subject hath but the passage of the Sea, and the *minima* to take Fish not considerable in point of benefit, but for the Land that is our own, we have a property in it, that is our own, and the land of the Kingdom is the House of the Kingdom. As for the charge of the land to find Shipping, there will be a great deal of difference between Sea Towns and In-land Towns. As they that live in Sea Towns are in more danger from the Sea: so they have more profit and privileges, and that is the reason of that in the Parliament, 13 E. 3. that the Sea Towns should do it in regard of their profits and privileges.

And for the Command to find Ships, the positive Law is to make those provide Ships which are chargeable as your Sea Towns; and for In-land Towns to find Arms, because both are not fitted alike, there is no reason why they should be charged alike.

Upon this Reason is the Case of *Beverly* put before 2 R. 2. where the complaint is, that they were charged for Shipping in being a dry Town, they say they were charged *indebitum*.

10 E. 3. *Shoreham* they plead they never found Arms but Shipping and a good discharge. And in *Mat. Paris* upon War with *France*, the Sea Towns complain and desire help; so that the burthen lies on them, if on any.

My Lords, I have thus gone over in the general way as well as I can, and endeavour to answer the practice. To have gone over all, would have required longer time than your Lordships can spare.

The Reasons only now rest to be examined.

For if no full Authority nor sufficient practice, Reason alone will not Argue against a Fundamental Rule: For we are not now to examine on reason what is fit, and what not, but to see what is the truth.

The first reason is, that *Salus populi suprema lex*. The Question is not, What we are to do by necessity, but what is the positive Law of the Land. The Question must be now as before, What power is in the King? and our Fore-fathers in that time of Peace and Government, did leave in the Crown not in case of necessity and publick danger, when with them *Salus populi* was *suprema lex*, and upon that they did ground the Rule of Government.

In this Case, whether or no in their consideration they did conceive for the publick good to leave the power in the King, or not to lay a charge on the people, there the Rule came in *Salus Reipublice suprema lex*, and that which they looked on most was the benefit of the multitude. So, my Lords, it is not now to dispute, whether better or worse, but that it was.

And to shew that there is no such great necessity as can countervail the possibility of prejudice the other way.

If there do come such a danger, then the Subject is at that time under a Law of preservation of life, liberty, and all which make the Subject as willing to obey as submit to Government in the Creation. This Law is of a higher force than any positive Law can be.

But admit that this cease of this Rule, that all positive Laws of property yield to the Law of necessity, I admit nothing, though I might admit much and not prejudice the Case. Though no positive Law do charge, yet in case of eminent danger, if I should say my private property is become publick, it is no mischief, for so it is in some cases of the King: For at this time of danger, the King and Subjects are under a Law of absolute necessity and publick safety. In all humane reason, when the danger is in *proxima potentia*, we may prevent it thus, as if another mans House be on Fire, mine may be pulled down to stop it. So that we may see by what grounds we do go in case of absolute necessity.

If the King do command any thing concerning the property of Goods in respect of danger. The execution may not be by any positive Law, meerly which in such cases do cease in *furor belli*, for those are Acted by Formalities, & *inter Arma silent leges*.

And in these cases, as the King may command my property, so may the Subject command the property of another. The Books are so, 8 E. 4. for hindring the landing of an Enemy, Bulwarks may be built on my Land without assent; so the power is not only in the King in these cases of necessity, but in a Subject; and the Books say not that the power is only in the King, but I can do it, and the Law of necessity is the War-rant.

Then, my Lords, it resteth considerable in this Case, what shall be said to be a time of necessity; I speak still by way of admittance, for I grant nothing.

It must be in a danger now acting, or in *proxima potentia*. As fire, though not burning, yet ready to burn, that is, there must be a War, *furor Belli*.

Note, That when the King makes proclamation of War, or the King in the Field, and that indeed was not Mr. *St. John's* meaning; it was taken further than he meant it.

It must be in such a danger when this power is of necessity to be used, as in case of Fire, there must not only be fear of Fire, for one House must be first actually on fire before the House can be pulled down; withal such a danger, that if this be not pulled down, the other will be lost.

And as in case of an Enemy, a subject out of fear of an enemy cannot build a Bulwark but when he is a coming, so that none of these cases will match our case.

The property yieldeth not in fear of danger, but such a danger as help must come in *nunc aut nunquam*.

This time is not when the King will think that there is occasion to exact this power, as in the Case in 88. Though the State and Queen did command the burning of those Goods and provision if an enemy landed, which was a lawful command, and justifiable to be done, so they did land, but could not command them to burn their Corn before an Enemy did come; if he landed, then to burn the Corn.

Your Lordships know a King may command in case of danger, destruction of all Suburbs, rather than an Enemy should come in. But if there be a fear only of War, that the King should command it, how far that is justifiable, I leave. All this difference appears out of the Case of the *Gravesend Barge*, *Duffield's Case*, 12 Jac. If there be a Storm, or a Leak in a Ship, that the danger be actual, it is justifiable for the Master to throw

Car. 13.

Anno 1637. throw out the Goods: But if he see a Cloud arise, and out of a fear of a Storm throw out the Goods, I doubt on a Jury which way this would go with the Barge-man: But if a Storm do come, or Leak spring, in that case the Barge-man may do it.

So you may see upon what Law my Property yieldeth.

That Position generally taken as it is laid, may be of a great deal of consequence, for it doth not rest solely there upon yielding of the Law of property: For if all positive Laws do cease in that danger than the positive Law of my liberty, and person also. Now whether or no you conceive all Laws of liberty and person cease in this danger, when the danger was but conceived and not actually, that I leave. If that Rule be general, then why not the other?

So we may see the difference from our Case: For in that Case there is no manner of loss to the Subject, for he shall have allowance for their loss, or make suit to Parliament, and they can recompence it; for what is taken for the publick good, is but borrowed.

As in case of Shipping, if my Goods be cast out to save the Ship, every one of the Ship is to bear a proportion: so in our case, either the King must do it, or else the Parliament, so there is no prejudice.

So upon the whole, my answer is, Admit the Rule of *Salus populi suprema lex*; yet the Law of Property doth not yield, until an actual enemy, or *Flagrans Bellum*. It is not enough that there be but an apprehension.

There were divers other reasons urged, but those two of *Salus populi suprema lex*, and private property must yield to publick safety, were the two *rationes Cogentes*, the other were but *a pari & a simili*, and all those I shall pass over, which were only for convenience, as the granting of Toll, or a Corporation to make Ordinances for the good of the City; all those will not come home in this matter. My Lords, in all these Cases a *Minore ad majus non valet, negativum valet*.

But there are only two reasons urged, which do require an answer. The trust that the Law puts in the King in great matters.

The shutting of the Ports.

The *Droit Royal* of War and Peace.

For the shutting of the Ports, there is more difference in point of prejudice of the King than the Subject. The King cannot shut the Ports but to his own prejudice. Again, the shutting of the Ports, without cause of necessity, the King hath the loss as well as we, for by that he loseth his Custom; and by shutting them, he can gain nothing at all. And besides there is no Law at all that hinders him from that: But there is a Law saith that he shall not charge.

The next, is the *Droit Royal* of War and Peace.

It is one thing to say the King can make War and Peace, another thing to say he can charge.

In War and Peace the King is equally charged with the Subject; nay, more and for those things there is no great reasons, but that in the first frame of Government, they might be well suffered.

For that case touched of the King's power over Coinage, in that case there was a necessity to counterpoise the like thing in another state: In that case the King loseth, and we lose.

The King may dispence with Penal Statutes, and make them as none; Doth any Law say he shall not do it?

The Reason differeth in that Case, there is a common necessity that there should be a power in some body, for Acts of Parliament are but *leges temporis*. It is one thing for the King to have power in point of favour, and another thing in point of charge; so in case of pardon there is no hurt, if he do pardon, God forbid he should not have power of mercy.

My Lords, There are in the case two points more, which I shall move.

Whether or no, Admit the King could command the Subjects to find Ships, he can give power to the Sheriff to make Assessment? The ground is upon this, that in all cases of publick charges the Law takes a special care to make an equality. In Parliaments of old they were always careful to make provision that way, as upon Fifteenths and Subsidies. And in *Danegelt*, they went in such a way as there could be no inequality, they went by Taxing of Hides. Now if the Law do make this a legal way of charge, it allows the like way for Assessment that is allowed in other cases, such a way as wherein there can be no inconvenience. Now how a Sheriff hath that knowledge to lay it on mens Estates and Land, I cannot tell.

My Lords, Not to leave a power in the King to lay an Arbitrary charge: But in the Sheriff to lay more or less on any man, though the Law may trust the King, yet it is a Question whether it will trust the Sheriff.

Nay, I ask, If a Sheriff be an Officer of Law in this Case, yet the King may command any man, as well Assessments are usually made by others, and not so much by the Sheriff: So as I conceive this is a thing that doth properly belong not to the Sheriff, he is not an Officer sworn; And it resteth not only in the Sheriff, but in the Under-Sheriff: So that if the Law doth trust the King; yet whether or no this be the way, I leave it. If a hundred be charged, they have waies to lay it on themselves.

The next thing is this, Admit a Levy may be well made, whether the Money thus paid, may be brought into the Exchequer by a *Scire facias*? I do think that this is the first Writ that ever was in that kind; I do not find it regularly.

My Lords, I think it is hard to find where there is a Writ that commands and prescribes the manner of Levy. It not only gives you power to Levy, but sets the way of Levying. By Imposition, by Distress, by Selling; For my part, I know no Case that can match it.

Anno
1637. Sir John Bankes Knight, His Majesty's Attorney-General his first Days Argument.

May it please your Worships,

There was a *Scire fac'* brought against Mr. Hampden and divers others, to shew cause why those Sums of Money Sessed upon them by the Sheriff of Buckingham, should not be paid and answered. It beareth Tiste 22 Maii 13 Car. and a *Scir' fac'* Returned: Mr. Hampden demandeth Oyer of the Original Writ 4 Aug. and of the *Certiorari*, *Mittimus* and several Returns. The Writ of 4 Aug. which went out to provide a Ship of 450 Tun, with Victuals, Men, Munition, &c. The Writ giveth power to the Sheriff to make an Assessement upon the County, and giveth power of Distress and Imprisonment in case of Non-payment. He demandeth Oyer of the *Certiorari*, which consists of two parts; the one to certify the Sums assessed; the other, to certify the Names of the Defaulters. And the Names of those that made Default were returned; and Mr. Hampden amongst others. He demandeth Oyer of the *Mittimus*, which doth recite the Tenor of the first Writ.

Upon Oyer of all these, both of the Writ 4 Augusti of the *Certiorari*, *Mittimus*, and *Scir' fac'*, and their several Returns; Mr. Hampden hath Demanded in Law.

The Case that ariseth upon the Record is thus: The King is Lord of the Sea. That's part of the Record. The Sea is infested by Pyrates and Turkes, who commit Depredations, and take Goods of Merchandizes both of the Kings Subjects, and others that traffick there, and carry them into Captivity. There is preparation of Shipping, and imminent danger; for so the Writ reciteth, A Danger that the King's Dominion of the Sea should be lost, or at least diminished. There was a further Danger, that *Salus Regni periclitabatur*: Whether in this Case the King, *pro defensione Regni, tuitione Maris, securitate Subditorum, & salva conduetione Navium*, &c. may command his Subjects *per totam Angliam*, by Writ under the great Seal to provide Ships at their own Charge and Costs. And this, when the King in his own Judgment conceiveth such a danger as doth necessarily require this Ayd. That, under favour, is the Question upon this Record.

Their is in this Record, whereof your Lordships are Judges, four Writs. (1.) 4 Augusti, 11 Car. which goeth out of the Chancery for the setting forth this Ship of 450 Tun. (2.) The *Certiorari* 9 Martii, 12 Car. (3.) *Mittimus*, 5 Maii, 13 Car. (4.) 22 Maii, 13 Car. which is the *Scir' fac'*. The second and the fourth Writ, which is the *Certiorari* and the *Scir' fac'*, they are returnable. The first Writ and the third, which is the Writ 4 Augusti, and the *Mittimus*, they have no Returns; but they give Command, and require Execution should be done *prout de Jure, & secundum consuetudinem Regni Anglia fieri consuevit*.

The first Writ, which is the Ground of this Business, standeth upon two Parts; a Preamble, and the Body of the Writ. The Preamble, that containeth, First, A Direction. Secondly, The Motives and Causes of the issuing of this Writ.

The Body containeth six, The Direction that is unto the Sheriff of the Countyr of Buckingham, *Car. 13.* *necnon* unto the Bayliff and Burgesses of the Borough of Buckingham, and *probis hominibus* of all the County. The Motives and the Reasons inducing this Writ, are Nine in Number.

(1.) *Quia Pyrata & Maris grassatores*, &c. That these commit Spoils and Depredations by Sea, and take the Goods of the King's Subjects. (2.) Because they carry the King's Subjects into miserable Captivity. (3.) Because of the Preparation of Shipping that is made *undique* to infest the Coasts. (4.) *Quia periculum imminet*, &c. (5.) *Quia pro defensione Regni, tuitione Maris*, &c. (6.) *Quia pro debellacione, repulsionem quorundam hostium satagend'* &c. (7.) *Quia progenitores nostri Reges Angl' Dom' Maris temporibus*, &c. (8.) *Quia onus defensionis*, &c. (9.) The most prevalent, *Quia hoc per legem & consuetudinem Anglia*, &c. The Body of the writ containeth several Mandates to the Sheriff and Head-Officers, *quod fide & ligeantia*, &c. *sicut nos & honorem diligitis*. The Mandates are six. (1.) To provide a Ship of 450 Tun, well Armed, and furnished with Provision; and that was to be in readines by the first of March, to continue for the space of 26 Weeks *ad proficiscend' cum navibus nostris pro tuitione Maris*, &c. (2.) Mandate was a Command unto the Sheriff and the Head-Officers, that they shall meet within 30 days, and set down what shall be taxed upon the incorporate Towns. (3.) A Command unto the Head-Officers of those Incorporate Towns, that within their Bayliwicks they make an Assessement upon particular persons, and compel them to pay the same. (4.) A Power unto the Sheriff to Assess all within the Residue of the County *juxta statum & facultates*. (5.) A Command for the Levying of those Sums by Distress, & *quos rebelles inveneris*, to imprison their persons. (6.) That no part of this Sum collected shall be converted unto any private Use; but if any Money be remaining, it shall be paid *inter Solvenda*.

My Lords, The Reasons expressed in this Writ, might justly satisfy any mans Judgment without further Argument; but I shall clearly manifest there is no Clause or Particle in this Writ, but is verified by many Records, and is *secundum Legem & Consuetudinem Anglia*. The Question that is made is of a high and transcendent nature: It concerneth the King, in both his ordinary and absolute Power; Whether the King in those Cases where he in his Royal Judgment shall conceive a Necessity for Defence of the Realm, may command Shipping in this kind? Whether by his Royal Power he can do it, or must require the Aid *per Commune Concilium in Parlamento*. And I Perceive his Majesty might do it, not only by his Kingly Prerogative, but *Jure Majestatis*. This Power is not only *inter Prerogativa Regis, sed inter Jura Summa Majestatis*. I find by many Records that these Writs have issued out in all Succession of Times. In the times of the Saxons before the Conquest; but I never find that ever this Power was judicially questioned in any Court at Westminster. I find question made touching Assessements, whether they have been equal; touching the Levying, whether within the Warrant of the Officers? touching the discharging of some by reason of a Grant of Exemption? but to question the main Power, whether the King by his Royal Power might command this for the Defence of himself and the Kingdom, was never disputed. But his Gracious Majesty who

Anno 1637. hath declared himself that he will Rule his People according to his Laws, for the satisfaction of the People; and to clear his Justice and Judgment doth suffer these Writs to go forth, to which some Demurred, and to be questioned in this Legal way to be determined by your Lordships, to which I hope you will give a clear end.

My Position shall be thus; That the King, as he is King of England, *pro defensione Regni, tuitione Maris, &c.* When his Majesty in his Royal Judgment conceiveth it a time of such Danger, as doth necessarily require the Ayd commanded in this Writ, that he may command and compel his Subjects *per totam Angliam*, to set forth Ships with Men and Munition, and double Equipage; and this may be done as well by the King's Writ under the Great Seal, as by consent in Parliament. For the proof of this Position, I shall reduce what I have to say, to these Heads:

First, That this Power it is *inter Jura summa Majestatis*, innate in the Person of an absolute King, and in the Persons of the Kings of England: That this Power is so inherent in the Kings person, that it is not any way derived from the people, but reserved unto the King, when positive Laws first began; and that in this Case the King is sole Judge of the Danger, and how this Danger is to be prevented and avoided. This is my first Ground.

The second is this; That this Regal power it is not confined to the politick Advice, that the King must be in *Cathedra* sitting in Parliament; but that it hath been always done either *per ipsum Regem, aut per Regem & Concilium, aut per Dominos suos, aut per Regem*, when he shall please to call a Consultation of Merchants and Portsmen, experienced in the Service.

My Lords, Upon this Head I shall present unto your Lordships, That this power is so inherent in the King, that during the Time of Parliament, and in those years when Parliaments were sitting, that these Writs issued out by a Regal Power, without any Power and Ayd in Parliament; and that Advice was not thought necessary in former times.

In the third Place, I shall shew unto your Lordships, That this Power is implied out of his Sovereign Title given unto him by the Common Laws of England.

In the Fourth place, I shall insist upon Precedents, and herein I shall desire you to take notice that these Writs have not issued out at the first upon any sudden Advice; but that there was a great search made first by my Predecessor Mr. Noy, a man of great Learning, and profound Judgment; other Searches made by the King's Council, and some others; and a great Number of Records were considered of, and maturely, before these Writs issued; so nothing was done upon the sudden. And we that are of the King's Council did think it fit that most of these Records should be cited in the first Argument, by Mr. Solicitor, to the end that the Council at the Bar might give an Answer in their Reply. Many other Records have been added by Mr. Solicitor; and many more I shall cite, which have not been remembered.

My Lords, in the vouching of these records, I shall observe 8 things. 1 That the Records we insist upon, they are not grounded upon any private Customes, upon any Charters, upon any Covenants; but upon the Laws of the land, and there is not in any of these Records any recital, that these writs went out upon any of those grounds.

2. That in all ages before the Conquest, and in the time of Will. the first, that these writs have issued, *per ipsum Regem, per Regem & Concilium*, and did not issue by any advice in Parliament.

3. That these Records and Writs were sent out not in case of *Hannibal ad portas*, or an enemy discovered, or sudden invasion, but in case of rumors of dangers, and in that a danger might happen, so not in approach of an enemy; but in case of preparation to be provided against an enemy. 4. The thing is this, That the King did command Shipping to be set forth, and in those years, wherein there were Parliaments, and sitting Parliaments, and by His Regal power, without advice of Parliament. 5. Is this, That great Subsidies and Aids have been given unto the King in Parliament, *pro defensione Regni*, in the same years that Writs went forth for the defence of the Kingdom. 6. Is this, That those Aids have not been required, only from the Maritime parts, the Ports, nor from the inland Counties, as this case is *Buckinghamshire*, and *per totam Angliam*. 7. That many times when these writs issued there hath been no such causes declared as hath been in this writ. I shall observe that in many of these writs, no cause at all set forth in them, but only that they should repair to the Place of Rendezvous, and receive further direction. 8. place I shall verifie every Clause of this writ by many Precedents. A *Mandamus* and not a *Mandamus Rogantes* Shipping at the charge of the County and assessment by Sheriffs as Commissioners, and a penalty greater, not only Distress and imprisonment, but extent of Lands, seizing of Goods till the King was paid. These are the things I shall observe out of the Precedents when I come unto them.

My Lords, In the fifth place, when I have laid these foundations, I shall then dispel those mists that have been raised, remove those Forces that have been mustered, and answer the Objections of those Gentlemen that will not be defended by the Kings Writ under the great Seal. And in this give a particular answer to the Acts of Parliament, that they have cited, to the Records that they have insisted upon, to the Reasons and Authorities. And I shall answer their exceptions that have been taken unto the several Writs, Records and proceedings thereupon. In the Sixth place I shall collect some conclusions and reasons out of the Premises, and cite unto your Lordships some Judicial Records, that may satisfy your Lordships in point of Judgment. These are my Materials, I shall proceed unto the Building.

My Lords, My first ground was, that this power was innate in the person of an absolute King, and in the person of the King of England. All Magistracy it is of nature and obedience, and Subjection it is of nature, and before any positive Law or any Law written or any municipal Law, people were governed by the Law of nature, and Practice did Rule according to natural equity: This appears in the Report of Sir Edward Cook, written by him when he was Chief-Justice, 7 Report fol. 13. I will not take occasion to discourse, either of the Law of nature, which doth teach us to love our Country, and to defend it, and to expose the hand to danger, rather than the head should suffer; nor of the Law God, which commandeth Obedience and Subjection to the ordinances of Superiors: nor of the Law of Nations, which both agree, that there must be protection, and without aid of the people there can be no defence: nor of the imperial Law, which saith, that

in cases *pro communi utilitate* the King may *statuere* alone.

1637. My Lords, I will upon this Subject confine myself to the Law of the Land, and insist upon such Records, and such Precedents, and such Reasons, and such authorities as I find both by Records of former times and by our Books. 1. In the original government of this Nation I do not find but that it was not a Monarchy: I find the contrary; that there was a great number of Petty Regiments. And when *Julius Caesar* did invade this Realm, he writeth that there were four Kings in *Kent*, and other places; and *Srabo lib. 4.* saith the like.

So those times will not be material. During the domination of the *Romans* from *Julius Caesar*, which continued 500 years, the *Romans* had their Prefects here in *England*; no man will doubt but that they may command what they pleased: *Notitia urinisq; Imperij fo. 161.* that in their time there was special Officers called *Comites*, &c. Officers appointed by Sea, and other Officers by Land. Those that succeeded the *Romans* were the *Saxons*, and in their times both by ancient Grant, and by Edicts of the Princes of those times, that this Naval Power was commanded by them for the defence of the Realm. 3. To begin with King *Ina*, *Anno Dom. 725.* King of the *West Saxons*. This King in that year made a grant unto the Abbot of *Glassenbury*, *Quod &c. sint quieti ex omnibus Regis exactionibus & operibus, quod iudici solent [except] expeditiones Arcium & Pontium, constructionem sicut in antiquo, &c.* Which shews that these expeditions were accustomed to be done. *Wuldredus*, King of *Kent*, he in the year 742. granted unto His Churches, *quod sint libere ab omnibus secularibus servitijs, except expeditiones Pontium, &c.* so in that grant these expeditions were excepted.

Etheldredus, King of the *Mercians*, *Anno 749* granted *Monasterio de, &c.* except *ut supra*: So as in this time the services were common, and were done by a *dicto Regis*, that the Churches should be free from all services, except these three of expedition, of building Castles, Bridges and Forts, *a quibus nulli unquam laxari possunt.*

Egbert, *Anno 840.* commanded a great Navy to be provided, and that was for the defence of the Realm, and safeguard of Ships.

Ethelwald that was King of the *West Saxons*, *Anno 854.* granted to the Church that it should be free from all Services temporal, except *Regalibus Tributis*. In the time of King *Alfred*, who was the first Monarch and King of all *England*, one who was a Privy Councillor in his time, who writ his Life and the Story of his Time, and he in the ninth Page saith, *quod Rex Alfredus iussit Gall, longas Navas & Cimbas adificare, and agreeing with this and the History of Asser Menevensis, Florentius Wigorensis 316. Huntington 351.* wherein your Lordship may see by the Records, that it was done *ex precepto Regis per totum Regnum.*

This King made a Law (which is not remembered by *Lambert* in his *Saxon Laws*) to this substance, that no man upon Summons by the Horn or Word of Mouth should sit still in matter of Theft, Bloudshed or going to War, whatsoever his expedition should require; and there he doth mention it to be upon pain of forfeiture of Life. The King *Edgar* who stiled himself *Anglie Basilus*, he in the year 959. provided a mighty Navy of 3600 Ships, as saith *Wigornensis* and *Math. of Westminster*; and he gave a command that eve-

ry year at *Easter* a Navy of 3 or 4000 Ships be set out and divided into three parts, *East, West* Car. 13 and *North*. The Ships in those times were not so great as now they be. The same *Edgar* in the year 973 granted to the Abby of *Thorney*, all manner of immunities, and that it should be free, except those three defences of building of Bridges, Castles and Forts. And the same King in his Charter to the Church at *Worcester*, granteth unto them to be free *ab omnibus exactionibus, except constructionem Pontium, Arcium, &c.* My Lords, by all these several grants, and what hath been done by those Kings, it doth appear; that these three fundamental services were reserved unto the Crown, saving some two or three Abbeyes which had some particular exemption. In the year 1008. which was remembered by Mr. *Solicitor*, there was then a great Navy prepared by King *Ethelred*. The words are thus, *Rex Ethelredus per totam Angliam ex 310 Hidis Navem unam, &c. preparare fecerit.* That was for every 310 Hides of Land to build one Ship, and every eight Hides to find a Man and a Corslet, and to meet at *Sandwich* for defence against the *Danes*. This appears in *Huntington 360. Math. of Westminster 387. Hovenden 426. Malmsbury 100.* In this Record these things are observable. *Rex parare facit & Rex iussit*, then *per totam Angliam*, all *England* was to be charged. By the *Glossar.* of that Learned and judicious Antiquary, Sir *Henry Spelman*, it appears that *virgata terra continet 24 Acres, quatuor virgata continent unam Hidum, & 5. fadum militare*; upon casting up of this it doth appear, that there be in *England* 363600 Hides, every 310 Hides being to set forth one Ship, the whole number amounteth to 45450 Men; but it is not the number, but the matter that is done by the Kings Commands *per totam Angliam.*

In the thirtieth year of King *Ethelred* he made an Edict which Mr. Attorney caused to be read in Court, saying, he had it out of an old Book at *Cambridge*, *quod instaurant tiel number de navas per singulos Annos, &c.* I read it to this purpose, to shew, that in the 30th. year of his Reign there was a Naval Expedition to be always ready at *Easter*, and sheweth the Penalty of such as did depart without Licence.

King *Canutus*, *Lambert, fol. 117, 118. ex sapientium Concilio, &c.* ordained a Command among his temporal Laws, *Cap. 10. quod pr. sidia fiant, &c.* Commands Shipping to be provided, and *Fol. 118.* a Penalty upon all those that did refuse to pay 120 s. which was a great sum in those days. That which I do observe out of these two, were these; 1. That they were made by the King, by the advice of his Lords; that there was to be yearly preparation for Shipping. Those that departed out of the service were to incur the forfeiture of all their Estates, *If these Edicts were Acts of Parliament, they stand unrepealed, and if no Acts, then they stand by Command from the Kings power.*

My Lords, I have shewed unto your Lordships the practice as it was before the time of *William* the first. He did not abrogate the former Laws, but was sworn to observe them. Nay, it was said, that he did confirm *Antiquas Leges & consuetudines Anglie*; So as then, if these were the Laws, and this the power that the ancient Kings of *England* had before this time, he did ratifie and confirm it, but not diminish it. This power of commanding of Shipping for the defence of the Realm, it is a principal part of the Royal Power. This Kingdom it is a Monarchy, it consists of Head and Members, the King is the Head of this Poli-

Anno 1637. *W* *W* tique Body, it consists of Clergy and Laity. The Head it is furnished with intire Power and Jurisdiction, not only to minister Justice in causes Ecclesiastical and Temporal unto his People, but likewise for defence of both, and he may command the power both of the one, and the other.

This power I find to be mentioned in the Register of Original Writs, written before the Conquest; 127. b. it reciteth, that *Nos considerantes, quod ratione Regia dignitatis nostra, ad providendum salvationem Regni nostri circumquaque astringimur.* It appeareth by *Stamford* in his *Prerogative*, 1. Cap. That as the King is the most excellent and worthiest Part or Member of the Common-Wealth; so is he also the Preserver, Nourisher and Defender of his People. I find it in *Fortescue*, which they have cited, that the Common-Wealth without this Head were but a Trunk, as the Natural Body is a Cadaver. I find it in *Fitz. Herbt. Nat. Brev. Fol. 73, or 173.* That the King of Right ought to defend the Realm, as well against the Sea, as against the enemies, that it be not surrounded nor wasted. How is this defence against the Sea and Enemies of the Kingdom, is the King bound to defend the Realm by Sea Walls at his own charges? No, the power of the defence is a superintendent power in His Majesty, to authorize Sheriffs and Commissioners to see it done; but by his power, yet at the charge of the People, *Register 127. b.* It appeareth there, where the King commandeth his People by his Writs, the one directed to the Sheriff, the other to Commissioners; and in both willeth and commandeth, *quod distringat A. B. & alios*, to distrain the Land of all those that may receive damage to repair the Sea-Banks, as well as the Ter-tenant. This Writ was before any Statute; for the Register was before the Conquest; and the first Statute that concerneth Sewers was made 6 H. 6. so it is by the power the King had at Common Law, and not upon any Statute; and this was to the Sheriff, as well as to Commissioners; and that it was done at the charge of the Country, and not at the Kings charge, *Pat. 23. E. 1. m. 4. dorf. agreeth with the Register.* The King doth there recite *quod ratione dignitatis Regis, &c. & per juramentum sumus astricti ad providendum salvationem Regni,* and there he giveth power to Commissioners to distrain the people to make defence against the Sea at their own charges, *Pat. 2. E. 1. pars secunda m. 5. dor. in the Case of Wiseman, 2 Rep. fo. 15.* The King *ex officio* ought to govern his Subjects in peace and tranquility, 7 Rep. fo. 9. protection of the King is general over all the Kingdom. There is reason why it should be thus; for the King of England he hath an entire Empire, he is an absolute Monarch: nothing can be given unto an absolute Prince, but is inherent in his person, as may appear both by Books, Records, and Acts of Parliament, *Bract. lib. 2. fo. 55. b. Sciendum, &c. Dominus Rex super omnes qui ad Coronam pertinet.* This appears likewise in the Statute 24 H. 8. there it is declared, that this Realm of England is an Empire, and hath been so accepted in the world, *Stat. 25 H. 8. c. 21. 1 Eliz. c. 1. 1 Jac. c. 1.* the Crown of England is affirmed to be an Imperial Crown, and Acts of Parliament are proofs of the highest nature, 16 R. 2. c. 5. that the King holdeth his Empire immediately of the God of Heaven, and at his Coronation the Crown is elevated as a signification thereof: This is likewise acknowledged in the *Irish Reports*, fo. 60. *Rex Anglia est absolutus Monarcha in Regno suo.* *Fortescue* saith, the King of England, as well as any

other King or Emperour, hath all his liberties within his Kingdom in *Imperio suo*. The Law of England maketh the King of England not as his Subjects are a, Natural Body, but a Politick Body, freeth him from all imperfection or infirmity; he is immortal, and never dies, the King ever liveth, *Com. 177. 11 Rep. 7. 21 E. 4. and other Records.*

My Lords, as he is an absolute Monarch, so all these *jure summa potestatis*, are given unto his person by the Common Law. First, he hath Supreme Dominion both by Sea and Land: this is proved by the *Mirror*, the greatest part whereof was writ before the Conquest; some things added to it by *H. Horn* in the Reign of E. 4. he holdeth that all Lands, and all Jurisdiction, and all Dominion is derived from the Crown; that whatsoever was not granted from the Crown remaineth in the person of the King. This *Supremum Dominium* is so inherent in the Kings person, that if the King grant away his Lands *absque aliquo reddendo*, yet the Tenure must still remain to the King.

8 H. 7. 12. 30 H. 8. 45. *Dyer*. This Dominion it is not only upon the Land, but it is upon the Sea; and so the King he hath not only a Dominion at Sea, but he is *Dominus Maris Anglicani*, he is both owner of the Sea, and soil under the Sea: And so it was lately resolved by my Lord Chief Baron, and the rest of the Barons in the Exchequer, in the Case of *Sutton Marsh*, that the soil of the Land, so far as the Sea floweth and refloweth is the Kings, and the King is seized thereof *Jure Corona*, *Mirror 8. Bra. fo. 8. Temp. E. 1. Avowry 46 E. 3. Com. 3. 6.* that not only the Dominion of the Sea, but the very soil belongeth unto the King.

Next place, he hath besides his *Supremum Dominium*, a Sovereign Jurisdiction, and that extends both by Sea and Land: 1. For creation of all his Majesties great Officers and Judges, creation of the Admiralty time out of mind, 20 H. 7. fo. 8. 12. H. 7. 17. power to make Justices could not be granted; and all these powers resumed in the Statute, as inherent in the Crown, 12 H. 7. 17. there it is held by *Fineaux*, that at the beginning all Administration of Justice was in one hand, that is, in the Crown: And surely this Jurisdiction by Sea did not begin in the time of R. 1. when those Laws were renewed by him at his return from the Holy Land: But there were Admirals in England, and the Admiral Law by Sea long before 27 E. 1. A famous Record in the Tower, that the Commissioners for the Emperour, Spain and France, did appear before the Kings Commissioners, and did acknowledge the Sovereignty of the King of England upon the Sea did belong unto him time out of mind. And for further proof of this, it appeareth likewise in that learned Book of Mr. *Seldens*, *Mare Clausum*.

My Lords, the next inherent power of the Crown are 1. Pardons. 2. Restitutions. 3. Pardoning of condemned persons, which none can do but the King himself, 1 H. 4. fo. 5. 20 H. 7. 8. The fourth is, *Jus nummi percipiendi*, a setting of a Royal Stamp upon his Coyn, the advancing of the value of his Coyn, and the debasing of it, 21 E. 3. 6. That the King only can put a value upon it, 5 Rep. 114. That the King by his absolute Prerogative may make any Forreign Coyn lawful Money of England by his Proclamation, *Davis Rep. fo. 20.*

The next, *Jus sum³ Majestatis*, is that of concluding

cluding War and Peace, which is absolutely inherent in the Kings person, which he may do without calling his Great Council, 19 E. 4. 6. That all the Subjects of England without the King 7 Rep. 25. cannot make War, *Bellum indicere* belongs not to the Subject; and to make Aliens Denizons, is a point of high Prerogative.

My Lords, this Trust that the King hath for making of War and Peace, and for the defence of the Realm both by Sea and Land, it is a great Trust inherent in the person of the Crown: No man ought to mistrust where the Law doth trust. There is an Objection; If it should rest in the power of the King, he might do it where there is no ground for it, and without cause, and cause Forces to be mustered, and Ships provided, where there is no eminent danger, in such a manner as it might be grievous unto the people. These are Objections clearly against presumption of Law; for where the Law trusteth, we ought not to distrust. The King, as appeareth by all our Books, is the Fountain of Piety and Justice, and will do right unto his Subjects, 1. Com. 240. All Justice is derived from the King, 13 E. 4. 8. The King can do no wrong, *Bract. l. 3. c. 9. 8 H. 6. 20. Royal Power de aver Correction de luy m^e*; he is the sole Judge, and we ought not to question him, *Bract. Rex non habet ultorem nisi Deum*, 11 Rep. 72. The King is the Fountain of Justice and Common Right: And the King being the Lieutenant of God cannot do wrong, 17 E. 3. 59. The King could not be made an Instrument of coven and fraud, but the Patent was void, *Litt. Com. 99. 5. Rep. 14*. That Religion, Justice and Verity are the sure Supporters of Crowns and Diadems, 24 E. 3. 42. *Stamford's Pleas of the Crown*, 72. At the Common Law, if the King commit a man by his *Bouche*, he is not Repleviable. The Law doth not distrust where the King committeth a man; but it is upon just cause, and we are not to doubt it: And therefore at the Common Law, *West. 1. c. 15.* a man committed by the King was not repleviable: Nay, if we were committed by his Council, that was his Representative Body, not repleviable: Shall he then, when the Law hath committed this power unto the King, who is the Fountain of Justice and Equity, who is trusted by the Law of the Realm, and the Commonwealth, mistrust him? Shall we think that succeeding Kings will do that which is not fit to be done? I say if the Law trust him, we ought to trust him. At the Common Law, if the King commit a man *per Bouche*, he is not repleviable; but for a further Reason, those that are his Delegates or Judges, are not to be mistrusted. That which the Judge doth, as in his Office, shall not be assigned for Error. If it be so in the Delegates power, much more in the Primitive and Fountain. 5 Ma. Dyer 163. The Court of Kings Bench did receive a Record of *Nisi prius*; the *Postea* returned by the Clerk; and the Death of the Justice of Assize assigned for Error, and could not be received. And so 1 Ma. Dyer 89. A Writ of Error to reverse a Fine, *prout in Dyer*.

That is the reason of the Book, 7 H. 7. fol. 40. 10 H. 7. 28. *Fitz. Herb. Nat. Br.* 126. faith the Books, he cannot assign for Error, nor shall not be admitted to alledge any thing contrary to the Office of a Judge, as to say the Judge did not give right Judgment, or the Clerk did not make right Entries, *M. 7. E. 1. coram Rege*. And that is the reason why a man of *non compos mentis* in a Fine, and suffering a Recovery, it shall not be

assigned for Error against the Acts of a Judge, 8 Rep. fol. 121. Doctor *Bonner's Case*, Record by a Judge or Justice of Peace not traversable. Car. 13.

Good my Lords, Then if by the Laws of this Kingdom, one shall not be admitted to receive an Averment against any Acts done by your Lordships, the Judges, against any Acts done by inferior Judges; surely in this, where the King is absolute Judge, it shall not be averred, to say it was no cause of danger, or that is done by the King which ought not to be done.

Bract. lib. 1. ca. 24. est in Corona Regis facere Justitiam. The King is so absolutely trusted with this Defence, that a Subject cannot make a Fort or Castle upon his own Freehold without the King's Licence. That appeareth in old *Magna Charta*, fol. 162. Enquiry made of those that do build Forts and Castles without the King's Licence, *Rot. Parl. 45 E. 3. N. 34: 6 H. 4. 19.* and in a Book of *Long. 5 E. 4. fol. 129*. That a Subject cannot make a Fort or Castle without the King's Licence, not in his own Ground.

My Lords, The King hath so discharged this Trust, that though there were no account unto his Subject, yet these Ships that have been commanded, was but *ad proficiscend' cum Navibus nostris*. The King hath been at greater charge with these Ships gone out, than ever any King of England was, as will appear by those vast Sums of money the King had spent these years, besides what hath been contributed unto by the Subjects.

My Lords, I have done with my first Position, that the Kings of England have done this before the time of Will. the first: That it was an inherent Right in the Person of the Kings of England, and that the King is the sole Judge both of the danger, and when, and how the dangers are to be avoided.

It hath been objected, that the King of England may do it, but how? It must be according to the Institution of the Laws of the Realm. There must be a Concurrent power, a Politick Advice in Parliament; and so it may be done: But the King, either by His ordinary Power, or absolute, without the assistance of the great Council, He cannot do it, as hath been objected.

Therefore in the second place, I shall come to the second thing I did propose, and that was, that the King, as he was King of England that he alone, for this Common defence of the Realm, without the aid of a Parliament, may *statuere*, &c. That the King, by advice of his Council, when he please may do it: That he may ordain several ways by the institution of the Common-Law, by his Ordinance, by his Proclamation, by his Patent, by his Writs, and in Legal matters by his Judges. That this may be done by him; (1) It is agreeable to reason; for Kings were before Parliaments, and then surely they might have done it. All Justice doth flow from the Crown; originally, as it was in *Moses*, so it was in the Kings of England, only in the Kings person: But afterwards the King bid depute his Deputies, and gave other Powers. This is no conceit of mine, 12. H. 7. fo. 17. 9. *pro Fineaux*. there was a time when there was no municipal Laws, when positive Laws were not established, when Kings did Rule their people according to natural equity; and then surely the King might ordain, no man will question it; since there have been Positive Laws, and municipal Laws, the Kings of England they have ordained, as by those several records cited appears. It appears by the practice that hath

Anno 1637. hath been since the time of W. 1. that the Kings of England in all those writs, that they have ordained, have prescribed the time for the issuing of those writs; the number of the ships, the times of meeting, the names of munition, and to stay for the defence, *quam diu nobis placuerit*. I have made a Collection of what hath gone out by the King himselfe, what *per Regem* and His Council, and what by the advice of his Council, and with advice of Merchants and Partsmen. But they are so infinite, and so many of them, I will not trouble your Lordships with the repetition.

These ordinances concerning the defence, they are suitable and agreeable to the ordinances the King maketh in other cases, wherein the King alone doth ordain, as by his Proclamation, *Clauſ.* 24. E. 3. *par.* 2. *m.* 2. *dorſ.* The King by his Proclamation commanded all Earls, Barons, Knights, Esquires, and other men at Arms, that none of them should depart into Forreign parts. *F. N. B.* 85. He agreeth it, and saith the Book, he that shall transgress this Proclamation, shall be fined for his disobedience. And this command may be under the great Seal, Signature, or Privy Seal: For, saith the Book, the Subject is to take notice of any of the Kings Seas. So in all Ages, he hath commanded no Victuals, should be transported, *Clauſ.* 24. E. 3. *M.* *Dorſ.* 4. H. 8. 11. H. 7. 23. The King granted a Proclamation for Recreations, as by *Justing*, &c. And if one of the two that is fighting be killed, it is no Felony; But if done without the Kings Proclamation, it is Felony, *5. Rep.* 114. The King, by his absolute Power, may make any Coin of Money currant, by his Proclamation.

Next place the King may ordain by his patent alone, 49 E. 6. *fo.* 15, 18. The King did grant a Privilege unto the Scholars of Oxford, that they should have the choice of Inns in Oxford, which was before there was any fair Colledge in Oxford: saith the Towns-man, this is my Free-hold, the King cannot do it; Say the Judges, this is by the Kings Patent, and is in Favour of Learning, and therefore a good Ordinance. So the Justices in Eyre may take up the principal Inn. Is there any thing more usual, than for the King to give Power to the Corporation to make ordinances for common good? 49 E. 3. 162. shall it be so in the Creature, and not in him that makes the Creature? A case or two upon every one of them. The King may Ordain by His Writ, and that appeareth 9 E. 3. 16. A Writ of *Cessavit* against the Tennants of Northumberland: The Tennants have been oppressed by the Scots; they petitioned the King, and said, that they were not able to pay their Land-lords their Rents, by reason of those incursions upon them by the Scots, and desires stay of Suit; and there it appeareth that the King did ordain by His Writ, those Suits upon those reasons should not proceed against the Tennants, for Non-payment of their Rents: out of the same Reason are the Writs of Protection.

Then the King and his Council may ordain; for that I find *M.* 4. H. 3, *Fitz. Dower* 179. Writ of *Dower* there brought by a French Woman; the Tennant of the Writ pleaded, That there was an ordinance of the King and His Council, *quod nullus de potestate Regis Franc. respondeat in Anglia, antequam Anglia respond. de Jure suo in Francia.* That is, that no English man should be compelled to answer any French man or woman in a legal Suit till the English were answered in France to their Suits; there 39 E. 3. 7. *per Thorp.*

The King and his Lords may make an ordinance which shall be binding as a Statute, *Rot. Fra.* 72 *Car.* 13. E. 3. *M.* 6.

The King by the advice of his Council, did ordain *quod omnes Mag. & alii qui habent terras, & tenementa continui morat, &c.*

Upon this ordinance I can shew above 40 writs that have gone out unto the Nobility, Clergy, Arch-Bishops and Bishops, and to all the Kings Subjects too, for the maritime parts, *Rot. Fra.* 22 E. 3. *M.* 16. & 50 E. 3. *M.* 47. *Dorſ.* 24 E. 3. *M.* 6. That of 24 is to those In-lands within six Miles of the Sea. 40 E. 3. *M.* 37. The Writs awarded to most of the Maritime Counties, upon pain of the seizure of their Lands and Goods: So likewise for Provision for the Army the King and His Council have ordained, both for Markets to be kept within such a distance of the Army, and Wine sold there, and no where else, *Rot. Sco.* 10. 12 E. 2. *M.* 13. *Dor.* So they have set down the number of the men of Arms, that every Town should be charged with, *Clauſ.* 13 E. 3. *pf.* 1. 14 *Dorſ.* with a command, that they should destroy the Commonalty of that County, for the Wages of those Men at Arms.

My Lords, If the King may at all times of danger, by his Proclamation, by his Patent, by his Writs, by the Advice of his Council, surely in Cases of necessity it is much more, for *necessitas est Lex temporis*, where a Defence by Sea and Land is necessarily required, *M.* 12. *Car.* opinion, That men might be compelled to bring in their Provision to the Market, whether they will or no, 5 E. 4. 6. 14 H. 7. 29.

Jurors are by Law to hold together till they give their Verdicts; yet otherwise if the House be like to fall over their Heads, 38 H. 6. 11. Upon a *Præcipe* the Tenants may be excused, if he could not pass the Waters.

My Lords, I find that in legal Matters, the King, by the Advice of his Judges, who are his Council, may ordain that the Judges are the Kings Council in Legal Matters, 19 E. 3. 174. *Fitz. Judgment.* 27 H. *fol.* 5. Court of Kings-Bench called the King's Council. 6 E. 1.

The King and his Judges make certain explanations upon the Statute of Gloucester, as appeareth by *Magna Charta*; and what was done then by the Judges Advice, is the force of a Law at this day. So as you see by the Laws of England, as well in other Cases, as Cases of Defence, the Law hath given the King of England this power to ordain for the Good and Safety thereof. I find that in all Ages, and in all Times, all the Incidents to a Defence, as well as this principal part, have been given unto the King himself, as he is King of England. (1.) For the Murage of Towns, that the King hath commanded the Murage of Towns to be done at the Peoples Charge. And shall his Power extend to particular Cities and Towns, and shall not he command for the Defence of the wooden Walls of the Kingdom? *Rot. Alur.* 12 E. 3. *par.* 2. *M.* 10. The King commandeth by Writ a place to be fortified towards the War, and every man having Rent there to contribute, or be compelled by distress; this was commanded to be done by the Writ, *Par.* 12. E. 3. *par.* 3. *M.* 5. appeareth it was done. The King imposed a certain Rate upon all Goods and Merchandizes that came unto Kingston upon Hull; and commanded that this should be employed to the walling of the Town; and this was *de voluntate Regis.* This appeareth 19 E. 3. *par.* 1. *M.* 12. There was the same Command for Dover, and other

other Towns; *same Roll. m. 22. Pat. 12. E. 3. par. 3. m. 14. Dor.* A Writ for the repairing of the Walls of Winchester at the Subjects Charge, *Rot. ibid. m. 15.* The King by special Grant gave power to the Mayor and Burgesses, to Asses the Inhabitants for the Defence of the Town, *Claus. 1 R. 2. m. 12.* Oxford was commanded by the King to be fortified at the Inhabitants Charge. *Cl. 12. E. 3. par. 3. m. 32.*

The King commanded particular Subjects to fortifie their Castles at their own Charges in time of danger, *Pat. 18 E. 3. m. 9.* The King taketh the Castles of the Subjects into his own hands in time of danger, *ad evitandum damna & pericula qua nobis evenire possint. Claus. 13 E. 3. par. 1. m. 36. dorf.* The King by advice of his Council did ordain that the Town of Southampton *pro salvatione ejusdem*, should build a Wall.

My Lords, If the King may command the walling of the Town at the Charge of the Inhabitants, he may likewise command the defence of the Kingdom by Sea; so for other Incidents of Defence; as for erecting of Beacons upon the Sea-Coast, *Rot. Vasc. 11, 12 E. 3. m. 29. de communibus insigniis, &c. Claus. 1 R. 2. m. 4. dorf. de ordinatione per Regem & Concilium pro Vigiliis faciend.* So likewise the King in all Ages hath commanded the imbarquing of Ships for the defence of the Realm, and for all publick Service. This appeareth, *Claus. 14. H. 3. m. 17. dor.* All Ships arrested that could carry 16 Horse, *Rot. Scot. 10 E. 3. m. 2. dor. Omnes Naves pro defensione, &c. Rot. Alm. 22 E. 3. m. 23. par. 1. & 12.* For imbarquing of Ships for the defence of the Realm. So likewise the King commandeth and appointeth who shall be Officers, who shall be Admiral of the Fleet, who shall be *Custodes Marit.* as appeareth, *Pat. 19 E. 2. m. 7. dor.* and in the same Roll, *m. 10. Pat. 15 Jo. m. 6. Pat. 48 H. 3. m. 5. Claus. 23 E. 3. m. 5. dor.* and an infinite number more. Then that the Countrey paid the Charges of those who had *Custodes Marit.* that appears *Fra. 12 E. 3. m. 31. dorf. Claus. 13 E. 3. par. 1. m. 14. dor.* The King, when there was Cause, he moderated the Expence, *Claus. 25 E. 3. m. 16.* The King did order how much, and how long the County should pay for wages, and commanded the stay of those who would have been gone before their time: And this appeareth, *Pat. 48 E. 3. m. 4. Claus. 48. H. 3. m. 2, & 3. dorf.* Then it appeareth by many Records that this Guard of the Sea-Coasts was to be accordingly as the King should order and direct, sometimes *per Regem, & per nos & Concilium, &c.* And this appeareth, *Claus. 23 E. 1. m. 5. dorf. Claus. 13 E. 3. par. 2. m. 14. Dors. & Pat. 23 E. 1. m. 1.* Sometimes the King out of his Royal power hath been pleased to give Discharges unto particular men to be discharged from this *Custod. Marit.* This appeareth, *Claus. 23 E. 1. m. 5. dorf.* Ports discharged, because their Ships were in the Kings Service, *Claus. 8. R. 2. Discharge for the Abbot of St. Alban, Pat. 12 E. 3. par. 2. m. 8. Pat. 12 E. 3. par. 1. m. 14. Discharges de Custod. Marit.* Then the power of the punishing of those men, who should neglect those Commands, hath been always in the King, and to be punished by his Commissioners, or by his Writs, and that in a high manner. That there hath been Commands by Distress, by Imprisonment, upon seizure of Lands, Goods, and Forfeitures of all that they had; and this appeareth, *Pat. 48 H. 3. m. 5. dor. Claus. 48 H. 3. m. 3.* and a great number in the time of *E. 2, & 3.* The King hath so far medled

in this Business, that though it hath been the Money of the Countrey, yet the King hath appointed the Pay-master. *Claus. 48 H. 3. m. 2.* in the case of danger the King sendeth forth a Writ *de veniendo ultra debitum*; so when a Service was due, as by the five Ports, to find Ships, yet in time of danger command laid upon them, *ultra debitum Servitium*, as appeareth *Rot. Sco. 10 E. 3. m. 20. Cl. 16 E. 2. m. 13.* So all Arrays for mustering of Men between sixteen and sixty have been in all Ages, and by the Kings Command to be in, and continue in readines, so long as the King shall please, *Rot. Alm. 12 E. 3. par. 2. m. 6. Dor.* So, my Lords, it doth appear by these precedents that have been cited, by these Records, and by these Book-Cases, That the Kings of England in all Ages have given command, and made Ordinances by themselves, by their Council, by their Judges, by their Peers, and these Ordinances have been obeyed.

My Lords, I promised upon this Head to make it good, that in these times, and in these years, wherein there were Parliaments, that though the Parliaments did determine concerning the Land Forces, and the going of the Kings Army into Scotland, that yet the Parliament sitting, the King hath commanded the setting forth of Ships by his writ; this was ever left unto the Royal power: for the proof of this there was *24 E. 1.* a Parliament, as appeareth in the Prinred Books; yet we find in that year, the King hath commanded the setting forth of ships at the charge of the Subject, *Pat. 24 E. 1. m. 17.* commanded to take up 100 Ships; and in *P. 24 E. 1. ex parte Reg. Rem. Exch. Rot. 22.* Command, *pro Custod. Marit.*, *9 E. 2.* Parliament holden at Lincoln; and yet in the same year writs went out to provide Shipping, as appeareth by *Rot. Pat. 9 E. 2. par. 2. m. 8.* The King recites certain inrodes made upon the Men in Northumberland, *Et quod de Comuni Concilio held at York, Ordinavimus, &c.* and Assigns the Earls of Pembroke, and Bishop of Norwich, *ad requirend.* Norfolk & Suffolk, *juxta discretiones vestras Subsidium facere per Naves, &c. per tempus 3 vel 4 mensium.* At this time there was a Provision by Parliament for the Kings Service by Land, and for his Armies to meet him at New-Castle, and for two Reasons, why *Navale Subsidium* should be necessary: 1 To hinder the bringing of any Victuals into Scotland. 2 For the free intercourse of Trade, so as you see in this year, wherein a Parliament was holden, this *Navale Subsidium* was commanded by the Kings writ without any Act of Parliament; though this Writ was for Norfolk and Suffolk, yet the like was for Dorset, Somerset, &c. It appeareth likewise *10, 11 E. 3.* which were those great years of sending out of Writs, that then Parliaments were holden: And so it doth appear by the Printed Book of statutes; yet in that year of *10. Claus. 10 E. 3. m. 37. Do.* A Writ directed to the Major and Bailiffs of Bristol, with a Command, that all Ships, of 49 Tun, & *ultra*, should be seized, *10 E. 3. M. 21. Do.* Command that the Ships should be sent forth to the preventing of danger; and that no Forreign Ships come in to aid the Scots, *Membr. 21. Dor. same Roll,* Command to the City of London to set forth Ships at their own Charge, *Sco. 10 E. 3. m. 21. Do.* Writs to the Sheriff of to send Horse-men and Foot-men to the County of Southampton. So there were men drawn out of their own County, and the refusers were called there Rebels, *Rot. ibidem m. 21. de Navibus pro defensione Regni.*

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Anno 1637. My Lords, there was something more observable in this year of E 3. for some of the Writs that went out beareth *teste 3 Octab. Sco. 10 E. 3. m. 7.* and mentioneth a Parliament, but did not go out by any Ordinance of Parliament; so that the awarding of these writs, 10 E. 3. were the Parliament sitting, and by the Royal power, which is a strange argument, there needeth no aid of Parliament; for the King to command his forces; 11 E. 3. was likewise a Parliament, 25 appeareth in the Printed Book of statutes: writ dated 10th. Januarij. 17 E. 3. m. 2. *D. per ipsum Regem*; Ships are commanded *pro guerra super mare Vasc.* 16 E. 3. m. 6. *Do. Proclamation* to several Counties, that all Ships be in readines; 12th. Year of E 3. Parliament at Northampton, *Claus. 12 E. 3. pars 2. m. 1.* same Roll, *pars 2. m. 32.* and yet this same year the King commanded Shipping at the charge of the Counties, as appeareth *Parl. 12. E. 3. pars 1. m. 12. Cl. 12. E. 3. pars 3. m. 29.* and in the 13 year of E 3. was likewise a Parliament holden; and that appeareth *Parl. 13. E. 3. m. 9, 10.* Printed statutes make no mention of a Parliament then.

My Lords, In this Record these things are observable, cited, and made use of by the Defendants Council, a strong Record as any can be against them.

In that Parliament, the King he did pray the advice of the Commons in Parliament, touching his wars with France, and the guarding of the Sea-Coasts: The Commons they make answer, *Prient les Commons pue ils ne Council doner ab choses de quel ne pas Comzance*, &c. They say further, and they grant, That the Maritime Towns ought to make the Guard upon the Sea without Wages taken, and the In-land Commons upon the Land.

Two things are observable in this Record:

1. When the King doth descend so low as to pray the Advice of his Commons in Parliament, and assistance for the guarding of the Sea; the Commons disclaimed, and said they have no Jurisdiction, &c. And yet the Defendants Council did press that now the King should ask the Advice of the Commons in Parliament, a thing disclaimed, 13 E. 3. to have any Jurisdiction.

2. By this Record the Maritime parts ought to guard the Sea at their own Cost; this, though it be granted in their Petition, it was not granted by the King: For it appeareth in the same year, *Rot. Alm. 13 E. 3. m. 13. dorf.* that King Edward in that year heard of some Preparation in France, commanded Ships for three Months, *Cl. 13 E. 3. par. 1. m. 14.* That in several Counties Men were distrained for payment of wages for the Archers, and others that guarded the Sea-Coasts. It appeareth by these Records, that both the Guard of Sea and Sea-Coast was done *juxta ordinationem nostram*, Order made by us and the Council. *Rot. Alm. 13 E. 3. m. 15. Do.* The King appointed the Arch-Bishop of York, *Heug de Perfi et al.* for that purpose, &c. So My Lords, I have done with the second Ground, that is, That the King is sole Judge of this, without his Parliament.

That the Commons in Parliament have disclaimed to have any Conizance of it.

That in the same year where Parliaments were holden, the same years the same Writs have issued without Advice in Parliament.

The third thing that I did propose, was those Supreme Titles which the Common Law of England giveth unto the King, which may inforce this. *Bract. lib. 2. cap. 24.* faith, That the King is *Vic-*

carus Dei, His Power surely, as was agreed, is *Jure Divino*; God is the God of Hosts, and the King is a model of God himself, 43 E. fo. 18. The King is the Cheif Guardian of the Commonwealth: The Sheriff hath *posse Comitatus* under the King, the Kings Vicegerent in his County; he hath this power not only for the execution of legal process, but for the defence of the Realm, 12 H. 7. fo. 7. The delegate power of the Sheriffs, is as well for defence, as for execution of process; shall the Sheriff do it and not the King? 10 H. 3. fo. 1. 8 H. 7. fo. 1. The King is the Conservator of the Law, 20 H. 7. fo. 4. *Rex est Capitalis Justiciarius totius Anglia*; he is not only to maintain Justice in the Courts of Justice, but to protect and defend his people. *Stamford Prerogative Cap. 1.* The King is the most worthy part of the Body of the Commonwealth, Preserver, Nourisher, and Defender; and by this they enjoy their Lands, Goods, and Lives, 11 Rep. 7. 6. *Magdalene Colledge Case. Rex est Medicus Regni, & sponsus Republica*: It is the part of a good Physitian, as well to prevent Diseases as to cure them; and an office of a good King, as well to prevent danger as to remedy it, *Com. fo. 160.* He is the Soul that animates the Body of the Commonwealth, and we ought to move as he moves, 11 Rep. fo. 72. The Fountain of common Right; therefore we have no reason to stain the Fountain. I am now come unto my fourth Proof, which is my Precedents; wherein I shall be somewhat long.

The End of Mr. Attorney-Generals
first day's Argument.

Mr. Attorneys Second days Argument,
Decemb. 1637.

May it please your Lordships to remember I shewed by Charters, Aids, and by a great number of Precedents, that this Royal Power was in the King of England before the Conquest; and that though some were exempted from the setting forth of Ships, by Grant unto some particular Men, on some particular Churches; yet these three fundamental Services of Expedition, repairing Castles, and making of Bridges, were always exempted: Then I shewed by a great number of Precedents, that not only the Principal, but all Accessories that concern the Defence of the Realm, both by Sea and Land, hath been always commanded by the Kings Writ, for the fortifying of Towns and Castles, and the Murage of Towns, the appointment of Admirals of the Fleet, and those that should be Guardians by Sea and Land, the Imbarging of Ships, and Arrays of Men, erection of Beacons, and discharging of others upon just cause, by punishing of those that were Rebels; and all this was done by the Kings Command, *per ipsum Regem aut per Regem & Concilium*, without any Aid in Parliament. Likewise I have made it appear unto your Lordships, That the King is the Sole Judge of this Defence, that the King is not to be mistrusted in the execution of His Office as King, nor your Lordships as Judges are to be mistrusted.

I have then shewn out of Precedents, That in those years wherein there hath been Parliaments, and sometimes sitting, the Parliaments Writs have issued *per ipsum Regem aut per Regem & Concilium*. I shall now proceed to make good the other particulars

culars which I have opened unto your Lordships.

Anno 1637. 1. That these Precedents which have been shewed, and which I shall shew unto your Lordships, that they have not been grounded upon any particular Covenant, Charter, or Custom, but upon the Law of the Land, and upon such Reasons as are irreverfable, and binds all the Kings Subjects, as well Clergy as Laity. For this I shall remember *Claus. 48. H. 3. M. 3.* the Writ doth recite, *Quod tam milites & liberi tenentes & omnes alii, &c. ad defensionem Regni teneantur, Claus. 9. E. 3. M. 11. pro defensione Regni omnes teneantur, Sco. 10. E. 3. M. 12. quia consonum rationi est quod omnes tangit per omnes supportari debet.* And the same Roll *M. 20. Dor. Ex ligeantia ad defensionem contra hostiles aggressus inimicorum manus apponere ad iurices, Alm. 12. E. 3. M. 1. Dor. omnes & singuli tenentur, &c. se & sua exponere, same Roll, M. 12. Dor. omnes & singuli ad defensionem Regni sunt astricti.* And I think every man will acknowledge himself to be bound out of his Allegiance, *Alm. 13. E. 3. M. 13. Dbr. ex ligeantia ad defensionem Regni & vestrum & vestrorum, same Roll, M. 17.* And there be several Writs unto all the Bishops of England, *quod invenerint homines ad arma pro defensione; Francke Almaine* Tenure was no Plea against this Service, *Rot. Franc. 46. E. 3. M. 34.* There was a Writ directed to the Bishop of Canterbury for the Arming and Arraying of all Ecclesiastical Persons within his Province; the like to the Bishop of York, *Sco. 8. E. 2. M. 15.* for the Arming and Arraying of all Ecclesiastical Persons within his Province; the like to the Bishop of Durham in the same Roll; so it extends to all the Kings Subjects, and to the Clergy as well as to the Laity: Nay, it doth appear that these Towns and these Ports, that were obliged to do particular Service, that yet in case of an extraordinary defence, that there the Writs went out not only to perform the ordinary Service, but Services *ultra debita*. The *Cinque Ports*, by the Charter of *E. 1.* were to set forth 52 Ships at their own Charge for 15 days; yet we find by divers Writs, and in several Kings Reigns, that the *Cinque Ports* have been required to do further Service, Arrests have been of their Ships *ultra servitia debita, Sco. 10. E. 3. M. 2, 3. Do. 28. Dorf.* There was a Command, That all their Ships of 40 Tun should be arrested for the Kings Service; and so likewise same Roll *M. 22.* That all the Ships of the *Cinque Ports, tam majores quam minores*, should be arrested, *Malm. 13. E. 3. m. 13. Dorf. omnes naves qui transire poterint, arrested to the Cinque Ports; so then to tell us of particular Rolls, that these and these Towns were obliged to do these Services; this, under favour, is no Argument, for though they be obliged to do these Services, yet upon other occasions to take all their Ships *ultra servitia debita, Claus. 16. E. 3. m. 13. Do.* The King writeth unto divers Earls, Barons, and others, in this manner, *quod sint tam citius, quam poterint parati*, beyond your Services with Horse and Arms, and come to our Town of New-Castle upon Tyne; so as this Writ was directed to all the Lords Spiritual and Temporal, and all the Kings Subjects; but not only with their due Services, but beyond their Services, to be at New-Castle; so as your Lordships see the Motives, and the Grounds, and the Reasons of these Writs are universal, they concern not a particular Port and Subject, but all the Kings Subjects; and they are *ligeantia sua debita*; so as that is the first thing I would observe unto your Lordships, That these Writs and Precedents are grounded upon the Law of the Land, and not upon particular Trust.*

The second thing is this, That all these Writs have issued by the Kings Mandate, either by the King, or by the King and His Council, without Advice in Parliament, of which I have made a Collection, which is better for me to attend your Lordships withal, than to cite them, because there are above 500; wherein I have distinguished what hath been awarded *per Regem*, and what *per Regem & Concilium*, and where the Advice of particular Merchants and Port-men were required, *Sco. 11. E. 3. m. 2. Do. 19. E. 3. pars prima m. 26. Do.* And in these the Advice of particular Men were called to assist the King and His Council. Now, my Lords, if before the time of William the First, and since, and for so many hundred years together, that this hath been done, shall not these Precedents make a Rule? that Precedents that are not against the Law, nor contrary to the Rules and Reasons of the Law make a Law; That appeareth by *4. E. 4. f. 43.* The Chancellor sent forth the Writ of Error, the Judges took exception both to the Matter and the manner, saith the Book, because it hath been always so, the Precedents make a Law, *33. H. 6. f. 20.* An absurd return made by a Sheriff, yet because Precedents to warrant it a good Return. *2. R. 2. f. 7.* where a Duty was to be paid to a Corporation of Major and Commonalty, the Duty being to be paid to the Body, and an Acquittance to be had from them; but because it had been used, the Major alone to make the Acquittance, a good Acquittance, *2 Rep. Lanes Case.* The King shall not part with His Interest without the Great Seal, but yet a Lease for years, under the Seal of the Exchequer, good by Custom, *4 Rep. 9.* That the Precedents of the Court are good against the express words of a Statute: Having so many Precedents, I will not trouble you any longer, though I have reserved a special place for the answering of Objections; yet to such Objections as fall materially in the way, I shall give an Answer, though reserve the Answer of the main Objections unto the fifth place. It hath been said by Mr. Holborne, That here hath been a discontinuance of time, and that since the time of *50. E. 3.* none of these Writs have issued: Shall discontinuance of time take away the Kings Right? If there have been no use within time of memory, yet if this have been an Inherent Right in the Crown of England, shall the Crown lose it by discontinuance of time against the Rule of Law? *10. H. 4. fo. 6.* Where the King is the Founder of a Bishop or Abbot, and is by common Right to have a Corod: though not used, that the King hath not demanded it in time of memory, yet the King shall not lose it, *N. B. 5.* Writ of Right brought by the King, where you must alledge Seisin, will you bind the King to alledge a Seisin in Him and His Progenitors? For if once the King had a Seisin, protract of time shall not discontinue it, *12. H. 7. fo. 20.* The Stat. of Mortmaine confineth the Lord to enter within 2 year and a day, but it shall not bind the King, for He may do it at any time, *35 H. 6. fo. 26.* If a Villain do alien the Land, it barreth not the King, *Plenarie* after 6 Months no Plea against the King, *6 Rep. 20.* No discontinuance of time if the King hath a Right, *7. E. 4. 30.* If an Alien and another man purchase Lands together, and the Alien die, the King shall not be prevented by Survivorship, and in personal Goods you shall raise no Prescription against the King, *35. H. 6. fo. 27.* There is no man can pretend a Title to the Kings Goods, for Waifs, Straves, or Wrecks, for no Prescription can invade the Kings Profit: But then they

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fay,

Anno 1637. say, that the Precedents are not in all times, for we have not shewn, nor cannot shew, that in all times these Writs have issued. A strange Objection in all times. *My Lords*, it is a casual Service. In all times, God be thanked, not that occasion or necessity of this Defence: Will you have us shew Precedents for a Casual Service? 4. *Rep.* 10. If a man hold to do service to his Lord, to go with him into the war of the King, this is out of the Stat. of Limitation; for it may happen not once in 200 or 300 years, therefore the Law doth not require we should have a Seisin for this, for it is Casual, that is the reason, 33. *H. 8. Br. Fealty* 15. That for Homage and Fealty, casual Services, they are not of the Statute of Limitations; so as now by the same Reason, that they would tie us to Precedents, where there was no occasion; by the same reason the Tenants are to do Homage, or go into Wars when there was no occasion. But besides, he is much mistaken, for these Precedents did not end with *E. 3. 7. R. 2. m. 18. 13. H. 6. m. 10. 14. pars 1. m. 14.* a great number of Ships commanded then in the Kings Service; but it hath been said, that the people have always petitioned against it, and there hath been a decrying by the people; they have petitioned in Parliament, and these things good by a Custom, must gather strength by consent; and that further, when Petitions have been preferred, the King hath not denied the Petition expressly.

My Lords, I shall shew, when I come to a particular Answer to these Records and Petitions, that they have mentioned, That notwithstanding these Petitions, this Service hath been always continued; And for the answer that he speaketh of, that they have not been denied: These are the words, *Le Roy adviser*; we may know whether this be an express denial or no; so though the King take time to advise of the Petition of His Commons, this is no Argument, but that it is a mannerly kind of denial; besides, in these very years of 13. *E. 3.* the Writs for the Shipping business went out by the Royal Power for the same year; then it hath been said, that we can make no Precedents for this, for though Writs have gone out, yet it doth not appear that these Writs have been put in practice, nor any execution of it; but the Services have been done, as appeareth by the Monuments of Times; then it doth appear by other Records, that the Wages of Mariners were paid by the Country this very year, *Cl. 20. E. 3. m. 6, 7.* It doth appear, that some particular Men that had particular discharges, either because they were in the Kings Service, or in *Gascogne*, or lived in the Sea-Coasts, that they pleaded their discharges, and had the same for that reason, 23. *E. 3. m. 14.* So as, *my Lords*, upon this second Ground, that these Writs have gone forth thus constantly in several Ages, that there being such a number of Precedents, that the discontinuance hath been ever when there was no occasion: That the Precedents of the Courts of Justice make a Law, and discontinuance cannot take away the Kings Title. This is the second that I do insist upon, that these Precedents make a Law.

The third thing I shall observe upon these Precedents is this, that these Writs have gone forth, not only in cases of an actual War, or in cases of an Invasion, when the Fleet hath been upon the Sea, but by way of preparation beforehand, when the Enemy meant to come, and in contingent Cases when the King might conceive any danger might ensue; but in these Cases

Writs have issued, that will appear, *Clof. 48. H. 3. m. 2.* the Writs are here in Court, *cum necessitas ad defensionem Regni esse promptum*, &c. *Cl. 23. E. 1. m. 5. dorf.* There was several Writs directed unto divers Earls, Bishops and others *de Custod. Marit.* the words are thus, *Quia volumus quod partes Marit. in Com. Essex, &c. contra inimicos diligenter custodiend. forsan si in partes illas venire contingent*, 24. *E. 1.* Remembrancer in the Exchequer upon information given, that there was a thousand men in Flanders made preparation to come unto *Tarmouth* to burn the Town, Writs sent forth by the Treasurer and Barons *ex officio* to be in readiness, in case there was Invasion, *Par. 9. E. 2. pars 2. m. 26.* Writs directed to all the Port-Towns between *Southampton* and *Wales*, to let forth Ships at their own charge for the better defence of the Kingdom, and against others that commit depredations upon the Sea, as well to our men of this Kingdom, as to others coming to our Kingdom, *Scot. 11. 12. E. 2. m. 8.* The King by several Writs directed unto several Commissioners in several Counties, reciteth the provision made for his Army in Land at the last Parliament, and saith, *nos considerantes ad expeditionem prad. tam ad impediend. Scotos quam pro Custod. maris, &c.* and so commandeth for that purpose, that Ships should be sent forth out of several Counties for these two causes, the one to hinder Victuals going into Scotland, the other for free intercourse of Trade. It appeareth 10. *E. 3.* that the Ships of France were not upon our Sea-Coasts, but were in Britain in France; and yet the King upon relation that they had an intention to invade the Realm, did send forth for the providing of Ships in most parts of the Realm, this was only upon information, *Scot. 10. E. 3. m. 30. ut audivimus M. 13. m. intelleximus, M. 16. 22. quod auditum, M. 18. do. 12. do. 5. do. in portibus transmarinis parat.* So by these Records this preparation of shipping was only upon information, *Fra. 26. E. 3. m. 5. quia vulgaris opinio est nostrum Regnum Angl. invadere*, therefore commandeth shipping by Sea, and Forces by Land, *Fra. 10. R. 2. m. 23, 24. quia cert. rumores quod Francia infra breve tempus cum magnis armat. hoc Regnum invadere*, and for the rest commandeth the custody of the Sea and Sea-coasts; so as it doth appear by these Records, that upon an information or conjecture of the King, that he may send forth those Writs, and command his Subjects to be in readiness in case that danger may happen, better so than to receive a blow, and then to make a preparation for defence, we should buy that with repentance, *prudensissima ratio qui timor Belli, &c. preparavit*; and surely when the King sees those preparations abroad, the great Armies in adjacent Countries, great reason we should be in preparation: This is not only consonant to Precedents, wisdom of Times, policy of State, but to the reason of our Common Law. If a man be in fear that another man lieth in wait for him to do him a mischief, shall he stay till he receive a wound? 17. *E. 4. 4.* in this case he may have a Writ to bind him to the Peace, 13. *H. 7. fo. 17.* If a man have a Warranty for his Land, shall he stay till he be impleaded? No, a *Warrantia Charta* lieth till he be impleaded: If Lord and Tenant in ancient Demesne, and the Lord will require more services of his Tenant than he ought to perform, shall the Tenant stay till there be a Distress taken? nay, he shall have his *Monstraverant*, *F. N. B. 40. E. 3. fo. 45, 46.* and this only upon a verbal demand of services; shall then the Common Law of Eng-land

land secure the Subject not to stay till a present danger, but shall have his *Warrantia Charta Mon-*
straverunt before Distreſs taken, and shall not the
 1537. Common Law provide for the King, that he in
 his expectation of danger make his preparation,
 so surely these Precedents are according to reason
 of Law.

Next thing that I did observe out of these
 Precedents was, that in these very years, where
 there have been Aids granted to the Crown, *pro*
defensione Regni, in this very year these Writs
 have issued out by the Royal Power, *Claus. 48 H. 3.*
m. 2. 3. do. there was then a Tenth given by the
 Clergy, *pro defensione Regni*, and yet in that year
 he did command the defence of the Realm both
 by Sea and Land, and that appeareth *Pat. 48 H. 3.*
m. 6. dorf. and *Cl. 48 H. 3. m. 30.* In 22 E. 1. the
 King had given unto him in Parliament *pro subsi-*
dio guerra, a tenth of all moveable Goods which
 was to be collected in 23^d year, as appeareth
Pat. 22 E. 1. m. 2.

My Lords, this very year wherein this was
 paid, he commanded a great number of Ship-
 ping for the defence of the Coasts, and that ap-
 peareth *Pat. 23 E. 1. m. 6.* Writs were directed
 unto divers Counties, *Suffex, Southampton, Dorset,*
&c. commanding them to be aiding and assisting
 to William Thornton in the taking of all the Ships
 of those Counties, *Pat. 23 E. 1. m. 7.* Commis-
 sion Radulpho de Salvico *ad providend. de Navibus,*
ut quod prompti sint quodocunque mandamus, so to
 be in readiness with all Ships in those parts that
 were of forty Tun, *m. 5.* same Roll Writs di-
 rected to most of the Sheriffs of England to be
 assisting to John de Barwick to the chusing and
 sending forth of Archers *ad proficiendum in Flea*
nostra, so as they were not only brought out of
 their own Counties, but out of all the Counties
 of England, *ad proficiendum.* My Lords, this
 23^d year wherein this great aid of tenths, part
 of all the moveables were granted, *Pat. 23 E. 1.*
m. 7. the King writeth to all the Archbishops,
 Earls and others, reciting, that he hath commit-
 ted the Custody of the Sea to William de Stroaks,
ita quod idem Willielmus vos omnes, naming the
 Archbishops, Bishops, Earls, &c. *Compellere, &c.*
prout necesse fuerit; so as you see the greatest Sub-
 ject is not exempted from these Commands, but
 should be *auxilantes, respondentes & intendentes,*
Claus. 23 E. 1. m. 5. do. the King commanded the
 Bishops of London and Norwich for the safeguard
 of the Sea-coasts, *Pat. 23 E. 1. m. 1.* a Command
 unto all Archbishops, Abbots, Earls, Barons,
 Knights, and others, commanding them to be
 aiding unto Adam de G. *ita quod idem Adam com-*
pellere possit quoties necesse, &c. So *Claus. 23 E. 1.*
m. 5. do. the like Command: so as, my Lords, in
 those times which was 23 E. 1. when there was
 an aid granted by Parliament, it doth appear
 those great defences both by Sea and Land were
 commanded.

My Lords, 10 E. 3. in a Parliament holden at
 Nottingham, there was a fifteenth granted to the
 King for three years, and so it was recited in the
 Record, and appeareth likewise *Pat. 12 E. 3. m. 2.*
pars 3. Claus. 12 E. 3. m. 28. pars 3. it appeareth
 that a tenth and fifteenth granted to the King in
 Parliament, and this was *sam pro defensione quam*
arduis negotiis, 12 E. 3. The Prelates, and Lords
 and Commons, at a Parliament holden at West-
 minster, gave the King ten thousand Sacks of
 Wool, said to be given *pro defensione Regni*, as ap-
 pears *Rot. Alm. 12 E. 3. pars 1. m. 1.* In the same
 year there was granted likewise *pro defensione Reg-*

ni medietas Lanar. the moiety of all their Wools,
m. 31, 32. dorf. 2.

In the same year of 12 E. 3. the Clergy they
 gave the King in Parliament *medietat. Lanar. usque*
vigint. mille Saccar. as appeareth *Cl. Roll. 12 E. 3.*
pars 3. m. 15. Cl. 12 E. 3. pars 2. m. 1. dorf. And
 in this twelfth year of E. 3. the King collected a
 tenth and fifteenth that was granted unto him by
 the Laity in Parliament for two years, as appear-
 eth *Cl. 12 E. 3. pars 3. m. 30. 1. & 28.* And be-
 sides all this, the Clergy gave the King a tenth
Cl. 12 E. 3. pars 3. m. 30. These I cite more par-
 ticularly, because no memory of them in the
 printed Statutes. Were all these Aids granted
 10, 11, 12 E. 3. *pro defensione Regni*, and shall the
 King in those very years send forth Writs for de-
 fence of the Sea and Kingdom? Now, my Lords,
 in this twelfth year wherein all these great Aids
 were granted, *Rot. Alm. 12 E. 3. 1 pars m. 12.*
 that Walter de M. was appointed Admiral of the
 Fleet towards the North, and appointed Com-
 missioners *ad assidendum Villas bonis & Catallis ad*
contribuendum, &c. and commanded all Sheriffs
 and Officers to be assisting; so as by this Record
 it doth appear that in these twelve years Ships
 and Forces were commanded, *Cl. 12 E. 3. pars 1.*
m. 17. dorf. Commanded by the King, that the
 men of Surrey and Suffex should have their goods
 seized, and persons imprisoned, if they refused to
 contribute towards the charge of shipping. *Alm.*
12 E. 3. pars 1. m. 2. a Commission to William de
 B. and others, *ad assidendum omnes homines juxta*
statum, &c. and to seize their Goods and Chat-
 tels to contribute for the wages of Mariners for
 the Ships; so as your Lordships see by that Re-
 cord, though there be Aids, Tenths; Subsidies
 and Fifteenths granted by the Clergy and Laity,
 yet in that very same year, if an extraordinary
 occasion, though Ships not upon the Sea, the
 King hath commanded the defence of the Sea
 and Land at the charge of the Counties: I have
 done with the fourth particular.

The fifth particular is this, this Aid, and these
 Contributions, they have not been required only
 from the Maritime Towns, but from the Inland
 Counties *per totam Angliam*; and this is materi-
 ally to be insisted upon, because we are now in an
 Inland County, the County of Buck: My Lords,
 that this was done before the Conquest, your
 Lordships have heard; for Alfred that first Mo-
 narch 827. *jussit Cimbas, &c. per totam Angliam.*

Affer Menevensis fo. 9. Wigor. Floren. fo. 316.
Huntingdon 351. that King Ethelred did the like
 1008. *per totam Angliam* every 310 Hides to find
 one Ship. *Jornalensis fo. 9. Matt. of West. 387.*
Huntingdon 360. The Decree or Council which
 was held at H. about the 30th year of King E-
 thelred was that Ships should be prepared against
 Easter; and those Laws which are remembered in
 Lambert, which were before the Conquest, 10.
Chap. fo. 106. quod presid. &c. so it was general
 and universal throughout the Realm, concurring
 with those ancient Precedents and Councils since
 the time of Will. 1. *Cl. 48 H. 3. m. 2.* for where
 a Record is to be applied unto several purposes,
 I must mention the Record: Again, it appear-
 eth by the Record, that Bedfordshire which is an
 Inland County, was charged with the guard of
 the Sea-coasts, and paid for wages, same Roll
m. 3. intus m. 20. dor. Rutland, Oxfordshire, and
Dorsetshire, Inland Counties, charged for the
 same services, *Pat. 48 H. 3. m. 7.* Cambridge and
 Huntingdonshire charged for the like service, and
 that they should do *prout per Concilium nostrum or-*
dinatum,

dinarum, 24 E. 1. Kings Remembrancer side Rot.
Anno 77, 78, 79. Title *de faciendo pro custodia Maris*,
1637. and Writs went out for Ships into divers Counties, and amongst other to *Buckshire*, Pat. 26 E. 1. m. 21. when there was a complaint that the Subjects did suffer upon undue services, the Commissions that are directed for enquiry, directed to all the Counties of *England*, as well Inland as Maritime, 23 E. 1. Pat. m. 5. that men to furnish a Fleet were drawn and commanded from the most parts of the Kingdom, Sco. 10 E. 3. m. 14. Inland Counties charged with shipping for the defence of the Kingdom, as *Cambridge*, *Huntingdon*, *Nottingham*, and *Derby*, Cl. 13 E. 3. pars 3. m. 14. do. and there *Oxfordshire* is charged with *Custod. Marit.* Sco. 12 E. 3. m. 12. do. *Bedfordshire*, *Buck* (your County) and *Derbyshire* charged there with the same defence, Cl. 1. R. 2. m. 18. There *Cambridge* and *Hunt.* were to provide a Barge at their own charges, and yet Sea-faring men there have none; and like Writs were directed to *Nottingham* and *Derby*, though they had none, yet they had money and means to provide them, Fra. 1. R. 2. m. 18. The King sends his Writs into most Counties of *England*, as well Inland as Maritime, reciting, that the King of *France* was gone with an Army into *Flanders*, that *Callis* was in danger, and commandeth all Knights, Esquires, and Archers, and every of them, according to his Estate and Faculty, to be sufficiently arrayed and armed, and come to the Port of *Sandwich* ad proficiscend.

My Lords, in this Record there was a mention of *Bucks*, *Bedford*, *Hunt.* *Cambr.* *Notting.* *Derby*, *Leicester*, *Rutland*, *Northampton*, and *Berks*, all these Inland Counties; the words of the Writ are, *quod omnes tenentur pro defensione Regni*, Clauf. 9 E. 3. m. 12. *per omnes supportari* Alm. 12 E. 3. m. 12. *vel 20. quod, &c.* All and every of our Kingdom out of their Allegiance to be ready to defend the Realm, 13 E. 3. dorf. a great number of others: By all which it doth appear, 1. That the service was commanded from those Inland Counties. 2. That the same reasons which are given, extend to bind the Inland Counties as the Maritime Counties.

Pat. 23 E. 1. m. 6. For the taking of Ships in the County of *Suffex*, *Devon*, *Middlesex*, and other Counties, if so be the Maritime Counties be in danger, surely the In-land Counties cannot be in safety; we are in an Inland County, and Entry of Enquiry upon any part, it concerns the safety of us all.

And by the Rule of the Law, every one that is to receive a Benefit, is to give a Contribution, as the Case of 16 H. 6. fol. 13. All Feoffees, whose Lands were liable unto a Statute, the one shall have Contribution against another.

If four or five Cognizors in a Recognizance, all shall have Contribution one against another, 46 E. 3. Parceners upon whom a Warranty descendeth, they shall be equally charged.

If a man bind himself and his Heirs in an Obligation (having Lands partly by his Father, and part by his Mother, and descend to several heirs both equally charged, as it is the third Rep. 13. *Herbert's Case*, so I go upon these Reasons, that it is consonant to Reason of Law, besides these Precedents, that where a danger to all, and receiving a benefit by all, to be equally charged.

My Lords, To illustrate by further Reasons, that though the In-land Counties and Maritime Counties be charged, I find that the Ports by the Charter of E. 1. were to find 57 Ships. I find

when the necessity of the Service did require it, then all their Ships were seized into the King's Service, I find likewise that when there hath been a disability in the Ports to perform the Service, as now they are; for then the main part of the Trade was in the Port-Towns, but now it is gone from thence, and come to *London*, and few Ports have the Trade, but *London*, *Newcastle*, *Bristol*, *Hull*; and shall it not now be required of the Inland Counties, since a disability in the Ports? Fra. 21 E. 1. m. 23. I find there that *Plymouth* and some of the Port-Towns did bear more than *London*; for *Plymouth* found four Ships, *Dartmouth* six, *Bristol* four, *Newcastle* three, *Norwich* and *Tarmouth* four. *London* two, *Hartlepool* two, *Sandwich* two, *Dover* two, *Rye* two, *Shoreham* and *Aundel* two; and other places found but one; it appeareth Alm. 13 E. 3. m. 13. dorf. that *Tarmouth* furnished at their own Cost four Ships, *Kingston* two, *Boston* two, *Lynn* two, *Harwich* two, *Ipswich* two.

My Lords, Are these Ports able to furnish the King with so many Ships in these days, to do these Services? The Wealth of our Portsmen in those days was worth the whole Town as it is now; admit the Maritime Towns were bound unto it, yet if a failing of the ability, that they cannot do it, shall it not elsewhere be required? that is agreeable to the Rules of the Law, before Commission for *Sewers*, where particular men are bound to defend the Sea; yet before any Statute in case that the man was not able, the Service was required from the County, for by it they might have either gain or loss; this appeareth by the Rules of the Common Law before any Statute-Register 123. *quod distringat omnes, &c.* When one man was to maintain the Bark of the Sea, if not able the rest that have benefit by it, were to be distrained for it, 5 Rep. fol. 99. 10 Rep. 140, 141. Case of the Isle of *Ely*, agreeable that all men that have *salvationem & dampnum*, shall contribute.

To this purpose are those two Records remembered by Mr. Solicitor, Parl. 7 H. 4. n. 18. that where there was a Subsidy granted to the King for the defence of the Realm; it was assigned to certain Merchants, yet with a *Salvo*, unless a Royal Power come, Fr. 6. R. 2. m. 8. Certain Merchants had the custody of the Sea, except *Regal. potestatem*, so the conclusion is, if an ordinary defence, there may be no cause to go into the Inland Counties; but if a Royal power or extraordinary danger, though not eminent, the King may require an extraordinary Contribution *per totam Angliam*. But this hath been objected against, and some Records have been vouched; that is, say they, we will shew you many Precedents, wherein *Navale Subsidium* hath been required from Inland Counties, and they have been discharged thereof, as Pat. 2 R. 2. par. 2. m. 42. dorf. The Town of *Beverley* petitioned, because they were to contribute, (being an Inland Town) towards the finding of a Ship for the Town of *Hull*, and was discharged thereof. This is truth, but not the whole Truth; for the Town of *Beverley* was discharged by reason of a Charter of Exemption granted unto them *in honorem Sancti Jo. Beverley*, the Kings Confessor; upon that Charter they were discharged. They have objected likewise for the Town of *Bodman*; They were discharged a *Custod. Maris*, an Inland Town in *Cornwall*; for this, Cl. 13 E. 3. par. 2. m. 14. was vouched for it; that the Town was discharged of this Contribution: for Answer unto that, it

Anno 1637. it will appear that one *Trussel* was Admiral then of the Fleet, and was by his Commission to be furnished from the Ports at their own Charges, for three Months.

My Lords, this appeareth, *Cl. 13 E. 3. par. 1. m. 35.* and so that Town, an Inland Town, was to be discharged.

My Lords, Likewise there was other Discharges upon that reason; as, *Norwich* was discharged for finding of Men for Manning of Ships, because the Admirals Commission did not warrant it, *Scot. 10 E. 3. m. 15.* for it only extended to the Ports; but yet *Norwich* was charged to find Ships, *Cl. 13 E. 3. par. 1. m. 14.* So *Colchester* was discharged from finding of a Ship; but because they were not within the words of the Writ, as appeareth, *Cl. 13 E. 3. par. 1. m.* So as to tell your Lordships a Story of a great number of Land-Towns discharged *de Custod. Maris.* and not to give your Lordships the reason, its nothing to the purpose.

So, *My Lords*, having verified this fifth point, by these Precedents, and justified by these Reasons, and answered these Objections, I shall now come unto the sixth Matter upon this Record; And that is,

That though no cause be declared in the Writ, no danger manifest, nor against what Enemies, that yet the Kings Writ hath commanded Shipping both for defence of Sea and Land: And in the Kings wisdom the danger hath been reserved in his Breast, and not communicated to his People by his Writs.

I find that ancient Precedents have been so, that it hath been reserved unto the King himself, and those whom he did depute. That appeareth, *Cl. 14 Jo. m. 2.* The King directed his Writ to *Herbert*, with a *Mandamus* to make ready all Ships for our Service when we shall command. Not a word of a Cause declared, or an Enemy proclaimed; same Roll, *m. 6.* The King by Writ directed into other parts, causeth all Ships that could carry 6 Horses or more, to be sent unto *Portsmouth*; and the like Writs were directed to other Ports, *Pat. 15 Jo. m. 4.* The King appoints a Guardian upon the Sea-Coasts, and commandeth all men that they should be *Intendentes*; and other Writs in the same Roll directed into many Counties with a *Mandamus*, *17 Jo. Cl. m. 7. dorf.* Writs for the taking of Ships, and bringing them into *Thames-Mouth*, without shewing any cause. All this was done in the time of King *John*.

In the time of *H. 3. Pat. 13. H. 3. m. 5.* A Writ commanding the Sheriff of *Kent* and *Sussex* to arrest all Ships in those Counties, to be at *Portsmouth*, to be ready to go into that Service we shall command. And it appeareth in the same Roll, that these Ships were able to bear but six Horses. So in the Clause, *Roll. 14 E. 3. m. 13.* To our Bayliffs of *Portsmouth*, and Keeper of our Navy, to make ready one good Ship, and be ready to go in the Service of the same King, whether and when he shall command it, *Cl. 23 E. 1. m. 5. dorf.* The King declares, that he will have the Sea-Coasts in *Essex* guarded against Enemies; and there commandeth them to be obedient unto such a one who had the Custody. *Pat. 23 E. 1. m. 2.* The King writeth unto all the Archbishops, Bishops, Sheriffs, Knights, and others, to be assisting unto *William de S.* who had the Custody of the Sea: So as by this appeareth, the King did give no account to his Subjects, either of the Service, or of the time when.

Scot. 10 E. 3. m. 13. The King commanded all Ships to be arrested, and Men and Mariners to be sent unto the Admiral of the Fleet; *ad presens*, &c. same Roll, *n. 5.* Do. a matter fit for the Council, and not for the People to know; same Roll *m. 20.* that they should do *prout vobis*, &c. The King oweth no account unto his Subjects of those things, *24 E. 1. m. 19.* The King having commanded *O. S.* to take up 100 Ships fit for his Service, commandeth the Sheriff of *Northumberland* and others to be assisting; same Roll. *m. 17.* Command to the same effect for all Ships that should be taken between *Lynne* and *Barwick*; it was likewise in the time of *E. 2. 9 E. 2. Pat. pars 2. m. 26.* Ships taken up at the Charge of the inhabitants to defend the Sea against Malefactors, *Cl. 12 E. 3. m. 11.* Do. a Writ directed to the Mayor and Sheriff of *Sandwich*, to make ready all Ships within their Ports of 40 Tun *Ita.* &c. that they be ready within three days warning to go, as we shall more fully declare, the Service that was to be done, not mentioned, so it appeareth by other Writs to other Towns, in the same Roll, *17 E. 2. m. 11.* Do. *Pat. 14 H. 6. pars 1. m. 14.* *Rex pro quibusdam arduis Causis* &c. doth assign *John Haxman* to take up all Barges of 10 men and upwards; so in all these times of King *John*, *H. 3. E. 1. E. 3. E. 3.* and *H. 6.* Writs have gone out generally, that the Service hath been concealed; and for instruction referred unto the Council.

It standeth with reason, for resolutions of War are not to be communicated; His Majesty hath a separate Council of War from the Body of the Privy Council.

Now, *My Lords*, for the objection that hath been made against the first Writ 4 *Aug. 11 Car.* that is, the King hath not declared cause for the issuing of those Writs; The King hath not communicated to *J. S.* and *J. N.* what the employments must be; he must satisfy the Council at Bar, which we ought not to communicate to His Privy-Council, but is reserved for his Council of War: This is a writ to command obedience from his Subject, and upon such Reason as may satisfy any reasonable Man; and if fewer Reasons, it had been the better agreeable to all former Writs: For the next matter out of the Precedents, which is, that during the times of Parliament, that these Writs have issued, I have made that good upon my former Head.

The last thing I observed upon the Precedents was this, that there was no Cause, no Particular in this Writ of 4. but was warranted by many Precedents; and in this the King doth *jubere per legem.*

1. For the Direction; it is as in this Writ, sometimes upon one, or *probis hominibus* of such a County; sometimes the Direction is to Commissioners, sometimes one way, sometimes another; and of this of the Precedents themselves, when your Lordships come to see them, I shall speak; they would have the King descend so low as to give them a reason why they do it: Some Reasons are expressed in the Writs; as, *Quia periculum imminens, quia pro defensione Regni, tuitione Maris, securitate Subditorum, salva conducti-one Navium,* &c.

My Lords, All these are expressed in the Records, *9 E. 3. m. 12. Sco. 10 E. 3. m. 21. Alm. 12 E. 3. m. 1. 12. Alm. 13. E. 3. m. 13.* I find in these writs the same matter, power of Assessment, levies by distress, and by imprisonment; nay, seizure of Lands and Tenements, Goods and Chat-

Chattels that are expressed in the former Writs; and that it was of the charge of the County, both Inland and Maritime: This appeareth Rot. Sco. 8 E. 3. M. 9. 4. *de Navigio providendo* Pat. 9 E. 2. m. 26. pars 2. *de Navigio providendo pro Custodia Maris*, many of these, Sco. 10 E. 3. That the wages of the men that went into the Ships, and guarded the Coasts, were at the Charge of the County; this appeareth 10 E. 3. m. 2. Do. 60. Men appointed and sent to *Portsmouth*, and they refuse to go without VVages; but a Command came from the King, and commandeth the Counties to pay them VVages, 10 E. 3. M. 21. Do. ——— and His Predecessors not bound to bear any Charge, though *pro communi defensione*, Alm. 12 E. 3. pars 1. m. 2. those of *Lynne*, who refused to contribute towards the charge, were assessed by commissioners, *juxta quantitatem*, and were compelled to contribute; so in the Close Roll, 11 E. 3. M. 1. the like *pro Custodia Marit.* I might be infinite in these Particulars: but I will not tire your Lordships. Here they have made some objections, though to answer the main Objection I am not yet come.

Object, They say this power of assessing the People for sums uncertain, ought not to be no more then Escuage uncertain, and must be assessed in Parliament; and this Assessment for Defence ought not to be by Commission, nor the Kings VVrit.

1 For the Authority, which is *Littleton*, he saith fo. 23. *Que communment ditq; Escuage serra assesse per Parliament.* I do not find by the Register where these VVrits are, neither do I find them grounded upon any Act of Parliament; Some that are grounded upon Acts of Parliament, do recite them: But what if it be by Parliament, a Service that is to be done by the Tenant to his Lord; what if this be so, that it must be assessed in Parliament? your Lordships know, that the Tenants must do according to the original Duty of them: and if this be, that the Lords shall not assess them in Parliament, Is that an argument from a Tenant to a Lord to this case? This is a Service commanded not by Tenure, but by a King from his Subjects; this is suitable to the Reason of Law in other cases for those ancient aids which the King doth require for the making of his eldest Son a Knight, or *pur file marrier*: are not those certain at the Common Law? must there be an Act of Parliament to assess those aids? the Books are otherwise; but the King at the Common-Law might require an Aid uncertain, and might Sess it as he please. *Glanvil lib. 9. Cap. 8. Brit. fo. 57. Cap. 27. Bract. lib. 4. Cap. 19.* so as at the Common-Law they were uncertain, 11 Rep. 68. D. It is said there, the Stat. of *Westmin. 1. Cap. 15.* which puts reasonable aid in certain, doth not bind the King a *Fortiori*; we must not tie Him to a certainty, for the Defence of the Realm. No man can tell what the Proclamation must be, or the charge thereof; If they can shew an act of Parliament that limits the King for Defence of the Realm, they can say something.

But they say the Sheriff is no proper Officer, nor sworn to execute this Writ; This is as wide as the other; for, My Lords, the Sheriff is sworn to execute all writs that shall be delivered to him for the Kings service; and surely this Writ, if it come unto him, he must at his peril execute it.

First, The Direction of those Writs have been many times as well to the Sheriff, as to the Com-

missioners. *Scot. E. 3. m. 13. Cl. 15 E. 3. m. 17.* The King commanded the Sheriffs of several Counties to furnish men with Arms, Victuals, and other Necessary Provision both for Sea and Land, 23 E. 3. m. 5. dor. 24 E. 1. Rot. 7, 9. *ex parte Rem. Regis*, 11. The Land of the Sheriffs and other Officers were extended, because of their negligence in the doing of their duty in those Writs, 25 E. 1. *ex parte Rem. Reg. A. Com.* went out to enquire of the Execution of the Officers in the duty of their places. Besides these Writs at the Common Law, this is seconded by the Authority of the Common Law, *Reg. 122* (or 127) the Writs that go out unto the Sheriff (for they go out unto the Sheriff as Commissioners) it is left unto the discretion of the Sheriff or Commissioners, as occasion shall require, *Rep. 191. Br. de Part.* before any Statute that was made concerning it.

That VVrit went generally out unto the Sheriff; so that in all Times and Ages it hath ever been in these Cases, where no certainty left to the discretion of the Sheriff and Commissioners.

My Lords, For the manner of the Levying per distinctiones, and by imprisonment of those that that do refuse. Is this new? It hath been so in all the Precedents that have been vouched both by Distress and Imprisonment. For the Distress, If the King make a Corporation, and give them power to ordain for the Commonwealth, and they make an Order, that if they shall not pay the same, they shall be distrained, and is not this adjudged a good Ordinance? 5 Rep. 64. *Clarke's Case*, Tr. 7 H. 7. Rot. 3. There is a Benevolence granted to E. 4. for his Voyage into France. One T. R. did deny payment, and he was distrained for his proportion.

They except to the penalty of the VVrit; The penalty of former VVrits have gone higher *inter Communia* in the Exchequer. There was a *Mandamus* to assess those employed in the provision for Shipping, and this *Mandamus* was *sicut nos & honorem & salvationem Regni diligitis*. In that Roll that is so often remembred, *Scot. 10 E. 3. m. 11. dor.* *Quod &c.* their Lands, Goods, and Chattels remain seized into our hands. And m. 2. under pain of forfeiture of Life. 11 E. 3. m. 2. To cast those into prison that did refuse, *Cl. 12 E. 3. m. 18. dor.* Writs directed unto *Henry Hufsey*, and others, to punish those who refused to contribute, and to imprison them, and seize their Lands and Goods into the King's hand. *Cl. 13 E. 3. par. 1. m. 36. dor.* to seize into their hands the Lands and Tenements of the Refusers, *Rot. Franc. 21 E. 3. par. 1. m. 11.* The King commands Ships under pain of Life and all his Estate to forfeit, *Fr. 10 R. 2. m. 23. super*, and to imprison those that are contrary, under forfeiture of all they had. So as your Lordships see Mr. *Holborn* was very far mistaken.

My Lords, In the next place, they have laid hold of the distance of Time; they say there was seven Months between the Test of the Writ, and Time of the Rendezvous; that the King might have called a Parliament, and there might have been an Aid granted, and the Service performed in a Parliamentary way; but they may remember the forty days between the Return and the Test of the Writ, the time spent in presenting a Speaker, the Solemnity used before they begin their Grand Committee, their reading of a Bill thrice, their Debate about it, the passing of both Houses before it be granted; after all

all this be done, and the Parliament ended, a time for the levying of the Money must be had; and when it is levied, time for the Return of it; and when it is returned, time for the expending of the Money; and the preparation will go slowly on till the Money be returned. 48 H. 3. m. 4. dor. There was a Command for guarding of the Sea-Coasts, Cl. 23 E. 1. m. 5. dor.

That the Ports of *Yarmouth* commanded to find Ships for a certain time, Sco. 11; 12, 13 E. 2. they are put down in that Roll 8. That there was a Command *Navale subsidium* for three or four Months.

So as, My Lords, both for the time of Preparation, and for the time of the Continuance, it hath ever been reserved unto the Wisdom of the King.

My Lords, for the *Spanish* Invasion that hath been so late in our Memory, I find by the Books kept in the Council-Chamber, that the Preparations were in *October* Anno 87, against the coming of the *Spanish* Fleet in 88, which did not set forth till *June*. I find no Parliament called that year: And by the Letters and Orders from the Council-Board, those Ships and Defence that were made, was *adsumptum* of the Subject: So as, my Lords, by this that hath been said, it doth appear unto your Lordships, that there was not any Clause in this Writ, either for the Direction, Motives, Mandates and Penalties, but are warranted by former Precedents in a higher degree. My Lords, these are the Precedents that I have collected and reduced unto these several Heads. I shall now remember unto your Lordships divers others, and in the first place observe, That *William* the First came not to abrogate any former Law, but was tworn to observe *Antiquas Leges Anglicanas*: That appeareth in *Lambert* 125. *prout*. So every man by this Law, that was but a confirmation, must provide *pro viribus & facultatibus*.

I find in the Grant, that *William* the First made unto his Abby of *Battel* of his own Foundation, a Charter to be free from *Danegeltis & omnibus auxiliis*: If they had not been freed, they had been Subject, I find *Pat. 7. Jo. m. 3*. The King authorized *Walter Scot*, and others *quod omnes naves*, &c. which they should find, to arrest and command all to assist, as they love Us and our Peace in our Realm, 14. *Jo. M. 6*. As your Lordships have heard all the Ships were arrested that could carry six Horses, and to be at *Portsmouth*, m. 2. All the Ships of the Ports were to go in His Service, without expressing for what particulars, Cl. 12. *Jo. 7. Do.* commandeth all the Ships to be brought unto the *Thames* Mouth: so here was not a laying down the continuance of it.

So H. 3. time, Cl. 14. A. 3. m. 12. Dorf. All Ships taken that could carry 16 Horses- Cl. 15. H. 3. m. 17. Dorf. Command for the furnishing of Armed men with Victuals and other provision for 4 days: And there was the like Command to the Sheriffs in several Counties, Cl. 26. H. 3. The King commandeth the men of *Yarmouth* to have their Ships ready with Men and Arms: The same Roll to find ten Ships to go to *Piccardy*, *Pat. 48. H. 3. m. 3. Do.* Writs to the several Port-Towns, that no Ships should go beyond Sea, but all to stay at home, m. 5. Dorf. Those who returned from guarding the Sea-Coasts with leave, were punished by imprisonment, seizure of Goods and Chattels, m. 4. same Roll, Dorf. Provision to be made till further use be had; so it was not confined unto time, but unto occasion, as need should require. And there be divers others in the time

of H. 3. upon other occasions which I have remembered; in the time of E. 1. 21. E. 1. m. 23, It appeareth there, that all the Port Towns were appointed by the King and His Council, how many Ships every one should set forth, Vasc. 22. E. 1. m. 11. Dorf. N. 6. The King of England in that Writ doth stile Himself *Superior Dominus Regni Scotia*, &c. and sendeth His Writs to the King of Scotland, to let him know the King of France had taken part of *Gascoigne*, an Inheritance of the Crown of England, that he should, in *Fide & Homagio*, be at London with Horse and Arms, &c. This Writ is very observable; the King of England is *Superior Dominus Scotia*; a part of *Gascoigne* was then lost: The King of Scotland was required by this Writ, as well as requested, to give Him Aid, for the Recovery of those Grounds taken from Him in *Gascoigne*.

My Lords, this power is not confined only to England, but it reacheth (as great Lord) into Scotland, also into Ireland, Vasc. 22. E. 1. N. 5. Dorf. The King by His Writs commandeth divers Earls and others in England and Ireland to do the like, to send Men to London with Horse and Arms, the same Rot. Vasc. M. 13. Dor. All that claim to be of the liberty of the Ports so commanded, *Par. 23. E. 1. M. 1, 5, 7*. All Ships of 40 Tun were to be furnished and provided for the Kings Service, Cl. 23. E. 1. M. 5. Dorf. Every man is compelled to contribute; same Roll M. 4. Dorf. that did not inhabit in the Maritime Towns; yet if they had Land there, they must contribute, resident or not resident, within or without their Liberty, all must contribute.

My Lords, in that VVrit which is Cl. 23. E. 1. M. 5. Dorf. I will observe these things. 1. A Command to all Bishops, Abbots, Lords Spiritual and Temporal, *quod sint intendentes, respondentes ad Custodiam Maris*. 2. In contingent Causes, *Causa*, &c. 3. VVrit saith, *Quod omnes ad Arma*, &c. *Secundum statum*, &c. *ad transfretandum cum nobis*; and possession of Goods and Lands to be taken for the Custody of the Sea, as in former times they were accustomed; so it is to be done in this manner; as in times past. 5th place, the VVrit was directed unto several Sheriffs *per Corpora, Bona & Terras* to distrain. Next 24 E. 1. M. 15. the King commanded the Arch-Bishops, Bishops, Barons, all the Commonalty, to defend the Maritime Parts, Cl. 24. E. 1. M. 19. *pro Custodia Maris*. There was another of *Simon de Sp.* which I remembered before, 24. E. 1. Rot. 76. Another of the like, *ex parte Rem' Regis*, Cl. 15. E. 1. M. 26. Dorf. The King moderateth the Expences of the Countrey, when the danger ceaseth, Cl. 25. E. 1. M. 12. The King commanded the Sheriffs in several Counties, and others, to bring all the Ships to be ready for our Service whensoever we command, M. 26. same Roll; the like Command *de Custod' Maris* *Pat' 31. E. 1. M. 20.* power given to *Thomas de B.* to raise Forces in *Cumberland* to resist the Scots, and those that did refuse, to seize their Goods. In the time of E. 2. Cl. 2. E. 2. M. 21. The King commanded divers Towns to set forth Ships against the Scots, and afterwards by special Writ some of these were discharged, Rot. Pat. 9. E. 2. pars 2. M. 6. Pat. 16. E. 2. M. 11. A VVrit directed to Sir *Thomas Weston* and others, to array all between 16 and 60, or to take their Goods and Lands if they did refuse, pars 1. m. 7. of the same Roll, 16. E. 2.

Cl. 20. E. 2. m. The King doth there declare, That those who stay at home ought to contribute to set forth Ships, and for the VVages of the Men

Men employed, *Cl. 20. E. 2. m. 6. Writs* directed unto the Scholars of Oxford; they were not exempted, but commanded to keep South gate safely, *Vasc. 18. E. 2. m. 18.* The King writeth to the Arch-Bishop and others, commanding them to have Horses and Men in a readines as often as need should require. For the time of *E. 3. Cl. 2. E. 3. m. 13. m. 22. Dorf.* The King writeth to Southampton, and to 78 other Towns for their Shipping of above 40 Tun, *3 E. 3. Pat. pars 2. m. 6.* The King commandeth the Sheriff of Cornwall to distrain Knights, and others, that abide on their Lands upon Maritime Parts, and imprison.

Those years of 10, 11, 12, 13 *E. 3.* have been remembred, *21 E. 3.* The King concerning the Defence of the Sea and Sea-Coasts, gave special Rules to be observed, both for the Number of the Ships, for the Quality of their Persons, and for the Proportion of their Wages, as appeareth *Pat. 19. E. 3. pars 1. m. 26. 21 E. 3. pars 1. m. 26. & 17.* where there was special order taken for the guarding of the Sea and Sea-Coasts at the Charge of the Inhabitants, *Franc. 21 E. 3. pars 1. m. 11.* Command to the Sheriffs of London to arrest all Ships in London to be sent to Callice to resist the Enemies against us, then about to come, *Fra. 35 E. 3. m. 9. N. 26.* The King reciteth, That France made a Preparation to invade the Realm, and gave a Power to some to raise Forces, and commanded the Sheriff to raise *Posse Comitatus* to assist the Commissioners, *26 E. 3. Pat. pars 1. m. 7.* The King by His Writs to several Counties, commanded, That all Men between 16 and 100, to be in readines to resist the Scots, *Franc. 25. E. 1. N. 31.* Command unto all Officers and Ministers to assist Andrew de Gulpho in the raising of Forces for Shipping, and to bring them to Portsmouth; so as in that Roll likewise your Lordships see that the Inlands were commanded for Shipping, *Franc. 28. E. 3. m. 6.* The King appointed R. C. and R. A. to arrest all Ships of 20 Tun and upwards, between such a distance, and to bring to Southampton, *Seco. 29. E. 3. m. 13.* That several Writs were directed to the Bishops of Durham, and Carlisle, and others, for the arraying of Men, *Fra. 40. E. 3. m. 37.* The King sent forth divers Writs, commanding *quod Domini*, &c. with all their Forces they should assist to the safe-keeping of the Sea-coasts, to resist the malice of the Enemies, *Fra. 50. E. 3. N. 47. Dorf.* Command to make Proclamation, that all having Land upon the Sea-Coasts, should repair thither with their Families; so as in all Ages and all Times Writs have issued both for the Defence of Sea and Land.

In the time of *R. 2. Parl. 6. R. 2. N. 42.* That was objected as a Record against the King, but maketh clearly for Him, *Que dit, que le Roy Person Assemblies en Parlement est desire de vivre des Revenues del' Corone Car Escheates, Mariages, & Forfeitures, sunt par le defence nostre Roy in Resp' le Roy volet de faire en ceo Case; come per le advise des Seigniors, &c.*

Your Lordships see they desire of the King to live of His Revenues; that the profits of Wards and Mariages of the Realm might be kept for the Defence of the Realm. The King giveth them this Answer, That He will do and abide in this Case, by the Advice of the Lords of this Realm, as shall be most for His Honour and Profit; so no reason to make any inforcement out of this Record, that profit of Wardships, &c. goes for Defence, because the King giveth no absolute denial unto it, saying, that the King will do as he shall be advised by His Lords.

Fra. 7. R. 2. m. 18. That the Lords beyond the Seas be arrayed and armed according to their State and Faculty, *Pat. 8. R. 2. pars 2. m. 15.* A Command, that all between 16 and 60, be in readines, *Fra. 10. R. 2. m. 23.* Arrayes throughout all England; and so in the time of *H. 4. Parl. 5. H. 4. N. 24.* For the Arraying of all men throughout England, and those that were impotent, and could not go, to contribute unto it, *3. H. 5. m. 36. Dorf. Pat. 13 H. 6. m. 10.* General Commissions for the Arrest of Ships, without declaring the Cause, *Pat. 14 H. 6. assigned, Jo. de N.* to arrest all Ships in the Port of Southampton, to do Service as the King should command: There was no cause declared, *Pat. 28 H. 6. m. 2. 13.* Commissions to array, and those arrayed to keep in array with diligent watches; and the like Writs awarded into other Counties, *1 H. 7. 1 pars.* The King writeth to Sir Fitzhughe to array Archers and Horsemen; so that it appeareth by those Precedents in all Ages, that those Defences have been made by Sea and Land, not confined to Port-Towns, and Maritime Places, but *per totam Angliam.*

Next place I shall give a particular Answer to some Objections as have been made (as have not fallen in my way) unto the Acts of Parliament, Reasons, Records, and some Book-Cases.

The End of Mr. Attorney-Generals
second days Argument.

Mr. Attorney-General's Third days Argument, Decemb. 18. 1637.

May it please your Lordships,

THE Matters that I did purpose to insist upon this Day, was the answering of the Objections, I shall use no Preamble, no Repetition to induce what I have to say: But in the answering of the Objections, I shall first give answer to the several Acts of Parliament insisted upon; then unto the several Records and Reasons that have been urged; and in the last place, I shall answer the Exceptions that have been taken unto the Writ, 4 Augusti, *Mittimus*, and form of Proceedings.

The First Act that they have insisted upon is that of William 1. Call it what you will, an Act or a Charter: The words of it are *verbatim* in Matthew Paris. *Volumus & concedimus quod omnes liberi homines sint quieti ab omni Tallagio, &c.* Surely this Act of Parliament or Charter, it doth no way trench upon this Royal Power: For as in the beginning of my Argument I opened unto your Lordships, that this Power was inherent in the Kings of England before the Conquest. Here is only a Confession, that they shall be free *ab omni injusta exactione*: Now this is no unjust Exaction, for it is of common Right. And then the other part of this Law doth explain it, for it saith, *quod sumus fratres Conjurati, &c.* So for the Defence of the Realm: by the same Law they would urge to take away this Power by the same Law it is reserved.

Next place they insisted upon, was the Charter 10 Jo. or on *Magna Charta*, as they call it, which indeed is mentioned in Matthew Paris, and may be under the Great Seal: The words of that are thus *Nullum Scutagium vel auxilium, nisi per Commune Concilium, nisi ad prim' filium militem faciend' & maritand' fil', &c.* This Charter is, as was

acknow-

acknowledged by themselves, granted at *Runnymede*, when the Banners were displayed, when there was War or Rebellion between the Barons, Commonalty, and the King. It was not assented unto the King sitting in Parliament; for Parliaments are not called with Arms, and in the Field: It was in truth an enforced Act from a distressed King; shall this bind the Crown? I shall remember the Acts of Parliament made 15 E. 3. and there only were things that were in Parliament enacted derogatory to the Crown, as this is, that no Peer should be questioned but in Parliament, that no Great Officer be removed but in Parliament, that no Clergy-Man shall come before Temporal Judges; these were things that were much derogatory to the Prerogative of the King.

15 E. 3. That King the same year, when he was better advised, did make a Charter, which is in Print, for the recalling of this prejudicial Act of Parliament still in force. It appeareth by the *Parliament Rolls*, and printed Books, where the King declareth it was drawn from him with an unwilling mind, and was prejudicial to the Prerogative of his Crown; and therefore by that Charter it was repealed: But, my Lords, this Charter 17 Joh. if this should be in force, why hath there been no confirmation of it in so many Parliaments since? The *Statute of Magna Charta*, 9 H. 3. hath been confirmed 31 times, why no confirmation of the Charter 17 John, and why have we not heard of it since that time? Reason for it, because it trencheth too high on the Prerogative of the King and Crown: But take the words as they are; what be they? *Nullum Scutagium nisi per Commune Concilium Regni nostri*: If it were an Act, doth this extend to take away any thing that belongs of common Right unto the Crown? And that hath been the Exposition of, my Lords, the Judges of Acts of Parliament, that Aids due of common Right are not taken away by general words of *Commune*, &c. And therefore these Aids due of common Right, as this is, are no way taken away: besides, for the *Statute of Magna Charta*, it is made 9 H. 3. cap. 29. *Nullus liber homo capiatur, aut imprisonetur, nisi per Legem*, &c.

The general words of this Act of Parliament doth no way impeach the Royal power; for this Royal power, it is *Lex Terra*: Besides in these Precedents, 14 H. 3. 15 H. 3. 26 H. 3. 48 H. 3. and all the succeeding Kings remembered in all them, that these Writs went out to provide Shipping at the charge of the Inhabitants: So surely, if they had been taken away by *Magna Charta*, the Writs after *Magna Charta* would not have used it.

Obj. But then there hath been objected the *Statute de Tallagio non concedendo*; if it be 25 E. 1. as it is printed, or 34 E. 1. or as the Petition of Right doth recite it, *Temps E. 1.* Be it when they will; I say, under favour, there is nothing in that Act doth take away this power: The words are thus, *Nullum Tallagium vel auxilium, sine voluntate Episcoporum, Baronum, Burgensium, &c.* Mr. Solicitor, in his Argument upon probable grounds, did make question, whether this was an Act of Parliament, yea or no? 1. In respect it was not enrolled amongst other Acts of that time. 2. Because the penning of it may seem rather to be an Abstract. 3. Because when the other Acts of those times were sent over to E. 1. to be sealed and confirmed, no such Act was sent over. My Lords, I will not lay hold on this,

but will admit with them, that as it is recited in the Petition of Right to be an Act of Parliament, Car. 13. so I will admit, (yet to waive nothing that hath been said) but by way of admittance, I give this Answer.

First, That it taketh away no Aids that are due by the Laws of this Realm; yet the words are general, *Nullum Tallagium vel auxilium, nisi assensu Parliamenti, &c.* Here is not in this Act of Parliament so much as an exemption of an aid to Knight the Kings Son, or to marry his Daughter; yet in this the Law is resolved, that these Aids are not taken away: And so it is declared, 25 E. 1. c. 11. which doth reduce these Aids unto certainty; so as your general words of *Nullum auxilium* will not do it: If this be an Aid due by the Law of the Land, then I say this is not properly an Aid, but a Contribution of King and People for the defence of the Realm: It is *ad proficiscend' cum Navibus nostris*; then I say, that this Power is *inter Jura Summa Majestatis*, one of the highest Prerogatives of the King, and shall never be taken away from the King, 12 H. 7. Stat. *quia emptores terrarum* doth not extend unto the King to take away his Tenure; if you will have such a high Prerogative taken away, you must shew it in the Acts of Parliament: Nay, my Lords, I say that in the time of E. 1. this Royal Power is expressly reserved by Act of Parliament unto the Crown, and therefore in after times never intended to be taken away.

First, I shall enforce it out of the Statute of 25 E. 1. c. 5, 6. that doth recite, that Aids and Taxes which have been given unto us before time towards our Wars, and other business of our own grant and good will, howsoever they were made, might turn to a Bondage, &c. We have granted that we shall not draw these Taxes into a Custom, &c. and do grant, that for no business henceforth we shall take such manner of Aids, but by a common consent of the Realm, &c. saving the ancient Aids due and accustomed. This Aid is not taken to be an Aid, for this was never given unto the Kings of England, but taken by Royal Power, Stat. 25. speaketh of such Aids as have been given, and excepteth such Aids as have been due and accustomed; and by the Precedents shewn, it appeareth those have been due and accustomed: It hath been desired in *fide & Ligeantia*, and with a *Mandamus*, 2 E. 1. cap. 1. This Statute doth confirm the great Charter, and the Charter of the Forrests: But in the end of it in the Parliament Roll, that notwithstanding all these things before-mentioned, both the King and the Council, and all they present at the making of this Ordinance, will intend the Prerogative of his Crown be saved unto him.

A further Answer to the Statute *de Tallagio non concedendo*, the practice that hath been since the time of E. 1. in the time of E. 2. E. 3. R. 2. and the practice since, doth shew plainly, that it was never intended by the Statute to take away this Royal Power: But then a thing materially objected, if the Records had warranted what had been said, and that was *Rot. Parl.* 29 E. 1. and then it was said, that though there be a saving, 25 E. 1. & 28 E. 1. yet here is no saving in this Act; so then Act 29 E. 1. all was lost.

My Lords, to this I say there is *Nul tiel Record*; and therefore I shall desire that this which they call an Act, 29 E. 1. I may attend your Lordships with: By this Record it doth appear, that it is only a Record of the perambulation of the Forrest, and no repealing of any former Law; nei-

ther is any thing enacted by that Law derogatory
Anno to the Crown.

1637.

Next Statute objected, 1 E. 3. cap. 5. words are these, that no man shall be charged to arm himself otherwise than in the time of the Kings Progenitors, and that none be compelled to go out of his Shire, but where necessity requireth, and sudden coming of strange Enemies within the Realm: So this Statute it is relative to what hath been formerly done, and what hath formerly been found done, appeareth by the Records of King John, E. 1. that the Subjects were to set forth Ships for their defence at their own charge; then those Writs went out in E. 1. time, as hath been shewed; and then this Statute alloweth in two cases, one where necessity requireth, the other upon sudden coming of strange Enemies; and this Writ requireth no other, but where necessity is in the Kings judgment.

Obj. Next Statute 1 E. 3. cap. 7. was objected, where men of Arms were conveyed into Scotland and Gascoigne without wages; the King saith it shall be done so no more; the Statute mentioneth Scotland and Gascoign, forreign Wars, and so forreign to this business; for though Scotland was subject to the Dominion of England, yet it was a divided Kingdom, 8 R. 2. continual Claim Com. 376. That a Fine shall be paid by a Stranger, because he was in Scotland at the time of the Fine levied, Bract. 436. 2ⁿ Abjuration into Scotland is good, 6 R. 2. Protection, 46. that Scotland is out of the Realm: Therefore this Statute that speaketh of Gascoign and Scotland, speaketh of forreign Wars, not of defence.

Next, 18 E. 3. cap. 7. Men of Arms, Hoblers and Archers shall be at the Kings wages: This Statute likewise speaketh of going out of England; but he that is upon the defence of the Kings Seas, is not out of England; for that 6 R. 2. Protection, 46. The sending of Ships for the defence of the Coasts is no going out of England.

Obj. Next Statute 15 E. 3. cap. 8. no man shall be constrained to find men of Arms, Hoblers or Archers, otherwise than those who hold of such services without common consent. My Lords, this Statute of 25. doth not take away any former Laws in that Statute of 4 H. 4. c. 13. These 3 former Stat. of 1 E. 3. 18 E. 3. 25 E. 3. are recited in the Statute of 4 H. 4. and enacted they shall be firmly holden and kept in all points: So if these Statutes must be kept firmly in all points, then the Statute of 25 E. 3. doth not repeal any of these: Now that of 1 E. 3. cap. 5. reserveth a power unto the Crown, where necessity requireth, and when sudden Enemies come, 26 E. 3. those Ships were sent forth, and commanded for the defence of the Realm at the charge of the Subjects, Rot. Fra. 26 E. 3. m. 4, 5. Fra. 28 E. 3. m. 6. so as clearly there is no part of this Power impeached by this Statute of 25.

Then they have objected Parliament Roll, 2 R. 2. A. 3. Earls, and Barons, and other Sages of the Realm declared the great mischief by Sea and Land, therefore declared they could not remedy this mischief, but by charging of the Commons, which cannot be done without Parliament.

This is no Act of Parliament, it is but a Parley or Discourse, and Communication between the Lords and Commons; it was in 2 R. 2. in the Nonage of a young Prince, who did not as-

sent, for there was no Royal Assent unto it, so no proof in this case.

Next Record 9 R. 2. Parl. N. 10. there was a tenth and half, and fifteenth and half granted to the King, upon condition contained in the Schedule, which is, that the King should assent that the Officers should be named in Parliament, and servants appointed for dispende of the money.

If the King will accept of the Subsidies and Aids upon condition, doth this take away the Royal Power? There is no more done in this than was in the Parliament 21 Jac. for there the Officers and Treasurers were appointed by the Houses of Parliament: But then further it doth appear, that this was granted *pro viagio Johannis Regis de Casteel, &c.* so that it was not granted for the custody of the Sea, but for this voyage. Next place, they insisted upon the Parliament 9 H. 4. N. 2. tenth and a half, and fifteenth and half granted with protestation, that this should not be returned for example; this is nothing, no more than the other. A Parliament grants a Subsidy upon condition it should be thus and thus employed; and the Protestation can no way prejudice the Crown in this 7 E. 4. Parl. N. 7. Objected there the Kings Speech, that is, there entered upon the Roll, that he will not charge his Subjects but in great and urgent occasions. My Lords, this is nothing but a gracious Speech of the King unto his Subjects, that he would charge them but in such cases as should concern the defence of the Realm. The Statute next objected was, 1 R. 3. cap. 20. that the Subjects from henceforth shall in no way be charged by any such Exaction or Imposition. This is no benevolence, but a legal due.

Next they object the Statutes of Tunnage and Poundage granted to the Crown for the defence of the Realm. In answer to that, there is no Act of Tunnage and Poundage that is now in force; neither are any duties taken to the Crown upon any Act of Parliament. Those Statutes of Tunnage and Poundage that have been granted, they make for the Crown; and therefore if your Lordships look the Statutes 1 El. 1. Jac. it was given towards the Kings charges for the defence of the Realm, and safeguard of the Sea; it was given towards the charges; it is not intended of any extraordinary defence; so as, my Lords, these Acts when they were of force did give this but towards the charges. It is so now, for this which is done, and those Contributions levied, are but towards his charges; and that will appear upon account, that his Majesty for these three or four years hath expended more upon the Sea than any his Progenitors; besides an acknowledgment in those Acts, that this defence could not be done without the intolerable expence of his Majesty; these Aids are of necessity, and not to be lacking at any time.

My Lords, In the next place they insisted upon the Petition of Right, 3 Car. It was never intended that any power of the King by his Prerogative should be either taken away, or lessened by it. I dare be bold to affirm, for I was of that Parliament, and was present at the debates, that there was never word spoken in that debate of taking away any power of the King for the shipping business: Besides, it is declared, assented unto, and denied by none, that there was no intention by the Petition of Right to take away the Prerogative of the King: The King did grant no new thing, but did confirm the ancient and old liberties of the Subject. My Lords, these were

1637. were the Acts of Parliament that have been objected and insisted upon, on the other side. Next place for an answer to scandalous Objections, it hath been said by Mr. Holborn, that these Statutes of 25 E. 1. 28 E. 1. that at the time of making these Laws they were positive, no such *salvo* in them of the Kings Prerogative.

The Acts before H. 4. were penned by the Kings Council, and those Clauses of a *salvo* crept in by the Kings Council, these were bold and presumptuous Assertions. The Acts of Parliament made in that time of E. 1. that there should be any Clauses added by the Kings Council, that should not be added to the Record. I have here the Parliament Record, that these Exceptions are recorded as fully as any part of the rest of the Record, and those Laws confirmed since; therefore to make any such Assertion against Records ought not to be done. He may object the same against *Magna Charta*, which is for the liberty of the Subject.

Next place they have objected out of the Parliament Book, 33 E. 1. that upon a Petition made to the King to have restitution of money taken, that the King did ordain the Treasurer should give satisfaction; I shall desire it may be read, and you shall see those moneys, for which direction was given were for goods taken for the Kings use.

Parl. 33 E. 1. fo. 105. do. per Scrut. pro guerra, &c. Respons. per Regem, Rex ordinavit per Concilium quod satisfactionem faceret, tam citius poterit; so this Record was for moneys taken meerly for the Kings use, therefore reason satisfaction shall be given. *Perambulat. Forest Rot. 20 E. 1. de libertatibus Angl.*

14. Febr. Lincoln; so here is no taking away of any former Act of Parliament, it referreth to what shall be futurely amended and revoked.

Next *Parl. 8 E. 2. m. 8.* Fryers of S. John of Jerusalem did Petition to have satisfaction of 2354 l. taken by the King out of their Treasury, Now because this Record was vouched two days together, I desire it may be read, and upon the reading it will appear to be upon another purpose; *Sur le Roy, &c.* there was cause and reason why the King should make satisfaction.

Next Record, *Pat. 26 E. 1. m. 21.* and that was highly magnified by them, that there was several Commissions went out to enquire of *Gravaminibus* of Woolls, and other particulars *de Custod. Maris*; and in this it was affirmed, that (as all the Kings Council took their Notes) these Clauses were omitted out of the Writs that concern the forfeiture of Lands, Goods, Chattels, or Seisures: This Commission maketh nothing to this purpose, for like Commissions daily come, where there are Taxes laid upon men heavier then they ought to be.

Commissions granted to enquire of Grievances in this kind, wherein an answer was, if any thing unjustly be taken, it shall be restored: But not a word to impeach this Royal power. And, my Lords, for the penalties in the Writs, *Pat. 31 E. 1. m. 20.* power to seize the Lands and Goods of the Refusers, *20 E. 2. m. 10.* under forfeiture of all his Goods, *10 E. 3. m. 5. do. Claus. 12 E. 3. m. 18. do.* That the penalties and Commands were as high in this Commission as before.

Obj. Next Objection, that the Kings of England have always consulted with the Parliament concerning the defence of the Realm, and that

the Aids and Subsidies for defence have been granted by Parliament.

Car. 13.

Ans. This is no Argument to impeach this Royal power; for if in time of War the King will consent unto it, shall this take away his Royal power? In the time of E. 3. and R. 2. did that take away the Kings Royal power, that he may not ordain Standards of the money himself? He may by his Royal power erect Courts of Justice, shall that take away this from his power, because the Court of Wards was erected by Act of Parliament?

Obj. Next Record cited was *Rot. Alm. 12 E. 3. pars 1. m. 22.* That E. 3. was so penitent for what he had done, that he sent to the Archbishop of Canterbury to pray for him, and that the people would forgive him for laying those Taxes upon them, which his Wars compelled him unto, and he would never do the like.

You shall see it was only to pray for him for his Voyage into foreign parts, and so caused the Record to be read, beginning thus, *De excusando Regem versus Populum*, ending *de Gravaminibus*, dated at *Barwick upon Tweed*: Your Lordships see by this Record nothing, but the desire of a prayer. 1. To pray for the King for his Voyage beyond Sea, the other concerning the Charges or Impositions: Surely this Contribution commanded in the shipping besides, was none of these Charges, Talliages or Impositions: This his desire to the Archbishop was not only in the twelfth year of his Reign, but the like 25 E. 3. 26 E. 3. and 50 E. 3. so as surely those prayers of the Archbishop were for other Causes, and not for this, which was for the defence of the Realm.

Obj. Next Objection, *Fra. 7 R. 2. m. 13.* That the King assigned Tunnage and Poundage to Henry Earl of Northumberland for guard of the Seas.

Ans. My Lords, It doth appear by the very Record it self, that this was only for an ordinary defence, and not for an extraordinary defence.

Obj. Then they insisted upon the Parliament Roll of 13 H. 4. n. 43. the Office of admeasuring Linnen Cloth, a half-peny upon the Buyer and Seller, and other Fees upon long Cloth, the Parliament 13 H. 4. declares to be a void Office, and that accordingly Judgment was given 13 H. 4. Out of this he would conclude, that therefore there should be no new Office; that an Office granted with a Fee is void in Law.

Ans. For Answer unto this: 1. The reason why that was a void grant was this; it appeareth 4 E. 1. that the Office of all Woolls and Linnen Cloth was one entire Office: If the King will grant that to another man which was to trench upon the former Office, a void Patent: Therefore a strange conclusion, that because this Office was void, therefore no new Office to be granted, 22 H. 6. fo. 9. The Office of surveying the packing of all Cloth, good Office, 27 H. 8. fo. 28. The King granted to one to be his Surveyor of his Honor of— a good Office *Fitz* faith, because it had no Fee, therefore it was a void Office; and now at Bar it is said because it hath a Fee, it was a bad Office. If this reason may hold, all ancient Offices may fall, 39 H. 6. Office to be Marshal of the Kings Bench, 12 H. 7. 15. to be Warden of the Fleet. Nay, it taketh down all Offices that have been erected for the publick good, and upon just cause, as Offices of *Subpans* in Chancery, *Star-Chamber*, &c. All those within time of memory must be shaken by this.

Cccc 2

Obj. Next

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Obj. Next place objected, that these Contributions, they are in substance Impositions, and that the King should not impose upon the Subject by his Charter, or by his Writ, but it must be done by common consent in Parliament: Your Lordships have observed in all my discourse, that I have not insisted any way upon any power of Imposition, neither is it the question in the business, for no mans property is invaded, no seizure of any mans Goods, unless they will incur for contempt, and by a wilful contempt the Subject may lose his property.

Therefore *Dyer* fo. 16. and 13 *El.* fo. 296. If the King will command his Subject to come into the Realm, and he will not, he shall forfeit for his contempt all his goods; or if he be attached to appear in the Courts of Justice, and not appear, he shall forfeit his goods, 34 *H.* 6. 49. 9 *H.* 7. 6. If a man will wilfully contemn the Kings Command by his Writ, he may be distrained; this incurreth not by an Invasion of his property, but in respect of his contempt. *Parl.* 50 *E.* 3. m. 24. Lord *Latimer* he was sentenced for perswading the King to lay Impositions. My Lords, I have looked upon the Record, and there the cause of the sentence is declared, that he himself laid the Imposition, and did take upon him Royal power, and therefore he was justly sentenced; and for the sentence of Doctor *Manning*, nothing to this purpose. This Writ denieth not the property to be in the Subject, but saith, the Subject hath the property, and therefore commandeth the Sheriff to distrain him if he will not pay.

And for the Commission 2 *Car.* for the borrowing of moneys for the Palatinate, this was for the recovery of the Palatinate, not for the defence of the Realm, and besides called in by special Order.

Next place they objected and shewed divers Records, that the King hath paid the wages of divers Marriners and Souldiers, and I do agree it; is that an Argument, that he may not command the Marriners to be sent out at the charge of the County to furnish the Kings Ships? this is against the Records that I have remembred. So likewise they have cited 21 *E.* 3. *Rot.* 77. *ex parte Rem. Regis*, the King commanded the Constable of his Castle of *B.* to build Ships, and the King to pay for them; so he doth at this day, he hath built the Sovereign of the Sea, and hath paid for it.

They have objected Doctor *Cowels* Book which was called in; I wish they had read the Proclamation, three Causes expressed: 1. Because he had writ things derogatory to the Crown. 2. For 3. For speaking irreverently of the Common Law, just to light upon the men who do not spare to wade into all the deep mysteries of Princes, who are Gods upon Earth.

For their Objection, that the King hath a Revenue belonging unto his Crown, for the defraying of all ordinary and extraordinary charges, and for the guard of the Sea. As Tenures by Knights service, Esuage, Wards, Marriage, Ancient Demesne, &c. Tunnage and Poundage, service of the Ports, and profits of the Sea.

My Lords, it is not for us that are Lawyers to look into the secret of the Kings Revenue, he hath high Officers, as Treasurer and Under-Treasurers that look unto the secret of his Estate, and they know well whether his ordinary or extraordinary Revenue do answer more than his Annual expence. The Story of *Adam* might

deter men from looking into the secrets of Princes.

For his Tenures, that Knights-service Tenure was originally instituted for the service of Scotland and Wales, 19 *K.* 2. *Fitz. Guard.* 165. and old Tenures fol. 10. duties called Tunnage and Poundage are not given now unto the King by Acts of Parliament, and when they were given, it was for the great charges of this great defence.

And besides those Acts of Tunnage and Poundage only concerned the ordinary defence, the sending forth of the 75 Ships out of the Cinque-Ports, it was but for fifteen days at their own charges; and for the profit of the Sea of Sturgeon and Whales, a proper defence for a King: And for the service of the Ports, you may remember by the Records shewn, they were commanded *ultra debita*: But then they have granted one Case, and I think but one, that the King may ordain a Toll in a Fair or Market, or grant Pontage, or the like, because there is an *ad quod dampnum*, and therefore shall be an enquiry *si Patria gravatur*. The King may grant a Fair without an *ad quod dampnum*, if in his judgment, &c.

Rot. Sco. 1 *E.* 3. m. 8. Writ directed to the Treasurer to pay for the Shipping at *Tarmouth*. My Lords, it doth appear particularly in the Record, that *I. S.* was Admiral, and going into Scotland, so the defence was for a Foreign War.

It hath been mightily insisted upon, that here needeth no Command to furnish Ships by the Kings Writs, every man by the Instinct of Nature will do it, where a necessity, or Royal power, or Command needs: Surely this Argument is made by the people, or to please the people; what will the consequence of it be, but the introducing of a Democratical Government, when every man shall be his own Defender? The God of Hosts chose Captains and Leaders to go before his people, and commanded them but to give the people this liberty. That every man shall do as he please, and make a defence by an Instinct of Nature, is a strange Position. But it hath been said in these Cases, it is better to sustain a mischief than an inconvenience; by this inconvenience every mans property is taken away from him, as often as the King pleaseth, and what proportion he pleaseth. This though a Maxim in Law, yet it goeth unto particulars; but the loss of a Kingdom is both of Liberty and Estate; this is not to be reckoned among the mischiefs, for this mischief destroyeth both Head and Members; therefore I do marvel to hear the Rule of Mr. *Holborn*, suffer a mischief, rather than an inconvenience.

Next Objection, *Parl.* 2 *H.* 4. n. 22. *per faire Barges*, this was the Petition to the Commons, that the Commissions granted to Burroughs, Cities, and towns, for building of Barges should be repealed; the Kings Answer for the present they should be repealed, but for the future, for case of necessity he should advise with the Lords: It doth not appear that these were granted for the building of any Ships for the Defence of the Realm.

These are Objections that have been made out of the Acts of Parliament, out of the Records and Reasons they have insisted upon; now I come to the Exception and objection against the Writs and Proceedings in this matter.

1. They say, there was no sufficient danger represented by the Writs 4 *Aug.* They say the supply

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ply by a *Mittimus* doth come too late, and that the words of the *Mittimus* are not a good affirmative, *quia salus* &c. and it doth not appear there was any danger 4 *Aug.* 11. For this I have given it an Answer, that it was not necessary to represent the danger in the Writ. The King he hath secret intelligence, he hath his Espies abroad, His Ambassadors beyond Sea, he knoweth the danger we know not, nay, he knows that which is not fit to be discovered; and those dangers by preparation perhaps diverted another way. It's not fit by a publick Writ to reveal the dangers.

But, My Lords, For the satisfaction of His people he hath expressed sufficient cause enough in the VVrit. *Quia salus Regni periclitabatur*, &c. they say there was no danger represented at that time when the VVrit went out; that is mistaken, for the VVrit of *Mittimus* doth recite 4 *Aug.* and saith *quod quidam pradones Pirati*, &c. which shewes the danger was the cause of the issuing of those VVrits; then they expect this same word *salus*; it is a Physical word and signifieth health, and you must have no Metaphors in VVrits; surely the Gramarians can tell that *salus* is taken *pro incolumitate*, as well as for health, as safety, Metaphors are usual in VVrits; Idare be bold to speak there are more Metaphors in the Register, than in any Book, Register 61. *Turba*, &c.

Then they have left no stone unrolled in this Case. Now they say the Kings Testimony by His VVrit is not sufficient, for that under favour it is *Teste meipso*; without exception we are bound to give credit unto it, 1 *Eliz.* fol 105. *Ne exeat Regnum*, the King affirms *I. S.* will go beyond Sea. Saith the Book, this averment of the King in his VVrit it is not Traversable, you shall not aver against it. The case remembred by Mr. Solicitor, which was mistaken by Mr. Holborn in the answer Hill. 20 E. 1. *Coram Rege Rot.* 14. He said these words vouched in the Record, were but the saying of the Kings Council, and not the opinion of the Court; clear otherways, for it was the saying of the Judges, and then agreed *quod Dominus Rex est Superlativum Recordum & precellens*; will your Lordships give credit to the Certificate of the Marshal of the Kings Host?

To the Certificate of the Captain of a Company if the Men be in the Kings Service, 11 *H.* 7. fol. 5. to the Certificate of a Bishop in case of Bastardy, to the Certificate of a Mayor and Aldermen by the Recorder, 5 *E.* 4. 30. 21 *E.* 14. 16. and will you not admit to the Certificate of the King by his *Mittimus*?

Next exception was taken to the *Scir' Fac'*, that this *Scire' Fac'* ought not to go forth to this as a debt to the King.

2. Reasons for it: 1. The VVrit of 4 doth direct a form of levying, which is by distress or imprisonment of those that are Rebels.

It is no debt to the King, and therefore ought not to be levied by *Scir. Fac.*

My Lords, for this, this Duty is a Duty to the Common-wealth. It is *pro defensione, Regni The-sauris publicis respicit Regem*; whosoever shall detain any publick Duty, he may be questioned by the King as the Head of the body; for that it appeareth 27. *Aff. pl.* 17. It was declared, that *J. S.* and *J. D.* had levied 100 Marks on the County for the array of certain Archers, which money did not come for the profit of the King. Out of this I observe two things. 1. This money that was for Archers, the money was levied on the Body of the County. 2. Recovered by an Indictment at the Kings Suit, 27 *Aff. pl.* 17. 11

H. 4. fo. 2. the Fee of the Knight of the Shire that serves by Parliament, they are reckoned amongst publick duties; therefore the Goods of a stranger may be taken within the Town to pay those Fees: If the Money be not paid, the distress may be sold, for it is for a publick Duty, 11 *H.* 4. 2. so is the Book *Reg.* 19. 2. the King commandeth the Sheriff to levy those Fees, as well within his Liberty, *quam extra.* Hill 20 *E.* 3. *Rot.* 57, *coram Rege Juratores Hundredi de S.* they make a Presentment, that *J. S.* and *J. D.* Chief Constables of paid Wages to Archers which went not beyond Sea.

So as by this record, it appeareth, these publick duties are recoverable at the Suit of the King, *Quia ad opus Domini Regis, Pat.* 14 *E.* 1. *M.* 1. 14. the King commandeth an account to be taken of the murage, and how the Sums have been employed, *P. 15 E.* 1. *coram Rege* 70. *Do. Rippon* was besieged, they gave Hostage; Promise made by the Town, that those Hostages should be redeemed; they were not, complaint made unto the King, and came to the *Kings-Bench*; and these Monies being 700 *l.* that was promised by the Town, for the bringing back of those Hostages, was ordered to be paid, because it was for the publick Service: So for other things that are *pro communi utilitate int' Co'ia*, Hill 5 *E.* 4. *Rot.* 4. *Aurum Regina*, due unto the Queen, may be levied by Process out of the *exchequer* in the Kings name; nothing more usual. This *Scir' Fac'* it is grounded upon the whole matter, the Writ 4 *Aug. Car.* and *Mittimus*, and commanded that the Defendants should shew cause, why they should not pay the Monies assessed upon them for the publick Service.

My Lords, I have done with the objections, I shall come to the judicial Records, 24 *E.* 1. *ad Custodiam Maris.* *Bark-shire*, an Inland County, refused to contribute; and Names of those that made Default were certified into the *Exchequer*.

It appeareth by the Records cited, that process went out of the *Exchequer* in the strictest manner, a *Capias in manus* of their Lands, Tenements; Goods, and Chattels, and that their Bodies with Horse and Armour be sent to *Portsmouth*; for, besides the doing of their Services, the seizure of their Lands and Goods, 24. the same year *ex parte Rem' The-saurar'*, on the other side *J. de S.* gave information unto the Chancellor of the *Exchequer*, and Barons, in absence of of the Lord Treasurer: of the Preparation of Men in *Flanders*, (this being remembred before to another purpose :) It appeareth after consultation had, they did resolve to send forth 2 Writs, one was to the Town, the other to *T. H. Custas Maris*, to call all for defence of the Maritime parts; *ex parte Rem' Regis*, 24 *E.* 1. *Rot.* 80. *Henry Hussy* was seized of the Mannor of *W.* in *Bark-shire*, he was assessed to find a Horse *pro Custod' Maris*; he complained in the *Exchequer*, he had not the whole Mannor, and yet was assessed to find a whole Horse; he did not come and say, I ought not to be taxed; he submitted to the power, and desired a mannerly contribution, 25 *E.* 1. *Rot.* 72. The Abbot of *Robertsbridg* Case remembred on both sides divers times; under favour, the joyning of the issue in the Record, is a very full proof in this Case; he brought a *Replevin* against *J. S.* for taking of his Goods, an Inland Town in *Kent*, he pleadeth the Confirmation between our King and the King of France, & *Leyborn* assigned keeper of the Sea, the Plaintiff

was assessed unto 7. l. 7. d. Anno 22. 13. l. 23. 15. Anno 24. and the Defendant being Collector, did distrain. The plaintiff did not say in the Bar of this, he ought not to be taxed; but he was seised *ad inveniend*, &c. for such Lands.

The Defendant, saith the Plaintiff, did hold other Lands in the County, and for that Land he was Seised; now this, doth admit the Power of taxing, *Hill. 16 E. Rot. 23. coram Rege.* The Jury of *Norfolke* did present, that *Jo. Russel* and others, 8 E. 3. were Hobellers elected in the Hundred of T. and staid at home; they plead, not guilty; the Jury find that *Jo. Russel* did perform the Service, but *Jo. S.* did not perform, therefore committed to Prison, and paid a Fine to the King. By this Record it appeareth, the Money paid to the Archers and Hoblers was at the Counties Charge.

Methinks the disclaimer, that is by the Commons, 13 E. 3. *Parl. N. 9. 11.*, is in nature of a Judgment in this case, for there they did disclaim they had no conuſance; and there likewise upon their own confession, that the Maritime Parts ought to defend at their own Charges, as the In-Land Parts the In-land Counties: This Confession, 13 E. 3. is a strong argument, *Parl. 21 E. 3. Rot. 20.* when the Commons did petition *de garde le Mare* answer *soit garde fait*; and that was at the Charge of the Country, as your Lordships know.

20 E. 3. Diverse Ordinances made, which Ordinances made had the force of a Law. The King and his Council did ordain *quod omnes illi*, &c. which have such a quantity of Land, should be seised to find one Archer. *Decem libr. terre Hobeller viginti libr. 2. Hobellar. 25 libr. unum hominem ad Arma.* This appeareth, *Fra. 20 E. 3. par. 1. m. 17.* in the County of *Bedf. and Buck.* In the same year, another Ordinance, that those that did reside with their Families, *cum toto posse*, within six Miles of the Maritime Parts, were excused for finding of Men without.

My Lords, upon the occasion of this Service, there were divers Refusals made. Certificate by *Mittimus* of their Names into the *Exchequer*; as in this Case: *J. T.* and *W. G.* were certified for Defaulters amongst others: upon this, the Court of *Exchequer*, they award Process against those Men, and others, which was a *Cap. in manus*: seizure of their Lands and Goods; they came in, and pleaded, they resided *infra sex leucas*, with their Families, and all their Powers: Issue joyned upon this, Jury impanelled; and it appears, those that were found within six Miles, Judgment *quod sine die*; but for others imprisoned and fined, for so much Land as they had without the six Miles, for that they were charged. If I should number unto your Lordships all the Judgments in this kind, I might speak here till to morrow morning.

P. 22 E. 3. inter Com. in the Exchequer. P. 22. E. 3. m. H. 22 E. 3. P. 25 E. 3. M. 25 E. 3. P. 27 E. 3. P. 28 E. 3. And there is in a great number of other years of 29, 30 *H. 4.* And my Lords, according to those Judgments, *Trin. 21 E. 3. R.* The Writs went forth for discharging of such as have resided upon their Lands within six Miles, 21 E. 1. *Pipe-Roll*, discharged, because they were in the King's Service: So as, My Lords, out of these Records thus much may be collected; 1. They affirm the King's power in the assessing and levying. 2. Then they are grounded upon those Ordinances made by the King and his Council. 3. Process went out of the *Exchequer*, and

not in the King's Name. *M. 22. E. Parl. coram Baron.* Issue joyned, whether *J. S.* had Land to the value of 40 l. to find Hobellers: If he had them, he was to do it.

My Lords I have now done with the Judicial Precedents. I have cited some few among many other. It is now time, after so long Premises, to draw to a Conclusion.

Wherein your Lordships have heard, 1. That the King of England, that he is an absolute Monarch, and that by the Common Law of England all those *Jura Summa Majestatis* are inherent in his Person.

This *Supremum Dominium* for all the Land that any Subject holdeth, it is derived from the Crown; and as *Plowden* putteth it, 12, 13. That there is a Tacite Condition in Law annexed upon his Grant, that his Officers may do Justice, to execute his Process severely upon his Grant.

This Tacite Condition may be subject unto a common Defence; Supreme Jurisdiction both by Sea and Land, was never yet impeached, and from him lieth no Appeal, And originally, by the Institution of the Laws of this Realm, what was once in his hand, was never granted from him; he hath absolute power of concluding War and Peace. All these are in him, as he is an absolute Monarch, and holdeth his Kingdom under none but God himself. It hath appeared, that the principal part of this Kingly Office consists of the Defence of the Realm: That as his Jurisdiction is by Sea and Land, so is his Defence: And this hath been made appear unto your Lordships both by Precedents before the time of *William the First*, and since, *pro communi utilitate*; and in cases of necessity, the Kings of England may ordain by their Proclamation, Writs, Patents, by the Advice of Council and Judges in Legal matters, that the King is the sole Judge of this Danger, both for the prevention of it, and for the avoiding it. Therefore for us to distrust that he will command too great a Power or Aid, it is a presumption against a presumption of Law. It hath appeared likewise, that all the Incidents of Defence are inherent in his Majesty; we cannot build a Fort or Castle on our own ground without Licence. Your Lordships have heard the Precedents particular and general: The Precedents which have universal Reasons, *quod omnes ex debito astricti sunt.* Writs awarded by the King's Royal Power in time of Parliament, when Parliaments were, and in those years when great Aids and Subsidies were granted to the King, many times no cause declared, nor the occasion discovered. There is no Act of Parliament made to take away this Power; and the Judicial Precedents which your Lordships have heard, have affirmed this Royal Power.

My Lords, If there were no Law to compel unto this Duty, yet Nature, and the inviolate Law of Preservation ought to move us: These Vapors which are exhaled from us, will again descend upon us in our Safety, and in the honour of our Nation. And therefore let us obey the Kings Commands by his Writ, and not dispute. He is the first Mover amongst these Orbs of ours, and he is the Circle of this Circumference, and he is the Center of us all, wherein we all as the Lines, should meet; he is the Soul of this Body, whose proper Act is to Command.

But I shall need to use no perswasion to do Justice in this Cause; and therefore shall humbly desire Judgment for the King.

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Baron Weston his Argument.

IN Easter Term last, there was a Writ of *Scire fac* went out of the *Exchequer*, directed to the Sheriff of *Buckingham*, reciting, That whereas divers several Sums of Money specified in a Schedule annexed unto the Writ, by virtue of the Writ 4. Aug. 11. Car. was sessed upon several persons in the Schedule named, towards the provision of a Ship of War, mentioned in the writ; which Sums so Assessed, and being not paid, by VVrit of *Certiorari*, 9 Maii, 12 Car. under the Great Seal of *England*, the Names of those several persons and Sums assessed, are certified into the *Chancery*: and by Writ of *Mittimus*, Dated 5. Maii, 13 Car. sent into the *Exchequer*, and there to be proceeded upon according to the course of Law; the Sheriff of *Buckingham* is commanded to warn the Parties named in the Schedule, to appear, and shew cause why they should not be charged with those several Sums of Money assessed upon them.

Hereupon, Mr. *Hampden* appeareth, and demandeth Oyer of the Writ 4. August. of the *Certiorari* and *Mittimus*, and their several Returns: They being all read unto him, he saith, That these several Writs and the Returns thereof, and the Schedules thereunto annexed, do not contain any sufficient matter to charge him to pay the 20 s. and thereupon Demurred.

Mr. *Attorney General* saith, That they do contain sufficient matter to charge him; and hereupon the *Demurrer* is joyned.

The *Demurrer* being joyned, the Record was read in the *Exchequer*: The Cause appearing to be of great weight, it was Adjourned unto this Place in the *Exchequer-Chamber*, to have the Advice of all the Judges of *England*.

Upon this Record, I am to deliver my Opinion, and I take it that there is sufficient matter to charge Mr. *Hampden* for this 20 s. and so I give Judgment for the King.

Here hath been twelve days spent in the Arguing of this Case at Bar; I will confine my self unto two hours and less, though not tied unto any time. The way to be short, is shortly to find out the Points: But I must first observe in what state this Cause cometh to Judgment before us.

There is a Rule in Law, if a man shall demur, generally unto the Writ, he doth confess all other matters in Fact that are alledged: The Reason of it is apparent; because matters in Fact are to be tried by Jury, and matters of Law, by Judges; so, in this Case, all the danger alledged by the Writ, is confessed, and the matter in Law is that which we that are Judges, are to deliver our Opinion upon.

It hath been Objected by Mr. *Holborne*, That we are tied unto the Writ 4. Augusti; for that VVrit is the Ground of all, and upon that doth all the rest depend. It is true, If he had relied upon this Writ, it had been so: But his *Demurrer* is this; That the VVrit and the rest of the Proceedings with the Schedule, do not contain matter sufficient; so that now they have not put unto us the VVrit 4. Aug. alone, but all the rest, to give Judgment upon.

For the VVrit of *Mittimus*, it is confessed, that in that there is an Expression, That *Salus Regni periclitabatur*, which is not in the former.

To this he hath taken exception, That *Salus Regni periclitatur*, the danger is at the present

time of the *Mittimus*, and doth not say, *periclitabatur* in 4. Aug. 11 Car. And therefore this Expression now in the *Mittimus*, cannot make good the Defect thereof in the VVrit Aug. Car. 13.

To this I answer, That the demurring to all, hath confessed all; and yet the matter in the VVrit is sufficient to express the Danger.

The Second Objection, That *Salus* signifieth *Health*, and not *Safety*; that the Physicians term it so; but *Salus* signifieth *Safety*, as well as *Health*; so it is Englished in *Cooper's Dictionary*, and so it is taken by Poets and Historians, for *Safety*.

The next Objection was to the VVrit 4. Aug. That if there were a Danger, it must be plainly expressed in the VVrit: The words are, *Datum est nobis intelligi*, &c. How cometh the King to understand it? the danger must be expressed.

Sol. For this, I hold it more fit for a Statesman to give an Answer than my self; that the King should discover his Intelligence; whether it be fit to make known to all the world the danger the Kingdom is in. But yet I find, that in the said Writ, 4. August. there is expressed both dangers by Pyrates on the Sea; the Dominion of the Sea like to be lost? That these are dangers to the whole Kingdom; for the *Certiorari*, I find it directed only to the Sheriff. That the VVrit of *Mittimus* is directed to the Court of *Exchequer*, and therefore he could not take notice of these VVrits. VVhatsoever I shall take advantage of, it must be contained in the VVrit 4. Aug.

In this VVrit, three things, as Dangers, are expressed.

1. The danger by Pyrates. 2. The danger in loosing the Dominion of the Narrow Sea. And, 3. The great Peril in this time of VVar.

For the Pyrates; I shall not meddle with them: they are but petty Robbers, still running away. The Ports must defend themselves against those; the Inland County is in no danger of them. I will not insist upon the Dominion of the Narrow Seas; though that is considerable; for in the Defence of that, consists much the preservation of the Kingdom: But I shall insist on the Danger of the Kingdom, expressed in the VVrit 4. August. Thus, *consideratis etiam periculis undique*, &c. there is danger, there is peril round about us, and it is by reason that there are now times of VVar; we see Danger on every side.

There are two things trouble this Point. 1. The Subjects suspect that this is only a Pretence, and that the Kingdom is not in danger.

2. That there being great Sums of Money raised upon this occasion, that this in the end will be drawn to be Annual and perpetual; but if they were satisfied the Kingdom was really in danger, likely they would be content to pay the Money till the danger were over.

Sol. For my part, I Answer to these two Objections; that it is an unworthy Supposition: I must be satisfied, and I am, that the Kingdom was in danger, for two things; one Reason is, because it is so expressed in the Writ 4. Aug. It cannot be denied, but that the Kingdom may be in danger; it hath been Conquered, and so it may be again; therefore it is necessary that it should be foreseen and prevented, and some must do it; and who better than the King, that hath the Care and Charge of the Kingdom? He saith the Kingdom is in danger, and hath so declared it by his Writ; why I should not believe it, when the King hath declared it by his Writ, I know not.

My

Anno 1637. 2. My other Reason of the Danger is, that it is so *de facto*; It cannot be unknown unto any Man, that, for these three or four years last past, great Navies have been at Sea, and great Forces on Land: If we should have but an ordinary Defence at the Sea by Shipping, no man can suppose, but that those Navies being so great, may land where they will, and in as many places as they will; what a spoil would they make before such time as any resistance could be made against them?

Object. They object here, that these Navies which are at Sea, they are engaged in Wars one with another; we are safe enough, we need not fear.

Sol. I answer, I think they are engaged in good earnest: But who knoweth how soon these wars may end? they may end by Mediation of Friends, or by the death of some one Person; and when there is a great Navy at Sea, and forces at Land, how easy is it to remember an old Quarrel, or to pick a new one.

These things perswade me the Kingdom is in danger, and a very just cause to make preparation for defence: And if every man will be so perswaded, they will not deny the payment of the Money, till such time as an ill use be made of it. An Example of this nature hath happened in former times.

In *H. 7* time, it appeareth by a Record on the Kings part, *Pat. 1. H. 7. pars 3. Do.* There were wars between the King of the Romans and the King of France; they were both Friends unto *H. 7.* they ow'd him no ill will; yet by reason of these wars, great Forces at Sea and great Forces at Land; the King durst not trust them, but sent forth His Proclamations, to command that *Watch* and *Ward* be kept over the Sea-Coasts; and Commandment to all His Subjects, that upon a short warning they should be ready for defence of the Kingdom: so this may be well an example for the course that is now taken for Defence of the Kingdom.

I shall now come unto those Reasons, and unto the Records that have been objected on either side; I shall begin with the Kings Side, because that layeth a charge upon the Defendant. It hath been objected, That some of them are not warranted by the Records.

First, say they, here is a Ship commanded to be provided, and Money must be levied; but in the end, when this great sum of Money is collected, it must be disbursed no man knows how; no such thing in the Record.

Sol. To this I answer, The Record saith, A Ship must be provided, and the Sheriff is to rate the County *secundum facultates*, towards the same; not a word of any Money to be paid unto the King. It is a Ship that the Sheriff is to build, and to sell Money towards it. They have said besides, Here is in the Writ a Command for the Imprisonment of the party, and his Liberty is taken away dearer than his Life, and his Goods, wherein he hath an absolute property, shall be taken away; these things, they say, are not warranted by the Writ, nor by any thing in the Record.

I answer, It is not warranted by the Proceedings in this Case; for the *Scire fac'* is not to shew cause why the Parties Goods should not be sold, or be imprisoned, but why he should not be charged with the Money assessed upon him. They say, the general Defence of the Sea lieth upon the King, because he hath wherewith to do it.

Ans. I would willingly disburden my self as much as I can of these Objections. A general

Answer I shall give unto these Particulars.

They say, The King hath personal Services, the Services of Tenants by Knight-Service, Escuage, Castle-Guard, Grand Sergeancy, Petty Sergeancy: Is the King bound by these to the Defence of the Kingdom? He that doth look on their Originals will not say so, for these are Tenures reserved upon the several Grants made by the King, and no other reason is there, that the King by this should be tied to defend the Kingdom; then it is for the Lords that are Subjects, that have the like Tenures, that they should be bound to the Defence of the Sea.

They say, He hath besides these, Wards, Marriages, Reliefs, Fines, Issues, Amerciaments, Pre-miere Seisin, Fines of Alienation, Respits of Homage; all Fruits of the Tenure: And therefore must go towards the Defence of the Kingdom.

Ans. I answer, These Profits are casual; besides, if he be not bound in respect of his Tenures aforesaid, he cannot be bound by the Fruits of them.

Object. It's objected, the King hath the Profits of the Sea, as, Royal Fishes, Whales, Wrecks at Sea, Treasure Trove, Royal Mines, &c.

I answer, These he hath by His Prerogative, and not for Defence of the Kingdom; neither are they fit for a Subject to have. You see He hath particular Services; as Services from the Five Ports and other Places, as *Maulden*, *Colchester* in *Essex*; and besides, He hath all manner of Customs; and in regard of these He is bound to provide for the Defence of the Sea.

Sol. It is true, the King must for an ordinary Defence use the Means the Law hath allowed him, but that is not now the Question; it is for an Extraordinary Defence the Question now ariseth. If it were asked any man, whether they do think in their Conscience, that the King is able of Himself, out of these, to prepare a Royal Navy, without help from the Subject; none so senseless to think it.

There be some other things to which I shall give a general Answer.

It appeareth by many Records, that the King hath paid Wages unto Souldiers, and sometimes hath hired Ships; and unless there hath been a consideration, the King would not have done it.

To this I answer, That it was for Ordinary Defence, and he is bound to do it; and if He engaged Himself to repay unto them their Charges, I can say no more but this, Every honest Man that makes his Promise will perform it, and so is the King bound to perform His Promise: That which Honesty binds others to perform, Honour binds the King to.

I shall come unto those things, to which a more particular answer is to be given.

The Charge lyeth general upon the whole Kingdom, which I shall divide into three Parts.

1. The Ports.
2. The Maritime Counties. And
3. To the In-land Counties. And to these three I will apply the Records.

1. For the Ports they are of two kinds, The Cinque Ports, and the Ports at large: What Services are due by the Cinque Ports, are expressed in *Libro Rubro* in the Exchequer, That they were to find 57 Ships, and 24 Men in every Ship, and that for 15 days, which cometh unto 1188 men.

The Ports at large are tied to no certain Service: It will appear by most of these Records which I shall apply, that the Cinque Ports have been charged with more than their due, and the Ports

Ports at Large equally with the Cinque Ports.
Anno Pat. 15. Jo. m. 6. The King sent His Writ un-
 1637. to the Cinque Ports, and thereby commandeth
Quod omnes Naves parati, &c. & Homines, &c.
 He doth not here tie them to a Number, but all
 must go, if there be 500.

Cl. 17 Jo. m. 7. Here the King sent His Writ
Baronibus suis de Rye, a Member of the Cinque
 Ports, *Quod venire faciatis omnes naves apud Cinque*
Portas. This was general as the other; All the
 Ships, not tied to the number of 77.

Cl. 14 H. 3. m. 13. A Writ went out unto *Port-*
smouth, being a Port at Large, to provide a Gal-
 ley & *eam munire faciat cum hominibus & quod sint*
prompti & parati ad proficiscendum, cum necesse fuerit;
 so here is a particular Charge upon *Portsmouth*,
 not bound unto it to provide a Ship with all man-
 ner of Munition.

Cl. 25 E. 1. m. 5. do. A Writ went unto *Garn-*
sey, a Port at Large, to make a Ship ready as of-
 ten as need should require, *de contributione facien-*
da pro Navibus quocies opus fuerit, Pat. 9 E. 2. pars
 2. m. 26. A Writ goeth forth, and that was direc-
 ted, *Ballivis, & probis hominibus Com' Southamp-*
ton, to make *provisionem navigii sumptibus propriis*,
 no Promise of the King to pay this again.

Cl. 20 E. 2. m. 7. A Writ goeth unto the Sheriff
 of *London*, (and that reciteth a Charge formerly
 laid upon this City and upon *Kent*) for finding of
 12 Ships, *London* to find 9, and *Kent* to find 3;
 and 40 Men to be in every Ship, & *sumptor illor'*

Cl. 20 E. 2. m. 8. A Writ directed to the Bailiffs
 of *Tarmouth*, which is none of the Cinque Ports,
 and this was charged with two Ships at their own
 Charges; and the like Command in the same
 Roll, for all Ships of 50 Tun and upwards to be
 all ready.

Seco. 10 E. 3. m. 12. That Writ reciteth the Ge-
 neral Obligation that they are bound in, to defend
 the Kingdom, almost in the same words mention-
 ed in this Writ: It reciteth, That every man
 should be felled *juxta statum & facultates*; so there
 was a Contribution: Then cometh in the Clause,
Ultero illius pecunia summam debet pro servitiis suis. It
 is true indeed, the King did pay towards this, but
 it is expressed to be of His meer Grace add Fa-
 vour.

10 E. 3. m. 2. do. A Writ unto *Winchelsey*, one
 Member of the Cinque Ports; and this was *Quod*
omnes naves sint parati, both of the Ports, & *alia-*
rum villarum.

And the Reasons are expressed, Because with-
 out their Help, the King was not able to defend
 the Kingdom; and appointeth them by that
 Writ, that the Ships should be ready victualled
 for thirteen weeks, whereas the ordinary time was
 but 15 days.

Vasc. 12 E. 3. m. 8. There a Writ goeth forth,
 directed unto the Sheriff of *Kent*, to the Major
 and Barons of the Cinque Ports, whereby they
 were all commanded to look unto the Custody of
 the Sea Coasts; here is the Maritime Towns and
 Port Towns joyned together.

25 E. 3. m. 22. do. A Writ to *Southampton* ad *Con-*
gregandum naves; in the same Roll, m. 8. more
 Writs to other Towns.

Pat. 12 E. 3. pars 4. m. 3. There was a Com-
 mand, That all that dwell within the Isle of *Tha-*
nes, every one from 18 to 60, should be ready to
 defend the Sea Coasts, and this was *juxta statum*
& facultates.

Ann' 13 E. 3. m. 12. *Tarmouth* charged with four
 Ships, 24 Men in a Ship, whereas usual but 21.
 Now I think they are come to six score men in a

Ship. There are an infinite number of Rolls to
 this purpose to charge the Port Towns.

I come now to my second Division, which is
 Maritime Towns.

Pat. 48 H. 3. m. 4. do. A Writ went to the She-
 riff of *Norfolk*, reciting, that Ships and Souldiers
 had staid there long, and that they were intended
 for departure, because their 40 days were past;
 Command was given unto them, that they should
 stay, *Donec aliud inde mandatum fuerit.*

Cl. 23 E. 1. m. 5. do. There was a Writ directed
 unto the Sheriff of *Southampton, Dorset, and Wilts*;
 These 3 Counties are all Maritime Counties, and
 were commanded, that they should raise 300 men
 to be at *Winchester* to defend the Sea Coasts.

Pat. 24 E. 1. m. 17. A Writ directed unto the
 Sheriff of *Lincoln, York, and Northumberland*, to
 assist certain Commissioners to take up 100 Ships,
 with a competent number of Men; these are to
 Maritime Counties.

The like VVrit goeth to the Sheriff of *Suffex*
 and *Southampton*, and this for the Preparation of
 Ships, and to take them where ever they they are
 to be found.

Pat. 25 E. 1. m. 6. VVrits went to *Southampton,*
Devon, Cornwall, Dorset, and many other places
 that were Maritime Towns, for arresting of Ships
 and raising of Men: But the Rolls I might most
 insist upon are only these, I'll but name them.

Pat. 24 E. 1. m. 16. *ex parte Re' Regis, & Rot* 78.
 Cl. 25 E. 1. m. 26.

Cl. 13 E. 3. pars 1. m. 14. do.

Seco. 10 E. 3. m. 22. By all which it appears, that
 not only the Ports, but the Maritime Counties,
 have contributed towards the Charges of the De-
 fence of the Kingdom. And the other side do
 hardly deny, but that the Maritime Towns may
 be charged.

I will open it plain, that it is for their ease to
 bring in the In-land Counties: This Cause is not
 of so great consequence as it is conceived, for if
 the Port Towns and Maritime Counties may be
 charged, then it bringeth but in the In-land
 Counties.

In *England* and *Wales* there are Fifty two Coun-
 ties, Thirty three of these are Maritime Coun-
 ties, so the In-land Counties are but Nineteen at
 most; and they contribute but to a fourth part
 of the Charge for the Defence of the Kingdom.
 And so much to my second Division of Maritime
 Towns.

To the third Division, which is of In-land
 Counties that they have been charged; I shall
 make that appear, that the greater part of them
 have been charged formerly for this manner of
 Defence.

Object. They object, that the County of *Bucks*
 is an In-land County, that Mr. *Hampden* dwells
 there, and therefore no reason he should contri-
 bute to the Defence; no In-land County ever
 did it, say they.

There may be two Reasons wherefore in for-
 mer time the VVrits (for the most part) went to
 the Ports and Maritime Counties; Because they
 have the Benefit of the Seas by exportation and
 importation of their Goods. And secondly, Be-
 cause they are continually in danger of Pirates
 and Robbers, and far nearer for a suddain De-
 fence than the In-land Counties are. But this
 cannot be held for a sufficient Reason, that they
 only that are near the Danger should be put to
 defend the whole Kingdom. I am sure the In-
 land Counties receive a great Gain and Profit by
 the Commodities from the Port Towns, and they
 are

Anno
1637. are the more in safety the stronger the Sea Coasts are kept: And therefore no reason, but that they should give towards the Charge of the Defence of the Sea. For all the Writs, save one Commission, have gone to be for the general Defence of the Kingdom. Then no reason but Inland Counties should be charged. If they say they did never do it, it is a strange prescription, that because they never did it, therefore they will never do it. A man cannot excuse himself, that because he never paid Tithe to such a Vicar or such a Parson, that therefore he will never pay it.

I shall go to the Records that do charge the Inland Counties. *Cl. 48 H. 3. m. 2.* directed unto the Major and Bayliffs of Bedford, an Inland County; it doth recite, that divers of this Town were called to go with the King towards the Sea Coasts, *contra hostilem invasionem & nunc necesse est, & causa forent ut levaretur fac & expensas*, &c. and appoints at what rate they should levy it; The Horsemen were allowed 8 d. a day, and the Footmen 4 d. a day.

Cl. 48 H. 3. m. 7. A Writ directed unto the Sheriff of Huntingdon; the Men of that County were commanded to go to London, and from thence unto the Sea, for the Defence of the Kingdom.

Scac' ex parte Rem Regis, 24 E. 1. Rot. 78. Dor. A Writ is directed unto the Sheriff of Bark-shire, and this is to distrain men to make good the Custody of the Sea Coasts. *Fr. 26 E. 1. m. 9.* Like Writs were directed to Essex, Hartford, Nottingham, Darby, Huntingdon, Cambridge, &c. and almost to all the Inland Counties, *pro custodia maritima*, all to come to London, and to go from thence to the Sea Coasts for defence thereof.

Cl. 13 E. 3. pars 1. m. 14. do. A Writ goeth out to Oxon, *ad distringendum*, for Wages, *pro custodia Maritima*; one man was distreined, he pleaded he had been charged in Wilt-shire, and ought not to be charged in another County again; and for this distress there went a *Superfedeas*.

Rot. viagii 1. H. 4. mem. 10. A Writ was directed to the Sheriffs of Nottingham and Darby, two Inland Counties; and this was to proclaim, *quod omnes homines inter 16 & 60 parati sint*, &c. to go with the King within the Kingdom to what parts he pleased.

Cl. 1 R. 2. m. 18. Writs were directed to the Major and Bayliffs of Huntingdon and Cambridge: this Roll is cited by the Council of the Defendant, and in part it maketh for the Defendant, and in part against him; the Effect of it is this: The Writ directed to the Bayliffs of Hunt; and this recites, a former Writ to provide Barges, called *Ballanger*, with forty and fifty Oars apeece, like unto a Galley, at the charge of the most Rich men; and this was *ad custodi' Maris*; and the like Writ went unto the Town of Nottingham, Gloucester, and Warwick, and divers other places: These Vessels were not devised then, I find them used in *E. 3d's* time.

In the Parliament Roll 2 *E. 4. N. 22.* The Commons did complain, that a Commission is gone forth for the making of these Barges; true, upon a Petition of the Commons, the King, faith he, will advise with his Lords; there is no more done, but upon this they cease. I have now done with the Precedents on the Kings Side; I shall now come to that which hath been said on the Defendants part for their discharge: And first for the Acts and Petitions in Parliament, which are weighty and considerable.

1. For the Statute *de Tallagio non concedendo*,

which was in the Time of *E. 1.* It hath been doubted whether this is a Statute or no: I see no colour of doubt, but that this is a Statute; it is printed among the Statutes, and ever accounted for a Statute; and in the Petition of Right, it is recited. And to say it is no Statute, because the Parl. Roll is wanting, if it should be disallowed, it would draw a great inconvenience with it, for private men might imbezle the Records, and then if the Records were wanting, the Acts of Parliament should be void.

It is an Act of Parliament no question; but the question is, whether the Provision required by this Writ be within the meaning of this Statute; I conceive it is not: For there are two words in this Statute observable, *Talliage* and *Aid*; by no *Aid* here will you take away the *Aid par file marrier*, *par faire fitz Chevalier*; by no *Talliage* will you have it so, that the King shall demand no sum of Money, then if you will give it this large construction, it will take away all Fines and Amerciaments which are due unto the King, all Lawful Impositions; and surely this was never the intent and meaning of this Statute; but it was only to take away all *Taxes* and *Talliages* that were unlawful, if they were lawful, this Statute medleth not with them. Now that no *Talliage* is to be taken, it appears in the Parliament Roll, 13 *H. 4. N. 42.* where an Office was granted by the King with a Fee for the measuring of Linnen Cloth, that the Subjects should pay unto Him a certain sum of Money for every piece measured; whereupon at the Parliament the Commons Petition, That this was an unjust Imposition, and they did desire that they might not be charged with this kind of *Talliage*; which, as was apparent, was unjust, and so they had present relief against it.

Next Act of Parliament, 14 *E. 3.* the second Parliament of that year, (three Parliaments being held that year) the Commons they grant unto the King a certain sum of Money for the great Business he had on this side the Sea, as well as beyond. But after a cessation of the Troubles, then the King is to be at the charge for future Defence: Thereupon the King granteth this shall not be had in *exemplum*, and that they shall not afterwards be taxed without Parliament. And this is the strongest thing that I have heard objected: It requireth a good answer, the words are plain; no Charge, no Question; but this is a Charge, I looked into the Petition of Right, and it is not there mentioned, nor among those Acts of Parliament that are in the Margent; but the reason why it is omitted, I know not.

I observe by this Act of Parliament a subsequent Clause, that will go far to the answering of this Objection; for in Acts of Parliament, nor in the Petition of Right, there is no mention made of the Defence of the Kingdom: If the King had been bound to defend the Kingdom, could the Parliament have accepted this as a kindness at his hands? 14 *E. 3.* This Act was made, yet the *Aid* continued, none of these *VVrits* found till 24 *Rot. Franc' 24 E. 3. m. 9. N. 26.* There went out Commissions to array men for the County of Suffolk, Somerset, Dorset, &c. for the Defence of the Maritime Towns: This is now within eleven years after the making of the Statute.

Franc. 26. E. 3. m. 5. The like unto the Earl of Huntingdon, *Considerantes quod omnes Incole tenentur de Jure ad defendendum in periculo*, and that they shall array the men of this County, and bring them *ad custodiend. Mare*; and by this it is recommended for the erecting of Beacons which is

is the first Direction of that nature; so here is a new Charge, and this within eleven years after the making of the Statute. The same year like Writs to the Sheriff of Nottingham, Darby, Salop, Barkshire, Middlesex, Buckingham, Northampton, &c. So all these Writs go almost into every County of the Kingdom; and divers other Writs of the like nature, as *Fra. 28 E. 3. m. 34.* but, as I said, in no Act of Parliament extant, nor in any Writ that ever went forth that I can find; there is not any thing appears to charge the King for the Defence of the Kingdom, and in all of them no distinction made between your Port Towns, Maritime Counties, and In-land Counties; but that all in general are chargeable. And for the rest of the Acts of Parliament, they are all mentioned in the Petitions of Right, and therefore I pass them over. There is in the Acts provision against Loans and Grievances, but this Clause for the Defence of the Kingdom, I find it mentioned in no Act of Parliament, but this of 14 E. 3. before mentioned.

I will now come to the Petitions in Parliament.

Parliament Roll 13 E. 3. N. 9. 11. It was there declared unto the Commons, that the French had environed the Island of Guernsey; and all this was for default of a Navy upon the Sea, and therefore it was needful to consider how this might be regained: It was answered by the Commons, That concerning the Right and Guard of the Sea, they desired to give no Advice, saying, They have no cognizance of things concerning the Sea, but if there be occasion, the Cinque Ports are to be charged: Said further, That in the Marches of Scotland, they were to defend the Kingdom against the Scots; but that this kind of Defence should lie upon them, was never heard of.

I will give you an Answer unto your Acts of Parliament and Petitions in Parliament by putting of a Case, I will admit that you have an Act of Parliament, as strong as you can make it, that the whole Charge for the Defence of the Kingdom should lie upon the King and not upon the Subject, in case of any sudden Invasion. Admit there were a greater Power at Sea than the King is able to make defence against, then, I pray, whether should this Act give way to the present necessity, or the Kingdom should be lost? Is it not better to endure a mischief than an inconvenience? Then if you say, the Acts of Parliament should give way to necessity, then you have answered all that you have objected. This is not the only cause of necessity, I shall put you another Cause, when Acts of Parliament must give way to necessity; That if a man be attainted of Treason, he is thereby disinabled to inherit by Act of Parliament; but if the Kingdom should descend to such a man, then the Acts of Parliament should give way to it, and there needs no Act to avoid it; and shall not the Acts of Parliament give way unto necessity for the defence of the Kingdom? What though there have been Petitions in Parliament, to have it decreed that this kind of Charge should not be laid upon the Subject: Admit it had been so decreed in Parliament, yet by the Law of Equity they ought to be changed, and in all reason they are to be charged towards the Defence, and that for three respects.

First, for the Reason given in the Writ, *Quod omnes tangit per omnes debet supportari*, which is but Equity.

2. Next Reason, That the King is trusted with the Defence of the Kingdom, and therefore fit he

should have means to do therewith. But you say, He may call a Parliament, and they will give him Means. 'Tis true, this thing in question, if done by Parliament, had been done by the happiest means. But because he might have it by Parliament, must he therefore have it no other ways? The question now is, whether it may be done without a Parliament or no? what is done, is done by the Great Seal, which is the next Authority unto a Parliament. VVhat if an Enemy had come before the Parliament had met, or before they had granted any Aid, should the safety of the Kingdom depend upon such contingencies, God forbid; will you have Forces on both sides, and restrain the King to this power by Parliament, which may be so dilatory, that the Kingdom may be lost in the mean.

3. Many inconveniencies might happen both to the King and Subject, if this should be suffered, if the King should be restrained of His Royal Power; it would turn to his contempt both at home and abroad; and all this while the matter is not so great, it is but parting with a little Money *secundum Statum & Facultates*, and not all that a man hath, for the King desires not that. It is true as Mr. Holborne hath said, That in former times they have been careful not to leave too much power unto the King; but you would leave Him so little, as would have him in contempt both at home and abroad. The worst that comes to the Subject, is but to yield their help to the King at such times of danger, with a small part of their Estate, and then it would make Foreign Nations that know of it, afraid of us, which now by this occasion have encouragement to attempt that which otherwise they would not.

It hath been objected, That if the King may raise Moneys in this manner without a Parliament, many inconveniencies may follow, it would be a means to keep back a Parliament.

To this Objection I answer, It is no means to keep back a Parliament, for there are many other means of calling a Parliament besides for the Defence of the Kingdom; as for making of Good Laws, redressing of Grievances. The King may be engaged in a Foreign War, and then the Subjects must help Him; but to call a Parliament always, is not necessary: For when the Kingdom was in the greatest danger that ever it was in, as in 88, and in the Rebellion in the North, yet then no Parliament was called in either of these Dangers.

2. Next Objection: If this course be admitted, the King may pretend a Danger when there is none, or a great Danger, when a small, and so may raise a great Sum of Money, and the Subjects shall have but little profit.

I shall give three answers to this Objection: 1. If this power be in the King, and that power be just and equal, then it is not to be taken from Him, because He may imploy it otherwise; if he misuse His power, the fault is His own.

2. Next Answer, That this Objection cannot be made, unless you suppose injustice in the King; make what Laws you will, if the King be unruly, He will break through them.

3. The third Answer: If it so fall out, that the VVrit going out upon this pretence, and that great Sums of Money are levied, and the Money is imployed to another use, it were a great inconvenience; but in this case there is no such fear, for the VVrit is expressly to make a Ship: And if they would have taken any advantage upon that, the Council ought to have pleaded it, and the Judgment

~ Judgment ought to appear there upon Record :
Anno There appears no Money in this Case to be coming
 1637. unto the King's hands : But it is said in the Writ, *Volumus autem*, &c. We will that no part of the Money be converted to any other use than to the Provision of a Ship.

Object. 3. By the same Reason the King commandeth his Subjects to provide one Ship this Year ; by the same reason he may command two Ships next Year.

To this I Answer, If the Danger be greater, the Defence is to be greater, then the Supply must be greater ; but no man can suppose that that the King will impose that on his Subjects, when there is no need.

I shall now come to the two last Exceptions :
 1. That the Power cannot be given to the Sheriff by the Writ *Aug. 4.* to Tax every man *secundum statum & facultates* ; that this is too great a Power to be committed to the Sheriff.

To that I Answer, That I conceive the Sheriff to be the most indifferent man for that purpose ; for if there were Commissioners or many men appointed for doing thereof, they might perchance be partial to their Friends ; and the Sheriff having all the Free-holders Names, and the Bayliffs for his Ministers, that know the Estates of most men ; therefore without all doubt he is the fittest person.

For the Exception to the *Scir. fac.* it hath been objected, that the King cannot by that course levy Moneys ; because the King having no Interest in the Money, he cannot levy it by *Scir. fac.* neither doth it appear in the Writ to whom this Money is to be paid.

Sol. I confess, this Point, though not spoken unto by the Defendant, is of most difficulty. Though no person certain be named, to whom this Money is to be paid ; and the Sheriff is only to levie it according to the Writ ; and the King providing a Ship, I suppose the *Scire fac.* may issue for it ; for if a common person claim any thing, or be wronged or debarred from his Right, he hath by the Law a Writ for his Remedy ; and shall not the King have the like Remedy for this Ship, being for the general Defence of the Kingdom, with which he is intrusted, to prevent a Wrong to be done to the Commonwealth ?

But in this Case the *Scire fac.* is not for Mr. Hampden to shew cause why he did not pay the Money to the Sheriff ; but why he doth not pay the Money Assessed towards the making of this Ship ; which for ought I know, when it hath done the Service, is the Subjects again, at whose Charge it was provided ; for they might have either hired a Ship, or bought a Ship. In *F. N. B.* it is held, the King may (for the good of his People) send forth Writs for removing of Common Nuisances, and for repairing of Bridges, and the like ; and why may not the King send forth Writs for so necessary a Service, as to defend the Kingdom ?

Cl. 1 R. 2. m. 7. A Writ went out to the Mayor and Bayliffs of Oxford, to repair the Walls and Ditches about the Town ; and why not as well to repair the wooden walls of the whole Kingdom, as the walls and Ditches of a Town ? The King hath Charge and Power over all, to see all done.

But it hath been said, that when this Money is gathered, we know not what is become of it.

I Answer them with the *Common Roll* in *Scac.* 24 & 25 of *E. 3.* Where a Commission went forth to levy Money for Maritime Defence ; but

what was done thereupon, is not expressed : But at that time there was a Cause adjudged in the *Exchequer*, a *Norfolk* Cause ; where divers being commanded to go to the Wars against the *Scots*, and had thereupon Armor and wages allowed them, afterwards comes a Counter-Command to some of them not to go ; and two men that had wages, went not ; whereupon a Writ went out, and they ordered to repay the Money ; and the Jury found the one guilty ; but the other going to the Wars afterwards by a second Direction, was quit, and the first gave Security for Repayment of his wages, being 30 *s.* and also for the Armor.

It hath lastly been Objected, That this Taxation ought to be *secundum Legem & Consuetudinem Angliæ*, and this ought not to be by Writ, but by Parliament.

To this I Answer, That from King John's time, till *H. 4.* his time, there hath been an Usage and Custom to send forth Writs of this nature ; and since that time till now, not the like Command.

About *H. the 4th.* his Time, began your *Tunnage and Poundage* ; so long as he had that, the Defence was made at his own Charges.

There is no Act for taking this Charge by Writ away ; it is become a general Custom : and the general Custom makes the Law of *England* ; and we are to examine and try new Causes by the Reason of the old Law, and now compare what hath been done in former times.

I shall make an end : For my own part, I am perswaded in my Conscience, that there is imminent danger : I am satisfied in it, both by the King's Writ, and that which is apparent ; and there is a necessity, that this danger should be prevented. I do conceive this Writ to be grounded upon this danger of Necessity, and that the danger appears sufficiently in the Writ ; therefore I conceive that the Proceedings are Legal, and that there is good and sufficient Cause to charge Mr. Hampden, and that he ought to pay the Twenty Shillings Assessed upon him.

FINIS.

Judge Crawley his Argument.

THE Record hath been opened ; therefore I shall spare that Labour.

I conceive the Case in question to be this ; Whether the King, by his Right of Sovereignty, may Charge the Subject in Case of Necessity, to contribute with him to the necessary Defence of the Kingdom, without the Subjects Consent in Parliament ?

Mr. *St. John*, who I take to be the Mouth of the Defendants Council, confesseth, that this Question is not so much *de Re*, if a Necessity ; but *de Modo*, if done without a Parliament.

This is one of the greatest Cases that ever came in Judgment before the Judges of the Law. The Kings Right and Sovereignty in a high point, is concerned ; the Honour and Safety of the Kingdom is concerned on the one side, and the Liberty of the Subject in this particular, and the Property of his Goods on the other side.

This is the first Cause of this kind that ever came to Judgment, that I know of. Kings have not suffered their Right of Sovereignty to be debated

1637. debated at the Bar, as now it is; for these are *Ar-
cana Regni*, not fit for publick Debate: The Use
of the Law was to have Cases debated; as saith
one, No man knows what Metal the Bell is of
till he hears it Ring. This Bell hath been rung
roundly, very laboriously on both sides.

The Subjects have objected, That they may
bring Actions against Officers of the King, for
the Assessements by virtue of this writ: But
for that I find no Precedent, save only one;
which is in 25 E. 1. The Abbot of *Roberts-Bridges*
Case: And he was taxed double for this Matter
of Defence for Sea and Land, in two several
places; and therefore he brought his Action to
be discharged in one place. But in Cases of this
Nature, they Petitioned in Parliament to the
King for Redress; as appears by many Prece-
dents.

In *Bracton*, who writ after H. 3. his Time,
and who inclined unto those times, when the Li-
berty of the Subject was strongly maintained; he
saith, fol. 5. *Totum Regnum petiatur quod*, &c.
They used to Petition the King. But now you
have Actions brought against the King's Officers
in the King's Bench, Common Pleas, and here in
this Court: And it pleaseth the King to bring
this *Scire fac.* to the end the Right of this Cause
may be tried by the Judges of the Law.

In the Eleventh Report, and in my Lord Cook's
Commentaries upon Littleton, fol. 110. saith, That
the Laws and Customs of the Parliament are ob-
scure.

*Lex est Consuetudo Parliamenti, querenda est ab
omnibus, ignota à multis, & cognita à paucis.* As
Tully said of one that would define *Anima*; said,
it was *Musica Harmonia*, who was a Musitian:
Homo non multum recessit ab Arte sua. I, for my
own part, will keep my self to mine own Art of
the Books of the Law and Statutes; and if I use
the Help of others, I hope you will pardon me
for that. I will briefly expound my Order and
Method throughout the Case.

First, I will remove some few impertinent Dis-
courses, which are not in the Record, as being
out of the Ring of this Bell.

Secondly, I shall propound, That the sole Care
of the Defence at Sea and Land (*Jure Regis*) ap-
pertains to the King, and none other, and that
he is the sole Judge of this.

Thirdly, That the sole Charge of the Defence
in ordinary Cases, regularly and legally apper-
taineth to the King.

Fourthly, That the Extraordinary Charges of
the Defence ought to be supplied by Parliament;
and upon this Rule, *Quod omnes tangit, ab omnibus
debet supportari.*

Fifthly, If the Defence be of Necessity, and
the Danger great, and so great as the King's Re-
venue is not sufficient to supply the Occasion, then
the Rule comes to be in use, *Qui sentit Commo-
dum, sentire debet & Onus.* And if it be gene-
ral, *Quod omnes tangit, ab omnibus debet suppor-
tari.*

Sixthly, In the Defence where all ought to
joyn, the Sea and Land ought to assist and con-
tribute one to another.

Seventhly, I say there are some particular
Cases, in which this Charge of the Defence
cannot be imposed by Parliament.

Eighthly, That the King solely is intrusted
by the Law to impose this Charge on the Sub-
jects.

Ninthly, These being my Generals, I shall
come to my *Minor*, and conclude, That this

Charge is justly imposed without Parliament.

As to the first Impertinency; you speak of *Car. 13.*
Tonnage and Poundage: Is there any such Grant
on Record? Shall we take notice of a thing that
is not in *Rerum natura*? I say, I wish it had been
granted; for *qui aufert Medium, destruit Finem*;
He that taketh away ordinary means of Preserva-
tion, is the Author of Ruine and Destruction:
You see it is taken, you cannot tell by what right.
If this were material, you wrong your Clients;
you pleaded it not: and if not material, you
wronged us, and your Auditors, and your selves
to talk of it.

You say, This Ship-Money hath been Charged
for these three years together: Is this Discourse
within the Record? If not, you speak without
book.

You say the King hath imposed great Sums of
Money upon Merchandizes: But what is this to
this?

Then you talk of a Property the Subject loseth
hereby; but this rather to abuse the People with-
out either colour or shadow; it was *ad facien-
dum*, or rather *inficiendum populum*: if you at the
Bar had not spoke it, *Argumenti gratia*, it could
not have proceeded, but out of the depth of
Malice or Ignorance, or both: If one be found
guilty of Murder, and the Judge knoweth the
contrary, what shall be done? he ought to ac-
quaint the King therewith; for it is the King's
Right of Sovereignty to pardon; but the Judge
hath no such power: I say the sole care apper-
taineth to the King only, and he is the sole Judge
both of the Defence at Sea and Land, *Fitz. N.B.*
fol. 113. *Le Roy de droit fit sauer et defender son*
Realm, cie bien vers la Mare, comé vers les Enemics,
Register, fol. 127. *Rex, &c. pro eo quod nos dig-
nitatis nostre Reg. ad providend. salvationem Regni*
nostri circumquaque sumus astricti, *Fortescue. c. 37.*
Omnes Potestat. Regia deferre, &c. in defensione &
tuitione Regni; I think no man will oppose
this.

But we will come unto the Third; the sole
Charge of the Defence regularly and legally ap-
pertains to the King, *Bract. fol. 1. In Rege qui*
recte regit, necessaria sunt hic duo, Arma & Le-
ges, &c. with which Words accords *Justinian* in
his *Proemium* to his Institutes, from whence that
is taken.

In *Plowden* 315. in the Case of Mines, one
Reason why he saith Royal Mines belong unto
the King, is,

Because he is the Head, and the People his
Members; and he is to preserve the Subject two
ways; by Arms to defend them against all Hosti-
lity; and by Law to preserve them from Ene-
mies, 3 Rep. 11. The Bodies, Lands and Goods
of the Kings Debtors were liable to Execution;
Quia thesaurus Regis est pacis vinculum, & Bellorum
Nervi, 11 Rep. The King's Treasure is the Li-
gament of Peace, the Preserver of the Honour
and safety of the Realm, and the Sinews of
Wars, and is of high estimation in Law, in re-
spect of the necessity thereof: That the imbez-
ling of Treasure-Trove, though not in the King's
Chest, is Treason; and Treasure, and other va-
luable things are so incident to the Crown, that
they cannot go from the Crown; He hath on the
Land Wardships, Escheats, Amerciaments, &c.
for the maintenance of his Honour and Digni-
ties Royal: For the Sea, he hath Sturgeons,
Whales, &c. these do little towards an Army
to defend the Sea. The Reason wherefore the
King hath the Customs, is for the protection of
Mer-

Anno
1637.

Merchants upon the Sea against Pyrates and Enemies of the Realm: so I shall conclude this Point, that the ordinary defence both for Care and Charge of Sea and Land appertaineth unto the King.

Next is this, which is my Fourth: That extraordinary Charge of Defence regularly ought to be supplied by Parliament, and cannot be done without. Albeit Subsidies be of Gift and Grant, yet this is of Right and Reason, The King is *Pater Patriæ*; if the Son give unto the Father, when he wants, it is his Duty; 19 H. 6. In the Rector of Cheddington's Case; whether the King may grant a Discharge of 15th.; if the King may grant a Discharge to one, he may do so to all, fol. 63. It is against Law the King should not have Subsidies of his People in Case of Necessity and Danger: The same Law that willeth the King should defend the People, the same Law tells us we should grant unto the King Aids for the Defence. This is to be done in Parliament regularly; and that this extraordinary Charge cannot be imposed but in Parliament, these are their Objections.

I come now to the Statute *de Tallagio non concedendo*; which without question is a Statute, being in our Printed Books; and in the *Petition of Right*, 3 Car. it is recited as a Statute, and established. The Words of that are, *Nullum Tallagium sine assensu Parliamenti*. And 14 E. 3. c. 1. There the King expresses himself; He will not impose any Charge or Aid on the Subject, but in Parliament. *Fortescue* reciteth this to be the Law, No Charge without Parliament. And *Bodin*, Lib. 1. fol. 97. saith, That the Statutes of England are as a Buckler to defend the Subjects against the King, for laying any Charge upon them, but by Parliament: and in his 6th. Book magnifieth this Kingdom for the due observing of this Law. Other Kings have in this Point no more than the King of England; for that it is not in the power of any Prince in the World, at his Pleasure to raise Taxes on the People, no more than to take another mans Goods from him. And yet nevertheless, if the Necessity and Danger of the Commonwealth be such, as it cannot stay for the Calling of a Parliament, the King in his Wisdom and foresight, may lay a Charge without their Consent; and this is by the Law, *Jure Gentium*. The Rule of Law and Reason holdeth, *quod omnes tangit*, &c.

And so I come unto my Fifth Head: If the Defence be of necessity, and the King's Treasure doth not suffice to defray the Charge, then instead of the Rule, *Quod omnes tangit, ab omnibus debet supportari*: This Rule succeeds; *Qui sentit Commodum, sentire debet & Onus*. If the Treasure of the King will not defray the Charge, I do not conceive he is bound to sell or pawn his Crown, or his Lands: Some Princes have been so courteous to do it, and paid it again. You say at Bar, he must spend all and more if he had it: I will put this Case (in the 10th. Rep.) One is bound at the Common Law by Prescription, to repair a Wall against the Sea; yet in Case of Necessity, in avoydance of publick Mischiefe, the Prescription ceaseth; yet in this Case, Reparation must be done, then cometh this Rule, *Quando Impotentia excusat, tunc qui sentit Commodum, sentire debet & onus*: And if he be not able to do it, the Charge being so extraordinary, shall he not have Contribution? The Law compelleth not Impossibilities: So the King is bound to defend the Kingdom by Land and Sea; but if the De-

fence be so great, as the Danger tends to the subversion of the Kingdom, and the King not able to make Defence, the King and his Subjects ought to contribute to this Charge in due proportion: *Ubi est eadem Ratio, ibi est eadem Lex*. If the Law make this provision for a small Level of Ground, a fortiori for the Commonwealth in time of Necessity and Danger.

Sixthly, In this joint Charge of Defence, the Land ought to assist the Sea: Nay, it is not possible any Island should be defended without the wooden Walls of the Navy at Sea. *Cannus* the Dane entred *Thames* Mouth with an Army, and afterwards went and Landed in *Dorsetshire*; and again Shipped his Men, and entred in *Severn*; then entred in *Worcestershire*; then he saileth back again to other parts of the Kingdom; so he that is Master of the Sea, may make great spoil of the Land at pleasure. The *Netherlands* having a great Navy, the *Spaniards* fortified strongly, as soon as the Wind serveth, set Sail, and were 80 Miles off before the *Spaniards* could March with their Forces to make Resistance: They presently got a strong Place, and afterwards sailed suddenly to another Place, and took that also. These are now Examples for Islands to have the Mastery of the Sea.

Our Grand Army at *Tilbury* in 88, what good had they done, if the *Spaniards* had been Masters of the Sea?

It is not possible for an Inland County to be safe without a Navy at Sea; as appeareth in *Sir Walter Rawleigh's History of the World*; and if the Sea must defend the Land, why should not the Land be contributory for defence of Sea and Land? There are several Precedents, where Writs have gone to Inland Towns, to charge them to go unto the Custody of the Sea. Cl. 48 H. 3. 24 E. 1. 26 E. 3, &c. Writs have gone into *Berkshire*, *Oxford*, &c. Inland Counties, to command them to contribute towards the Defence of the Sea.

To the Seventh; That in Case of instant danger, the Imposition cannot be by Parliament: I will here in consider the Nature of the Danger, as Mr. *Solicitor* readily pursued it. If it concern the Essence, Subversion, Destruction and Ruine of the Kingdom, *Quando Hannibal ad Portas*; for the Senators then to sit down in their Robes, is rather a Charge, than ought else. It is no time then to call a Parliament; no well advised man will think it fit.

Here are *Pericula visa*; the Danger is certain, none will say it is fit to call a Parliament.

This Kingdom of England hath been 4 times conquered, and therefore we have reason to foresee the danger: first conquered by the *Romans*; then by the *Saxons*, then by the *Danes*, and lastly by the *Normans*.

The *Moralists* did make three parts of providence. 1. *Memoria Præteritorum*. 2. *perspicientia presentium*. 3. *providentia futurorum*. It much concerns the King, the head of the Commonwealth to be Circumspect in the Prevention of publick danger: Conjectures and Probabilities are to be regarded; Now, put the case, upon a probable and a violent presumption, a potent Enemy is prepared, and ready to come; Is it not fit that there should be a defence prepared instantly? Besides, there may be Just Reasons of State, why an Enemy is not fit to be revealed in Parliament; for if great preparations be, and very probable against us, then to discover them an Enemy, is to give them occasion to become a Challenger; no man can know the Certain event of things future: one

one may be a freind in shew, to the Kingdom, or a Neutral, not yet openly discovered; yet we may be mistaken in our opinion of them.

I leave this to your Consideration, whether it be fit or no to discover our thoughts in Parliament of an Enemy.

The Eight, that in these cases of necessity and danger, the King *Jure Gentium*, may charge the Subject without his Consent in Parliament, by his Regal Prerogative; for in the King there are two Prerogatives; *Regale & Legale Prerogativum*; which concern his Person, Lands and Goods.

Now for the Prerogatives Royal of a Monarchy, they may be resembled unto a Sphear; the *Primus motor* is the King; It is observed that every Planet but one, hath a little *Orb* by it self, that moveth in its Petty compass; so the Centre is the Common-wealth, the King is the first mover.

I will repeat some of these Prerogatives; for they are by all Laws and by our Laws.

1. The first Regal Prerogative is this that containeth all the rest; that the King may give Laws unto his Subjects; and this doth not detract from him when he doth it in Parliament.

2. To make Peace and War 19 E. 4. 6.

3. To Create Supreme Magistrates.

4. That the last Appeal be to the King.

5. To pardon offences.

6. To Coin money.

7. To have Allegiance, Fealty, and Homage.

8. To impose taxes without Common consent; These I say are the Principal; I have many more of them, and allowed, and in case of necessity the King may impose without Consent in Parliament.

Comines fo. 179 saith, That if the Cloud be seen but afar off, the King without the consent of the Subjects cannot tax them; but if the Cloud be over head, the King may call certain wise persons unto him, and tax his Subjects.

You say, If the King move a War offensive, it is time enough to call a Parliament: If Defensive, this cloud is seen long before, But (Oh good Sir) is this always true? is not the cloud sometimes even over the head, before descried: Read him, and he will tell you, in time of peace we ought to fortifie; But in these cases where the danger is eminent, saith *Bodine Lib. 1. C. 47.* the King ought not to expect a Parliament; but is to raise Monies suddenly: and such impositions laid upon the Subjects are Just and necessary. This is the opinion of those Writers, who wrote not according to the Law of any one Kingdom; but according to the Law of Reason: I could vouch these two Authors concerning the right of Sovereignty, which they give to Kings, to impose charges on the Subjects without Consent of Parliament, in time of necessity.

Obj. But what if the King will levy mony upon pretence of defence, in time of danger, and dispose it otherways, and the danger not so apparent.

Sol. I say, so Pious and Just a King will never pretend a danger, if it were not *revera*; And if any man will think the King will charge himself and his Subjects to no purpose, far be it from my thoughts to think so.

This money thus taxed, is employed accordingly, for the defence of the Kingdom; together with the Kings own money which he would not do upon pretences.

Again, the King is *Pater Patrie*, therefore by the Law of nature he is intrusted with the De-

fence of the Kingdom. And this power to tax his people is but a Consequence of that.

To say, in time of extraordinary danger and necessity *boni viri sunt sibi leges*, I say for every man to be his own Judge, is for every man to do what he listeth, Mr. *Holborn* tells you, if it rest in a Kings power thus to tax the Subjects, whereas Mr. *Hampden* is now taxed at 20 s he may be the next year at 20 l; for, saith he, if he may when he will, then he may what he will: Its an ill consequence you make; you magnifie Parliaments: great reason we have for it, let us do so too of Kings, let none think dishonourably of Kings, no question they will regard the Laws of God, and to make such objections is not so well handled.

Now we come to Precedents and Acts of Parliament for Precedents, my Brother *Weston* hath taken pains to repeat them. Two Precedents the Defendants Council have much relyed on.

Rot. Parl. 2 R. 2. pars 1. I have here the record, and in truth it were a great ease to the Judges, and to the cause, to Avouch them truly. This of R. 2. was in the Kings Minority, and no order being taken for provision for the defence of the Kingdom against the next Summer, and nothing was found in the Kings Treasury; and for conclusion, they say, they cannot this mischeif remedy without a Parliament, whereupon a Parliament was called, and the King in the mean time having monies lent him, he gave security to repay it. Consider this, the King at this time was but an Infant: It was a very troublesome time, many of those that were Parliament-men made default to attend, excusing themselves, they had other businests. This then that was done, was but a meer Resolution in troublesome times; this is no such binding businest, that it should be so much made of.

Parl. 2 H. 4. N. 22. A Commission went forth for the providing of Barges, and the Commons Petitioned to avoid this charge, that the Commission may be repealed: Admit the King upon this, Call in the Commission; shall this be a disclaimer of the Kings Right? he saith he will speak with his Lords, this is only a satisfactory answer: besides the King was but an usurper. Now to say that this answer of the Kings is a Resolution in the case, is a great mistake.

He that will go through this Load of Precedents that have been vouched on both sides, he had need have more time, then Mr. *Holborn*, who spent 4 days. You have alledged Precedents both before the Conquest and since, that of the *Danegelt*, though a heavy yoke, yet it was necessary to be born, whether it was granted by Parliament or no, *Non Constat*, I say it is a good Precedent and I hold it good without Parliament; some distressed Kings, as King *John: Hen. 2. and R. 2.* they did indeed do that by borrowing, which they might take by right.

Now to give answer to the Statutes of 25 E. 1. 14 E. 3. and the Petition of right 3 Car. Admit, I say, there were an expresse Act that the King (were the Realm in never so much danger) should not have aid from his Subjects but in Parliament, it were a void Law; will any man say such an Act shall bind: This power is as unseparable from the Crown, as the pronouncing of War and Peace is; such an Act is manifestly unreasonable, and not to be suffered, saith *Doctor* and *Student*; to follow the words of the Law, were in some Cases against Justice, and the good of the Common-wealth; wherefore in some cases it is necessary to leave the words of the Law, and to follow that which

Reason and Justice require; and to that intent
Anno Equity is ordained which is no other but an excep-
 1637. tion of the Law of God, or the Law of reason
 from the general rules of the Law of man, which
 exception is secretly understood in every general
 Law. This power of imposition without Parli-
 ament, appertains to the King originally, and to
 the successor *ipso facto* if he be Sovereign in right
 of Sovereignty from the Crown; you cannot
 have a King without these Royal Rights, no not
 by Act of Parliament.

Again, these Acts bind not; for a favourable
 construction in Case of the King is to be had,
Doctor and Student 27. not possible to make any
 general rule of Law, but shall fail in some par-
 ticular case: If a Law were made in a City, that
 no man under the pain of death should open the
 Gates of the City before the Sun-rising, yet if
 the Citizens before that hour, flying from their E-
 nemies, come to the Gates of the City, and one
 for saving of the Citizens openeth the Gates be-
 fore the hour appointed by the Law, yet he of-
 fendeth not the Law, for that Case of necessity
 is excepted from the said general Law by Equi-
 ty; so for the Statute in *E. 3.* time, not to give
 any relief to a Sturdy Beggar upon pain of im-
 prisonment; yet if one relieve him with Cloaths
 in extremity of cold in Winter to save his life, he
 shall be excused by the said Statute, by such an
 Exception of the Law of Reason and Equity, as
 aforesaid.

Improbabilities are to be excepted out of
 Laws; *Nemo tenetur ad impossibilia*, Poverty and
 Impossibilities (as one answered) were more
 mighty Goddesses than either force or love.

But now you will say, where is this danger?
 how doth this necessity appear? if you will find
 it, you need not enquire for it by Sea or Land,
 but In this very Record; the Writ sheweth it,
 the most favourable construction for the King is
 to be had, as in *Plowdens Com.* 336. Case of Mines
 of Gold and Copper.

Now all this while I have been in the general,
 and in a manner in Propositions, I come now to
 Application: before I descend unto it, I shall
 shew upon what part of the Record I shall ground
 my self, though in the *Mittimus* it be *salus Regni*
periclitabatur, and said to be Metaphorical, for
 that it asketh no great Answer; it is good e-
 nough as in the Writ of *Oyer and Terminer*, *Om-*
nes qui habent damnum vel salvationem are bound
 to contribute, will you tye the King to the lan-
 guage of *I. S.* may not he express himself in
 what legal manner he pleaseth? you say this
 phrase of *Salus Regni*, &c. is to be general: If
 it be alledged, and you demur upon it, you con-
 fess this for the most advantage for the King, as
 in the case of Mines; it is not alledged in the
Scire fac. this might have been made a good que-
 stion. But without all these, I conceive the
 Writ 4. containeth matter sufficient; that Writ
 of 4. containeth the cause for this great prepara-
 tion, and expresses them in particular; what if
 it were no more but this, least we should lose
 the Dominion of the Seas? what is it to be call-
 ed *Dominus Maris*, and not to maintain it, but
 to suffer this Princely Honour to perish, and o-
 thers to become Masters of it; what havock and
 confusion would follow? And this is the true
 intention of the issuing forth of this Writ.

Next *consideratis etiam periculis*; that is, the
 danger so evident and so great in these Warlike
 times, that of necessity defence must be made
 both by Sea and Land.

Next is great oppression used at this time, *Da-*
tum est nobis Intelligi quod predones, &c. That the
 Pyrates do take and spoil our Merchants goods,
 and carry our men into Captivity; what will you
 say to this? let them take our men, and let us
 have a Parliament, and we will bring them home
 again; the Land was never without Thieves, nor
 the Sea without Pyrates.

Next *Paratum periculum & preparans*; now
 these Ships go for defence of the Sea against this
 danger, & *vestrum & vestrorum*. The Writ saith
 the whole Realm is in danger both by Land and
 Sea; you have confessed this in your Demurrer.

But you complain you are hurt; because you
 have seven Months liberty, a Parliament might
 be called in that time.

Now in this time of imminent danger, is no
 stay to call a Parliament.

You say it hath continued for three years; put
 the case the danger continue for three years, and
 ceaseth, and then the King ceaseth to lay a
 charge, and the danger begins again next year;
 what shall not the King require Aid as the dan-
 ger encreaseth.

And now to conclude without repetition, it
 appeareth by this Record, that the whole King-
 dom is in danger both by Sea and Land of ru-
 ine, destruction, dishonour, and oppression, and
 that the danger is present, imminent, and in-
 stant, and greater than the King (without the aid
 of his Subjects) can well resist, whether then must
 the King resort to Parliaments? No, we see the
 danger is instant, and admits no delay; Shall we
 go home, and sit together in careless security?
 not so, but let us resort unto our pious and just
 King, whose Prerogative and Right of Sove-
 raignty is to defend the Realm, and to maintain
 his Subjects Liberty: And so I give Judgment
 for the King.

Finis Argument. Juslic. Crawley.

Judge Barkley his Argument.

IN August 11 Car. there issued forth out of the
 Court of Chancery his Majesties Writ, direct-
 ed to the Sheriff of Bucks, and to the Bailiffs
 and Burgesses of the Borough and Parish of
 Buckingham, to the Mayor, Bailiffs, and Burgesses
 of the Borough of Chipping, Wiccomb, ac *probis*
hominibus in eisdem Burgis, and to all his Majesties
 Subjects, *in omnibus aliis Villis, Burgis, &c. in Dom.*
Com. Buck.

The King by that Writ recites, that he had
 intelligence *quod predones quidem Pirata & Maris*
Grassatores congregati fuerunt Naves & bona ac
Mercimonia non solum Subditorum nostrorum, verum
etiam Subditorum amicorum nostrorum in Mari quod
per Gentem Anglicanam ab olim defendi consuevit,
 that they did daily commit unsufferable mischiefs
 to the Merchants, and carry them into miserable
 Captivity; and that his Majesty did *Conspicere*
Navigium indies preparantes ad Mercatores nostros
ulterius molestand. & ad Regnum gravand. unless
 present remedy were had. And besides, his Ma-
 jesty considering *periculis qua undique his guerri-*
nis temporibus imminet; ita quod nobis & Subditis
nostris defensionem Maris & Regni omni festinatio-
ne qua poterimus accelerare convenit; and his Ma-
 jesties resolution being *defensione Regni, Tutione*
Maris, securitate subditorum nostrorum, salva con-
ductione Navium, & Merchandizum ad Regnum no-
strum Angl. veniend. & de eodem Regno ad partes
exteras

1637. *exteras transcend. (auxiliante Deo) maxime providere, eo pro quod, his Majesty and his Predecessors were Lords of the Sea, and was loth such an Honour should perish in his time: And besides, the King calling to mind the just rule, quod omnes tangit per omnes debet supportari prout per Legem & consuetudinem Regni Anglia fieri consueverit; for these causes his Majesty by his Writ commandeth the Sheriff, and all those to whom it was directed, ex fide & Ligeantia sicut nos & honorem nostrum diligitis, that he should providere unam Navem de Guerra of the burden of 450 Tun, furnished with Men, Munition, &c. that this Ship so furnished should be ready at Portsmouth by the first of March, for the space of 26 Weeks, at their costs and charges, ad proficiscend. cum Navibus nostris, and to go with his Majesties Subjects to attend those to whom his Majesty should commit the custody of the Sea; and this to be provisione Maris & defensione vestrum & vestrorum. After this there cometh a Commission to the Sheriff, and to the Bayliffs and Mayor of the Boroughs and Parishes aforesaid, or to any two or more of them, whereof the Sheriff to be one ad assidendum omnes homines in iisdem Burgis & Parochiis & Membris ejusdem, & terre tenentes in eisdem, to contribute towards the providing of a Ship, and this Assessment to be made secundum statum suum & facultates suas: And to distrain and cast into prison quos rebelles et contrarios invenerit in premissis.*

Last of all, for further direction, his Majesty forbids the Sheriff to lay any more upon his Subjects than is necessary for the service, et quod si plus quam sufficiat collectum fuerit, his Majesty commands it should be restored, and the Sheriff is not to appropriate the money to any other use than the Writ commands.

9 Martii 12 Car. there issued out of Chancery a Certiorari, and this was above a year after the Ship should have been ready at Portsmouth: This Writ reciteth the Writ 4 Augusti, and for that the King is informed that some of his Subjects have refused to pay those sums assessed upon them towards the providing of a Ship of War, commands the Sheriff to certify the names of such persons so refusing, and the sums assessed upon them; the Sheriff he makes a return, and certifieth John Hampden Esquire was assessed at 20 s. and refused to pay the same.

After this 5 Maii following there issues a Mitimus out of Chancery, with this Clause in it; *Quod quidem breve, pro eo quod salus Regni nostri Angl. et populi nostri ejusdem periclitabatur Edicta Cancellaria nostra emanari curavimus inter alia Brevia ad hujusmodi provisionem et assessamentum faciend. per singulos Com. Civitat. Burg. &c. By this Mitimus the King most justly and honourably commandeth the Treasurer and Barons of the Exchequer that they should pro levatione, collectione et receptione omnium et singularum pred. denar. summar. de predictis contributionibus adhuc non solut. fieri fac. prout de jure et secundum Legem et consuetud. Regni nostri Angl. fuerit faciend.*

After this, and in May last, the Barons in the Exchequer very judicially awarded the Writ, (which is the Exchequer Writ of Grace) a Scire Facias into Buckinghamshire, against those whose names were in the Schedule, and had not paid the sums assessed upon them: And by this Scire fac. they were to shew cause why they should not be charged with the payment of the sums of money assessed upon them; upon this Scire Facias Mr. Hampden is returned garnished, he appearing

hath demurred generally; the words of his Demurrer are, *Quod materia in eisdem Brevibus content. minus sufficient. in lege existet. ad onerandum ipsum Johannem Hampden de aut solutione pred. summe vigint. solid. super ipsum modo et forma pred. taxat. aut assessat. &c.* He doth not say that the matter is not true, but is not sufficient in Law; by which words he doth acknowledge the matters contained in the Writ to be true: Mr. Attorney hath joyned with him in Demurrer; upon this Demurrer, one grand question and some inferior have been stirred: Because I have time little enough for the grand question, I will omit the inferior.

The grand question is, whether as the Case is, the Charge imposed by the King on his Subjects for provision of Shipping without consent in Parliament be good in Law yea or no; this is a question of extraordinary weight, and infinite consequence, the greatest that ever came before Judges (as I think) of ordinary Courts of Justice; and therefore *qui ad pauca respicit facile respondet*: But he that will answer this question, must *respicere multa et ardua.*

Upon debate of this question, elaborate, learned and strong Arguments have been made on either side.

I have laid this question to my heart, and all the Arguments made I have diligently attended, and read over the Record considered of the Authorities and reasons of Law; and upon all my pains, and deliberation, and judgment, I have concluded with my self, and am satisfied in my Conscience, and so I hope I shall satisfy others, that as this case is, I say in this special Case the charge imposed is good in Law, and that Judgment ought to be given against Mr. Hampden, and for the King.

And for my better method herein, I shall divide my Argument into four Heads.

1. First, I shall state the Case, and settle that which is the proper question: The true stating of a Case conduceth much to the right answer of it.

2. In the second place, I will consider the Fundamental Rules of the Common Law applicable to the stating of this question.

3. I will consider the Acts of Parliament, and Answers to Petitions in Parliament, and *Magna Charta*, which concerneth his Majesties proceedings in this Case.

4. I will answer the material Objections made on the other side.

Touching my first Head for settling the question in this case, I hope none will imagine that it is drawn by consequence to to be the question in this case, whether the King can at all times, or upon all occasions, impose upon his Subjects without consent in Parliament: He may not, the Subjects are Free-men, not Slaves, to be taxed as Villains, though the King of England hath a Monarchical power *Jure summa Majestatis*, yet in Judgment is to be *secundum Legem et consuetudinem Angl.*

The Subjects here have *Feodum simplex* in their Lands, and in their Goods a property, a *meum et tuum*, a Birth-right in the Laws of the Kingdom; no new Laws can be put upon them, no old Laws to be abrogated without consent in Parliament: It is his Majesties Maxim declared in print, that the peoples liberty doth strengthen the Kings Prerogative.

Again, though Mr. Hampdens counsel have spent most of their powder in Records, to prove that

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1637. that the Kings Ministers have paid, that the Barons have been commanded to pay, and to make allowances, in case of foreign and voluntary Wars, and in case of particular or ordinary defence of the Realm, as in scouring of the Seas, or in making payment in case of Loans or moneys borrowed, or disbursed in the building of his Castles, in cases where particular mens Ships were lost in the War, for keeping of Hostages in War, or in extraordinary defence, where the King had sufficient aid for that purpose granted in Parliament: in these cases I confess the King ought to make payment upon particular and just account: But these Cases come not home to our Case, for these Cases have just reasons for them, and these Records being taken away, the multitude of the Vouchers on Mr. Hampdens side will be greatly abated.

As for the ancient charge of *Danegelt*, though it come nearer than any of the forementioned Cases, yet it much differs from the Cases on our parts. It hath been said that this *Danegelt* was not imposed but by common consent in Parliament, and afterwards was released by *Edward the Confessor*, and now so long since uncollected, that it is not known what it was.

1. First, I say, it was not granted by Parliament, but it was imposed by the King by a Council with his Baronage, and that doth plainly appear in the *Black Book* in the *Exchequer*, and by *Gervasius Tilburienfis*. Again, for the Release that is by *King Edward the Confessor*, there are two sorts of *Danegelt*, the one was *ad pacendas Danes*, the other *ad Coercendos Danes*; the first was to give them money to be gone, and not to trouble the Country; yet that *ad pacendos Danes* was taken by *Cnutus* a Danish King, and so continued till *Edward the Confessors* time, for there was then no cause of gathering that Tribute; so that *S. Edward the Confessor* had just cause to dream he saw the Devil dance upon a heap of *Danegold*, so raised when no necessity for it; and so he released the same.

The other kind of *Danegelt ad Coercendos Danes*, exacted *Tempestate Belli*, as saith *Sir Henry Spelman* in his *Glossarium* Cap. 11. & Cap. 28. This Imposition was not released by *Edward the Confessor*; the words of the *Black Book* are, that this continued until *E. 1.* time, *noluit hoc solvi*, but should be left *propter inopinatas causas, tempore belli*, &c. The Clergy-men were free from this *Danegelt*, and the reason of that was *quia pro orationibus*, &c.

The difference between our Case and that of *Danegelt* appeareth to be this: (1.) That *Danegelt* was Annual, ours is due only in case of necessity. (2.) That *Danegelt* was a Tribute money, ours is provision Shipping and Armour in kind. (3.) That of *Danegelt* was chiefly against Pyrats, ours against Enemies by Sea and Land. (4.) Ours is general on all without exception, so was not *Danegelt*, the Clergy was exempted; I will add this to *Danegelt*, that *King Ethelred* who was taken to be the first Imposer of it, was a weak and improvident King, he looked to provide against the *Danes* when they had got the Mastery of the Sea, and not before; and for that cause he was called *Ethelred the unready*: But on the other side, we the Subjects of *England* have cause to yield unto his Majesty the Name of *Charles the Ready*, or *Charles the Provident*.

4. I say with some clearness, under favour, that the Charge now demanded is not within the signification of the words *Aid*, *Prizes*, *Taxes*, or

Talliages, which is most certain cannot be exacted by the King but in Parliament.

Aids, they were helps from the Subjects for making of Castles, building of Bridges, helps for voluntary Wars, or the like; two kinds of *Aids*, one such as is before-mentioned, (2.) Such as were *Aids* and *Services*, as *Aid pur File marier*, *pur faier Fixe Chivalier*.

Mises, they were sums of money for the Kings first coming to the Crown, as at this day is yielded in *Wales* to the Prince of *Wales*.

Prizes, are taking away part of the Subjects goods for the Kings use without paying for them: Hence *Prisage* of Wine which is a due unto the King, that is the Kings Butler shall have to the Kings use one Vessel before, and another behind the Mast.

Taxes and *Talliages*, by them were meant Tenth, Fifteenth, and other Subsidies granted by Parliament; and this appeareth by *Brooke T.*

Tenth that is on the Clergy, and is to be levied on their Land; and the Fifteenth on the Lay people of goods properly; Tenth part of the goods in a Borough, and Fifteenth part in the Country; and this was levied anciently upon their goods, but now upon their Lands *secundum Ratam Terrarum*; so that now all know their certainty: In some places, part levied upon goods, part upon Lands, *Parl. 11. H. 4. N. 25. Parl. 25. E. 3. N. 12.* where you shall find express differences between *Aids*, *Taxes*, and *Talliages*.

What Subsidies are, we know our Case is within none of these.

5. I confess it must be acknowledged that our present Case doth not go so far, as that an assured ruine and subversion doth fall, and that instantly, unless the Charge commanded be supplied this way; that is not our Case, I will now tell you what the state of our Case is.

The State must be made out of the Writs and Records themselves, out of the Writ 4 *Augusti* 11 *Car.* and out of the *Mittimus* 5 *Maii* 13 *Car.* in which a further danger is expressed than in the Writ 4. Though the Causes be several, yet they are not to be severed, they must be all of them laid together in the balance; *Quod Predones, quidam Pirati & Maris Grassatores Congregati fuerunt, Naves & bona Subditorum deripientes & spoliantes hominesque in Captivitatem mancipantes preparantes ulterius molestandum et ad Regnum gravandum nisi citius Remedium apponatur; Consideratis etiam periculis que undique his Guerrimis temporibus imminet: Ita quod nobis et subditis nostris defensionem Maris et Regni omni festinatione qua poterimus accelerare convenit*; out of these Circumstances it appeareth there is apparent peril not without cause *Tempora Guerrina*. Again we must observe, that in this Case the Command is *ad proficiscendum cum Navibus Regis*; here is not a *quid tibi fieri non vis*; here is rather a *contributio* than *Tributio*; the King doth not assume part of them to himself, he Commands them to be used for the common defence: And note, the distinction in the words of the Writ, *ad proficiscendum cum Navibus nostris*; so there they have a distinction from his Ships, their property still continueth in them, and the service being performed, the Subject shall have them again, 1. *M. 28.* and 29 *E. 1.* on the Kings Remembrancer side, and *Pas. 13 E. 2. ex parte Rem. Regis inter Brevia*; there the Subjects are commanded to be at the expences *ad Guerram necessariam*; this is consonant to Law, and warranted by many Precedents, as the whole Kingdom is concerned, so the Kingdom

Anno 1637. dom in general is charged; as the reasons are general, so the Charge is general, and the King himself is to joyn in provision for the common defence: The final end of all this preparation is *pro defensione Regni, Tutitione Maris securitate subditorum nostrorum salva conductione Navium et Merchandizarum*: And lastly, that *salus Regni periclitabatur*.

Obj. Mr. Holborn objects that *salus Regni periclitabatur* is not to be taken in part of the Case, because it is not in the Writ 4 Augusti, but put in after in the *Mittimus*; and then Mr. Hampden could not know that in 11 Car. *salus Regni periclitabatur*, and therefore refuseth to pay the Assesment upon this Writ: Then it is further objected, that the Clause of *salus Regni periclitabatur* is put since into other VVrits.

Sol. To this I answer: (1.) It is true, it is not in expresse terms in the VVrit 4 Augusti 11 Car. but it is in words equivalent. (2.) If not equivalent, yet this Clause doth enforce the words in the first Writ. (3.) This Clause is by way of explanation and signification, what the reasons were to move the King to send forth the first VVrit; and the Barons were to take notice of that, with other reasons, *Dowmans Case*; where a Fine is levied, a subsequent Declaration may serve to declare to what use a Precedent Fine shall be.

To sum up what I have said, the state of our Case is *Dominium Maris periclitabatur, salus Regni periclitabatur*. This defence is *pro defensione Regni, tutitione Maris, securitate subditorum, &c.* Now whether to set the Commonwealth free and in safety from this peril of ruining and destruction, the King may not of his Regal Authority, without consent in Parliament, impose a charge upon his Subjects to joyn with his Majesty for such time as he shall think fit in the expences for the provision of a Navy, *ad Guerram*, for the defence aforesaid: This is the question of our Case; I would be loath to upbraid with odious terms, though truly the expression hath not a comparison, the Tenent is so dangerous, as to hold that the Weal Publick must be exposed to utter subversion, rather than to impose a Charge on the Subjects without Parliament for defence thereof, but we must stay and expect till a Parliament be called, in which interim it's possible and probable the Kingdom may be subdued, and brought to final ruine and desolation. Indeed some Jews were of that mind that they would not defend their Country on the Sabbath day, by which means, in proceis of time, it came to be the utter ruine of their Estate.

I come to my second Head, concerning the Fundamental policy and Rules of Law, and reasons of Law for the Government of this Realm, such as are pertinent to the Case.

It is plain, even before the *Romans* time, the Frame of this Kingdom was a Monarchial Estate, and after the Heptarchy ended, it hath still continued Monarchial, and our gracious Sovereign is a Monarch, and the Rights of a Monarch appertain to him; and yet still with this, so they be *secundum Legem & consuetudinem Angliae*: And the King is by Oath (as *Edward the Confessor* was) obliged to confirm the Liberties of the Subject, as it appears by *Magna Charta*.

Where Mr. Holborn did suppose a Fundamental policy in the Creation of the frame of our Commonwealth, that the King inclining to Error might be restrained, &c.

He was utterly mistaken herein; I agree, that the Parliament is a most ancient Court, where the King and Peers be in person; there indeed the King and Commons may in a fitting manner *parler leur* minds, and make known their grievances for redress thereof: But for the former policy I deny, the Law doth not know such a King-yoaking policy: The Law is a trusty servant of the Kings; the Law is the Kings Instrument or means whereby he governeth, I never heard nor read that *Lex est Rex*, but most true that *Rex est Lex*, because *Rex est via Legis, et sentietur habere omnia Jura in scrinio pectoris sui*.

There are two Maxims of the Law of England which disproveth Mr. Holborn's supposed Policy.

First, That the King is trusted with the state of the Commonwealth.

Second, That the King can do no wrong; and upon these two Maxims are grounded *Jura summa Majestatis*, as to summon and dissolve Parliaments, concluding War and Peace, setting the stamp upon Money; and amongst the rest, I must add this of the Regal power, to command provision, in case of necessity, for defence of the Commonwealth, for the preservation of the very *Salus Reipublicae*, otherwise I cannot understand how the King can be said to have the free and Majestical power of a Monarch.

True, the King is bound to defend his people against forreign Enemies, so saith *Fitz. Herbert* in his *N. B. Defender Son Royalmé* against Sea and Land Enemies, *Juramentum Regis est Ecclesiam Dei, populi pacem ex integro servare*.

Thirdly, *Bracton* and *Glarvil* say, that to a King *hac duo Arma et Leges sunt necessaria*, that a King must have Arms as well to defend his Subjects, as Laws to govern them; if he must have these things, he must be enabled with means to perform these things, and must not be dependant on his Subjects for the same, *Quando quis aliquid concedit, concedere videtur et medium sine quo res esse non potest*: So that when the Law assigns the defence of the Kingdom to the King, it gives him power also to raise the means *sine quo non*, without which he cannot do it; and by the Fundamental policy of our Law the King *ex mero Jure* ought to have it, and the people of meer duty are bound to yield unto the King a supply for defence of the Kingdom; but when the Parliament it self granteth a supply, it is not meerly a Benevolence to the King, but they do an Act of Justice and duty to the King, and yet is a Token of the Commons hearty affection too, *Parliament Roll 9 H. 4. N. 7.* that proveth the Right of the Commons to grant supplies to the King; and that it is no Benevolence, but a Duty, 19 H. 6. 64. *Hovenden 77. le Roy Inherit en Parliament, &c. Que Roy defendra son peuple, que le peuple graunt a leux de leur biens en Ayde de cel defence, que prone Inheritance*: Besides, I prove my Opinion unanswerable by the Writs of Summons to Parliament, commanding the Subjects to chuse Knights and Burgeses; the words are, *Ita quod, &c. plenam potestatem habetis ad faciendum, &c. Milites, &c. super Negotia ante dict. &c.* I deny not but according to the Record 9 H. 4. they may offer their Grievances, but there is a principal Duty belonging unto the Commons to matters agreed on for the Defence of the Kingdom.

Then let the Case be this, the King wanteth present provision for necessary defence of the Kingdom; this provision must be speedily made, or it would be dangerous to stay for a Parliament:

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ment: In this case this is a duty from the Subject; for there is a necessity things must be done, but the Parliament cannot be pursued, Ask what is to be done in this case? is the duty lost for want of this form of Parliament? I do not understand it is: If it were a meer Benevolence, then such Benevolence could not be asked without assent in Parliament.

4. I say, that by our fundamental Law, the Parliament is the most Honourable and Highest Court that is, *Commune concilium Regis & Regni*, the greatest, most honorable and supreme Court in the Kingdom; yet give me leave to say, that it is but a *Concilium* of the Kings, the King may call it, prorogue it, and dissolve it at his good pleasure: we must consider it is a great body, it moveth slowly; suddain dispatches cannot be expected; though the Parliament cannot err, the Parliament-men may; some men make scruples where there is no cause; some have sinister ends and breed delay and disturbances.

In H. 4. time the people called one Parliament, *Parliamentum indoctorum*; and another called (saith my Lord Cooke) the *white-Crow Parliament*: And in E. 3. time, called the good Parliament, though a Parliament be a good way, yet *mora trahit periculum*; the rule of *festina lente* is most dangerous.

5. *Dominium Maris* is most considerable by every *Englishman*, It's apparent in the continuance or not continuance of the Dominion of the Sea to the Crown, not only the *Bonum esse* but the *esse* of the Common-wealth consists: Slowness therein is a want of such sensibleness as every Subject out of right and great reason ought to have.

Seco. 10 E. 3. m. 3. A writ issued forth to all the Kingdom, Peers and commons, reciting *quod considerantes Dominium Maris periclitabatur*, &c. *si talis honor Lederetur*, &c. *Igitur omnes homines tenentur pro defensione Regni, contra hostes exponere se et sua*; this writ issued to all Earls, Barons and Knights in the Kingdom upon *David de Bruse* his great Navy at Sea; Reciting, *tantis periculis*, &c. and those that were remits to assist therein, the King would repute as his Enemies; and that they should treat with the Bishops and other great men for the defence of the Kingdom, and the King will requite them.

6. Of the necessity and danger of the Commonwealth, not to speak of necessity in the general, but of the necessity in point of Government: 2 H.

7. A penal Law is made, and a clause which maketh it; the King shall not dispence with the Law, that clause is void, and a *Non obstante*, may be of that *Non obstante*, no reason for this is given, but only because it taketh away the necessary power of the King out of his Hands.

Salus Reipublica est supremum Lex; 36 H. 8. 8 E. 4. In cases of necessity and danger, and for the Publick defence a Bulwark may be erected upon any mans ground without his consent; A woman shall not have a Dower of a Castel of defence, though Dower be favoured in the Law; and the reason is, to divide such a strength of the Kingdom would be dangerous. An Alien Merchant may likewise take a house so long as he tradeth, yet when he ceaseth Trading the King shall have the interest of this house, because it is possible *Salus Reipublica* may happen to be in danger, if the Alien continue.

If not to be done when *Salus Reipublica* is in danger, yet if it be *pro bono publico*, it may be done: 44 E. 3. fo. 19. 5. Rep 63. The Chamberlain of

London's case; where it is resolved, that the Inhabitants of a Town, without a Custom, may make By-Laws *pro bono publico*, and bind those that are absent. Car. 13.

If a house be on fire, to save other houses, it may be pulled down; and also in the case of the Boat to *Gravesend*, Lawful for the Master to Cast forth the Goods into the *Thames*, to save the mens lives in the Boat; and he is not by Law answerable for the loss; 10. Rep. one bound by prescription to make Walls and a Damm against Waters, this man so bound unto it, is not able to do it; In this case there is an equity grounded upon *Salus populi*, and a Writ *de Reparatione faciend.* may be brought against all those within the Level to contribute for the present repair: If two joint-Tenants be of a house, the one shall have a writ *de Reparatione faciend.* against the other; where the word *Tenetur* is observable; now every man hath an interest in the Common-wealth; the King above all others, and therefore may command his Subjects to contribute with him for the saving of the Common-wealth.

13 E. 4. 14. Which concerneth the validity of measuring of cloath, It is said by the *Gascoigne*, the King may charge the people of his Realm without assent of his Commons, to a thing which may be for the common good: Besides observe that there is no Precedent of any civil Action, brought for any thing done in former time to Judgment, but only that one of the Abbot of *Robert-Bridg*, Case 26 E. 3. And in that one case, it is acknowledged, that mens Lands and Tenements were agisted; that is, assessed for money to contribute *ad Custodiend. Maris*; by the Kings command only, without a tax by consent in Parliament, was good in Law; and I observe, when the very case happened, and was in agitation, and gave fair cause of *Demurrer*, if the Law had been otherwise, for it was at that time, when the Statute *de Tallagio*, was in making.

Lastly I do observe that upon complaint in Parliament, and upon occasion in former times, no one record can be cited, that when charges have been imposed without Common consent in Parliament, for defence of the Kingdom in an instant time of necessity, that it hath been against the liberty of the Subject: As for that of 2 R. 2. where it was in deliberation before the charge imposed, there it was deemed unjust. Many things are denied to be Lawful before they be done; which once done may be good Law.

4 H. 4. m. 26. 6 H. 4. 9. For the safeguard of the Sea, and Defence of the Realm, they granted a Subsidy; with a Protestation not to charge the Subject any more: Out of this record observe there is not a word that the Subject should not be charged without consent in Parliament; on the other side, there are infinite Precedents aptly Cited by Mr. *Solicitor*, to prove, that the Subjects have been commanded to provide Gallies, *proprijs sumptibus*, to Array Souldiers in case of necessary defence, and those Subjects as well in Inland Counties, as in Maritime; among which Writs, 48 H. 3. Rot. Cl. m. 2. 10 E. 3. a Writ to the Town of *Bedford*, *propter fortuitas causas cum necesse sit, quod securitate Regni*, &c. Fra. 21 E. 3. pars 2. m. 9. 11. Subsidies for woolls had been granted for a time, they did ordain *quod Subsidium levetur usq;* such time.

Cl. 1 R. 2. m. 18. A Writ was directed to *Cambridge*, *Huntingdon*, &c. to provide several Barges: By this Writ the King did declare that those which had 20 Nobles and upwards in goods should

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 Contribute and none others; and by distress to compel them unto the same. I Conclude my second general head, with this Tenent by my Judgment approved, that when the good and safety of the Kingdom in general is concerned, and the Kingdom in danger, the King may by Writ under the Great Seal of England, Command all his Subjects at their charge to provide for the defence of the Kingdom, and may by Law compel the doing thereof.

My third general head is to answer the Acts of Parliament, and Petitions in Parliament, touching the case now in Question.

First, for St. Edwards Laws which are fundamental, and are only that the people should have their liberty, *Dangelt* is mentioned in those Laws: not a word pertinent to this case.

Secondly, I find *Magna Charta* made by H. 1. to be freed *ab omnibus Geldis*; which signifieth a sum of money, a German word, yet in this time *Dangelt* was paid *12d. de Hida. Wita* signifieth an Amerciament.

It is said, that *Magna Charta* was made at *Running Mead*, said to be a Statute, *Nullum Scutagium aut Auxilium capiatur*; The words pinched upon, are *Nullum auxilium*, I will answer this further, together with other Statutes which are *Statuta Revera*.

As for that of *Running Mead* it is no Statute, nor ever was taken for any Statute, saving wherein it doth concur with *Magna Charta*. Where are the 25 Barons appointed by the Statute in King John's Time? That Statute of *Magna Charta*, 9 H. 3. hath it not in: And it is that *Magna Charta* of 9 H. 3. and not that of King John, that hath so many Confirmations; so there is something in it, that *Magna Charta* in King John's time was not confirmed, pressed from unfortunate King John: But I observe, that after that *Nullum Auxilium*, there followeth a *Nisi ad Corpus Regis redimendum*: Then I Argue if an *Auxilium* may be *ad Corpus Regis redimendum*, then certainly *a fortiori*, for the safety of the Commonwealth: But *Magna Charta* 9 H. 3. hath no special words in it, only general words, *quod liberi sint & habeant libertates suas*: where (*Suas*) denotes two things. (1) A Right of the Subjects liberty: (2) His liberty; that is such liberties as it is fit for Subjects to have; the words are not *omnes libertates* but *libertates suas*.

14 H. 7. fol. 11. The King releaseth to the Prior of St. Bartholomews, to be as free in his Land, as the King in his Crown; yet he is taken still as a Subject, and shall pay a Fine.

This Statute 9 H. 3. cap. 20. proveth the Kings Right to dispose of the Body of his Subjects for the Defence of the Kingdom.

Statute of *Confirmatio Chartarum*, *Que nullas prizes, savants les Ancient Aydes, &c.* This Statute is not stood upon.

For the Statute *de Tallagio non concedendo*, though the King's Solicitor did excellently beat it down to have been no Statute; yet I agree it is a Statute: *Nullum Tallagium ponatur sine assensu Parliamenti*. These Words indeed are general; but for a true Exposition of these Words, the occasion of the hard pressing of the times are to be considered. E. 1. had great Wars with France, Wales, and Scotland, and Flanders, both at the *Confirmatio Chartarum*, and *De Tallagio non concedendo*. In the 22th. Year of this Kings Reign, the King commanded Scrutinie to be made throughout the Kingdom, to supply his Wars; that where they found Money, they took it as a

Loan, without the Consent of the Subject, and in Religious Houses also; so that was somewhat against the Law: *Bohun* and *Bigot*, *Constable* and *Marshal* of England, did stand for the Passing of the Statute *De Tallagio non concedendo*, without the saving of the Ancient Aids in *Magna Charta*, as *pur file marier*, &c. (they continue notwithstanding) also the King's Power to array and send Souldiers, did still continue, as doth appear by the continual practice in that King and his Successors. I doubt not but most have read the notable Remonstrance publicly set forth by King E. 1. in the 25th. Year of his Reign, concerning his proceedings in this Business: There he tells us, He did not take these Monies to build Monasteries with, but for the Honour of the Kingdom, and the Safety thereof.

The next Statute 14 E. 3. the second Parliament of that Year: In which Statute the King willeth and granteth, that the same Grant which is so chargeable, shall not be had in Example, &c. And that the Profits of Wards and Marriages, &c. shall be spent upon the Maintenance of the Realm, and for Wars, &c. Note the general Clause alledged in this Statute, is in the middle part of this Statute, and is not a Clause *per se*; therefore, certainly I say, this middle part is but temporary: That Statute is not meant to be a perpetual Discharge of all manner of Aids; for notwithstanding that Clause, King E. 3. Afterwards and during his Reign, did as freely charge the Subject for the Defence of the Realm, as before. It is worthy of Observation, that this Statute 14 E. 3. is not mentioned in the *Petition of Right*, as the Statute *de Tallagio non concedendo* is: And yet if this had been a perpetual Statute, as great Reason to have mentioned this, as any other.

Next Statute is, The *Petition of Right*, 3 Car. (This reciteth the Statute of *Tallagio*, 25 E. 3.) against Loans: Then cometh the Petition it self, That no man hereafter be compelled to yield to grant Loans, Benevolences, or such like Charge, without consent in Parliament: And the King's Answer is, *Soit droit fait*. In this, his Majesty himself, in his Second Speech, saith to both Houses, and most justly, That it must needs be granted, he had confirmed no New, but only granted the Ancient Liberties: No express Clause in any of these Statutes, that no Charge shall be imposed for any necessary Defence of the Kingdom. Certainly, if such a Clause had been used, I doubt of the validity of it: I believe neither E. 1. nor King Charles would have yielded to such a dishonourable Act: I say, that according to all Rules of Law for exposition of Statutes, the general Words must have a reasonable intendment to the Maker thereof; *nam Littera occidit*; For to make a Law for the Good of the Commonwealth, and to keep the Letter thereof, will prove the Bane and Ruine of it. The Statute of W. 2. saith, That Tenant in Tail, shall not, *neque per Factum, neque per Feoffamentum*, do any Act to the prejudice of his Issue; yet if the Disseisor grants a Rent to the Disseisee, for a Release, whereby he may defend the Land, the Issue shall hold the Land Charged.

The Statute of Gloucester, That Tenant for Life and Years, shall make no Waste; yet a Waste whereby the Land is made the better, that is no Waste within the Statute. *Dyer*, fol. 361.

Anno 1637. 4 E. 4. fol. 3. 14 E. 3. An Information for every Sack of Wool carried out of the Kingdom by Merchants, they were to give Sureties to bring in Bullion, viz. two Marks for every Sack; then Silver Plate was not so common as it is now.

The Defendant pleads two Statutes to discharge him of the finding of Sureties. The first is, 36 E. 3. cap. 11. Where the King, in consideration of a Subsidy of 3 s. upon every Sack of Wool granted by the Commons for three years, grants that after those three years nothing shall be taken of the Commons, except the ancient Custom of half a Mark upon every Sack of Wool. And the other was, 45 E. 3. That no Imposition or Charge should be laid upon Wools without the Subjects Consent in Parliament, other than the Subsidy granted *al Roy*; yet it was adjudged, that the finding of a Surety to bring in Bullion, was not taken away by the general words of either of those Statutes, because the intent of the Makers of those Statutes, was not to take it away: Besides, every Statute is to be taken for the most Advantage for the King.

Pasch. 13 Jac. Camera Stellata: Whereas by the Statute of R. 3. The Subject should not be Charged by any Charge called a *Benevolence*, or by such like, yet one Sir Oliver St. John, being brought *ore tenus* to the Bar, it was Resolved by the whole Court of Star-Chamber, and Judges there, That a Commission to Treat what men would give voluntarily, was not within the Statute; and he was grievously Sentenced. I conclude this with Mr. Solicitor's Saying of W. 1. *Quod omnes liberi sint ab omni injusta exactione*, &c. You see here are several Wards referring to an Act of Parliament; yet cap. 59. he hath these Words, *Quod sint fratres conjurati pro facultatibus ad Regnum nostrum defendendum*. This latter Clause sheweth the intention of the first.

I have done with the Statutes; from which I have cleared the present Question.

Besides these Statutes, Mr. Hampden's Council urged the Statute of Winchester; That no Souldiers should go forth of their own Counties without Wages.

This Statute of 1 E. 3. doth not extend to Case of Necessity. I find a Complaint by the Commons, that there were Commissions to Array Men of Arms, and that the King hath not before this time given any Wages, 18 E. 3. cap. 7. Men of Arms chosen to go out of England at the Kings pay; this is when they go for the King's Service out of England: This Service is in England; for the Sea is part of the Kingdom. That of 25 E. 3. is only for particular men.

The Statute 4 H. 4. answers it self, That in case of Necessity, it shall be Charged. *Rot. Pl. 5. H. 4. m. 24.* It appeareth there, Commissions were directed to Gentlemen, for the conducting of Souldiers unto the Sea-Coasts; wherein there were some Clauses that were perillous: These Commissions being delivered to the Commons in Parliament; the Commons, upon deliberation amongst themselves, did obliterate divers Clauses, and prayed no Commissions of Arrays might go forth, then as in the Copy they had presented; the Tenor of the Copy was enrolled; one Mr. Hampden named therein for a Commissioner, besides Eleven others. And in this Commission of Array, there was a Recital of the Invasion by the Enemy, and burning of certain Places; and that if they should go on or come again, the Kingdom might be in great danger. The King assigned Commissioners to Array men at Arms, that

were fit to bear Arms, and to distrain others that had Estates, to find Allowance towards the Charge of those that had Arrayed, *secundum statum & facultates suas*, and to make Beacons, &c. And this Commission was for Buckingham, and Hampden a Commissioner. Car. 13.

I come to my Fourth General Head; to Answer their most material Objections.

Obj. It hath been Objected by Mr. St. John, 2 R. 2. 10, & 11. That there is *Potestas in Curia*, & *Potestas in Camera*, and that Fines must be Assessed by the Judges in *Curia*, and not *per Regem in Camera*.

It is true, in Matters that are in a Legal way it is so; but in 8 E. 4. there is *Potestas ordinaria*, & *Potestas absoluta*, in extraordinary Cases, as in this, such absolute Power still followeth the person, and presence of Kings, *Hil. 2. E. 3. Pl. 6.* Book at large, one had Money in his hands to pay Souldiers, and he committed Outrages; and a Writ directed to Attache him, and brought in to the King's Bench; and Scroope Chief Justice said, it was founded upon a Suggestion, and was against Common Law. No doubt, if a man hath Money of the King's in his hands, and Rout the Countrey, no doubt but a Writ may be sent forth, though ordinarily an Indictment goeth before an Attachment; *Rex est Capitalis Justic' Angl.* The King draweth a power of Majesty along with him, insomuch that in his presence a Lord cannot meddle with his own Villain.

Obj. But you will say, The King hath often paid the Charge of Provision for Wars, and made repayment to the Subjects for their Disbursements.

Sol. If you will go to viewing, I will shew you ten to one, where the Subject hath been Charged without Repayment, when the King had it of Right: But those that were upon borrowing, the Repayment was due and just: But if there be other Sums that were repaid by the King, and he not bound of Right to pay; shall we punish him for his Goodness? The Case of Mines may be fitly applied to this purpose; where all Mines of Gold and Silver are the King's, the Subject hath nothing to do therewith. The Earl of Northumberland's Council shewed, that it was usual for the Subject to have part of the Oar upon getting of the Mine: I Answer, That it was of the King's Goodness, because he gave the People some of the Oar; shall this bind the King? If the Subject hath had it *ex gratia Regis*, this doth not abridge the King's Right.

23 E. 1. *ex parte Rem. Regis*, 77. There was a Case; Writs did issue to divers for the making of Gallies; and this was done *per Regem & Consilium*, not *per commune Concilium*; this was *pro defensione Regni*: And although the King saith he will be at the Charge of the making of them, yet it commands them to take Timber wheresoever they find it; though *Magna Charta* be, *Non capere Boscum alicujus sine Voluntate*.

Obj. Mr. Holborn objects Disusage for many years, of this kind of Charge for defence.

Sol. Disusage doth not take away the King's Right; as appears by 11 H. 4. And these of Gallies in specie, agree with making of Ships; Gallies were necessary in those times, in these times Ships.

Mr. St. John set down the Means the King had, and Billeted the way how to employ the same for

for the Defence of the Kingdom; as in Tenures and *Escuage*, His Customes, Tunnage and Poundage: I say no more, I would to God all that would serve.

And for that of *Escuage*, 7 E. 3. it is *forinsecum servitium*, to be done in a Foreign Realm. The forty days they account to begin, when the King did set foot on Scotland or Wales, or any Country of the Enemies. There are two kinds of *Escuage*, as appears by the *Black Book* in the *Exchequer*, and by *Gervasius Tilburienfis*, lib. 1. 26. And the one of those kinds of *Escuage* is laid upon every Freehold within the Kingdom, and a Mark levied upon the Land: That is not your *Escuage* by Tenures, which Mr. St. John speaks of, but another kind of *Escuage*.

Again, Lords, Barons, and Earls, they had some held of them by *Escuage*; if the immediate Lords did not go, they went not neither: Now here is the proper *Escuage* you would have for the Defence of the Kingdom.

Obj. Oh, but you say this Charge is over the whole Realm, proper only to the Ports to be liable unto it.

Sol. To this Objection I answer, *Quod omnes tangit per omnes debet supportari, & qui sentit commodum sentire debet & onus*: The In-land men have profit by it, reason they therefore should contribute. And I say, there is most reason to excuse the Cinque Ports, *prout 3. Rep. Sir William Herbert's Case*, and 11 H. 7.

Again, for the division of Shires, it was in *Alfred's* time; the Realm is to be considered but as one Body; there are times when all the Shires of the Kingdom are to be considered as one entire Body. It is said in the Scripture, *If one Member suffer, doth not all the rest suffer with it?* If reason to excuse any part of the Realm, most reason to excuse the Cinque Ports.

But for direct Precedents in the Case, I refer my self to those cited by my Brother *Weston*, that went to In-land Counties. Besides, upon the Commission of Sewers, it doth appear all that were in the Level or Reach are to be assessed towards the Reparation, so is the *Book Pasch. 25 E. 2. Banco Regis Rot. 70*. It appeareth *Rippon* was set about with the *Scots*, and they gave Hostages to the *Scots*, till they procured Money to redeem them: It appeareth by the Record, that all they that had Safeguard by those Hostages were compelled to bear their ratable shares for the Redemption of those Hostages.

Cl. 23 E. 1. m. 4. A Writ issued out to the Arch-Bishop of *Canterbury*, *sicut lex justissima, quod omnes tangit ab omnibus defendend'*, This was not by Parliament, for there was no Parliament between 21 & 24 E. 1. That Writ sheweth how the Enemies did intend *Anglicanam Linguam delere*, and command the Arch-Bishop and the Clergy; to come within a short day, *tractandum nobiscum*, &c. Though the Parliament be a necessary way to provide for Defence, but while we are arguing perhaps too late to provide.

Obj. Oh, but then, say they, here is an ill consequence befallen the People, to have a Charge laid without Parliament.

Sol. I am sure the danger of the loss of the Kingdom is the greater; chuse the lesser evil, if you have two evils.

Obj. Here is an Annual Charge, the Subjects have paid it since 11. and doubt they shall pay it still.

Sol. Were it Annual, it were against Law; but it is not of it self *per se* an Annual Charge, but so

long as the necessity continueth, the Charge must serve, *cessante causa cessat effectus*; and truly the continuance of this must be left to His Gracious Majesties Justice.

Obj. Oh, but it was agreed *in Hamond ad portu*, that's necessity to admit of this Charge.

Sol. Here is the same reason at this time, *Flagrante Bello*, and therefore the same Law, to avoid further mischief. Security is the most dangerous thing both for Body and Soul.

Obj. The Statute of Tunnage and Poundage is for the Defence of the Sea: That Tunnage and Poundage must pay all the Charges the King can be at, that it is enough to make a Stock for the Kingdom: And that though this be not now granted to the King, yet it is taken *de facto*.

I answer: My Lord chief Baron knows, that the granting of Tunnage and Poundage doth not stay for a Parliament. In the Petition of Right the King hath expressed He cannot want it: And when the King dies to whom it is granted for Life, the Successors have taken it both before, and until it be granted unto them. And for the words, 1. Jac' penned by the Commons: 1. It recites, That all others the Kings Right, Noble and Famous Progenitors, Kings of England time out of mind, have had Tunnage and Poundage, I cannot say this is altogether true of Tunnage and Poundage, but of Customs time out of mind; So if the Kings of England have had it time out of mind, it is a Right for it time out of mind. They say it is for the Defence of the Realm: The very words of the Statute are, *Towards this great loss and charges, which may be laid out by the King*. And saith further, *Although the same do nothing counter-vail the great Charge of your Majesty*.

Obj. It hath been objected, That it appeareth by computation, a Parliament might have been holden within six months time.

Sol. I answer, Say, the King should call a Parliament, sometime spent before the Parliament be set, and then in treating and concluding, when the Parliament hath done; this Command of the Kings 4 Augusti 11 Car. to be done 1 Martii that should be but to begin at the end of the Parliament, they reckoned here without their Host.

Obj. What if it be surmised by the King, That there is a Danger, and no such thing.

Sol. I am sorry to see this; Hath not our King a Conscience as well as King E. 1, and King E. 3. had? Besides, the King is *Recordum Superexcellens*: Is it not sufficiently proved with a *Tesie meipso*: Besides, the King saith the Danger is great; he hath the best Intelligence, better than the Learned Judge, or wisest Merchant; you must believe men in their own Arts: It is the Kings Art to know of Foreign Matters and Intentions; we must believe the King in this Art, *sua credendum*, &c. Let us look into the Records, he hath confessed all this to be true, then *ex ore suo*, I may give Judgment against Mr. *Hampden*, & non refert quod sit notum Judicii, sed quod notum in forma Judicii.

To take notice of the Parliament Roll 26 E. 1. m. 21. The King desirous to reform the *Gravamina*, he sent forth Commissions to do right to every party, and to enquire what was taken by the VVarrant of the King. The words are, That the Kings Pleasure, is the Commissioners should return what was taken by warrant, & *que il's si tiendrent a payes per reason*; it is no more, but the King will give them a Reason, or it was satisfied in Reason.

Obj. Here have been many Records objected, That

That the Writs in former times were only *Rogamus*, &c.

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Sol. But they are *effectuose Rogamus & requirimus*: *Seco.* 12 E. 2. m. 7. do. & 13. do. there are the words *rogamus & requirimus*; A Writ directed to London, reciting, that the Scots in finibus Regni had taken the Castles of the Kings, and His Subjects, and had besieged more Castles. The words of the Writ are, *Nos considerantes necessitatem*, &c. *vos requirimus & rogamus instanter*, to array 500 men, and send them to York *sumptibus propriis*.

Obj. You object, p. 26 E. 1. Ro. 35. ex parte Rem Regis, the Letter of one Reynold de Gray, by which it appeareth he was to array 1000 men; he answered by his Letter to the King, that he durst not do it.

Sol. He doth not say, he ought not to do it; besides, it is that he durst not do it without warrant; then with warrant he durst do it. Further he saith, he could not move in those parts without pay; the King had sent him word the Treasurer should ordain payment: For Souldiers it is common for them to cry together, they must have pay, or will not stir: No marvel if Reynold de Gray could not get them stir without pay.

Objekt. In 29 E. 1. a great sum of Money was taken from the Abbets of B. *pro urgentissimis negotiis*; and repayment was promised, and made accordingly.

Sol. It was then paid, *ut exoneretur conscientia*; the King made a Conscience in the doing of that Act, which was a Scrutinie.

Objekt. Rot. Alm' 12 E. 3. m. 22. dc. And that is a Letter to the Arch-Bishop of Canterbury, wherein the King desireth the Arch-Bishop to move the People to have a good Opinion of Him, to pray for Him, and give Alms, because he had laid Taxes upon them through necessity.

Sol. But it was to the end the King might prosper in His Wars, to desire their Prayers: Let any man judge, if this be a confession of any wrong done by the King.

In 13 E. 3. Parl. Roll 10, 11. A course was to be taken for a Navy to defend the Sea; the Commons say, it belongs to the Cinque Ports: It was desired of the Commons to give a Subsidy, and they should be discharged of the Guard of the Sea; but the Guard of the Land, that belongeth unto the Commons, *sans gage*; they cannot deny but the Sea must be guarded. Of what strength the Ports were then, I know not, but now they are not able to defend the Sea, then of consequence it must fall upon the whole Realm.

Objekt. Your great Objection is that of 2 R. 2. Parl. Roll pars 1. Rot. 15. The Killing Record, that the People should not be charged but in Parliament: The Grandees were there assembled, Scroope, then Chancellor, made a Speech, That there was no Ordinance made for salvation of the Realm: And the said Council answered, They durst not take upon them alone to make an Ordinance of so High a business, as to lay a General Charge upon the Subject, but advises a Grand Council of the Lords and Commons of the Realm might be called for the doing thereof. Upon this all the Prelates, as well Abbots as other Barons, &c. & autres Sages, met. Oh forsooth, it is said, autres Sages, was the Judges, but by that is meant the other *minores Barones* of the Realm. It was said in the said Council, This mischief they could not remedy without charging the Subjects, and that cannot be done but by Parliament; and for that end a Parliament was summoned. The Lords did lend Money voluntarily unto the

King in that Council, and so did the good People of London; to whom the King (by assent made in the said Great Council) engaged Himself for Repayment thereof. I pray you note, That in this Case, this was before any actual Charge imposed. King Richard the 2d. He was in His Minority: The Law is not clear concerning the Kings Infancy; whether the Infancy of a King be not a disability: The Example of Latimer was fresh in those Lords Memories, they took heed by other mens Harms.

My true Answer is, The thing was done another way; by lending the King Money, provision was made for the Defence of the Kingdom: If it had not been done that way by a voluntary lending of Money, it must have been charged without Parliament; scarce a good Subject that will let the Kingdom be destroyed rather than lend Money without Parliament:

Rot. Parl. 1. R. 2. m. 52. A Command for the making of Barges; here was cause to complain, if this had been a wrong. The Record saith, Because they were good Subjects, the King did confirm their Franchises unto them: Many things may be grievances and yet no wrong; there may be a loss without a wrong. The Commission in R. 2ds time expired with His Death. And in H. 4ths time, the Commons petition, That he would live of His own, and not charge the Subjects for the Defence of the Realm, as heretofore hath been done by His Progenitors. The King answereth, He will advise with His Lords.

Objekt. The last Authority which was objected, was Fortescue, they say, he being a great Judge, he saith, the King of England was *Corpus Politicum*, that he cannot do what he will, but according to the Law of the Realm, and not impose a Charge on His Subjects without consent in Parliament.

I answer, It is most true, so our Gracious King doth, unless in case of necessity; in such a case Rich Men must then expose their Treasure, Able Men must put on their Arms, others not able, must attend their Prayers, and Judges must press and enforce the Laws to make them to contribute, &c.

What I have said, I have spoken to the best of my understanding, and in discharge of my Conscience; I conclude upon all, That as this Case is the Charge of 20 s. imposed on Mr. Hampden is consonant to Law, and Judgment ought to be given against him, *Quod oneretur*, &c.

F I N I S.

Judge Vernon's Opinion concerning Ship-Money

THIS is a Cause of great consequence, and is one of the greatest that ever came in question in this Kingdom, and the Records have been infinite that have been cited on both sides; but by reason of want of my Health, and disability of Body, I have not been able to peruse the Records as I intended, and to have prepared my self against this day in which I am to argue; and therefore I would desire time until this day seven-night, to peruse the Records and compare my Notes, wherein (as you may see) I have taken great pains, producing them to the Court) that I may be the better prepared to deliver my Opinion

1637. nion in this weighty Matter; and then (God willing) I will not fail.

But it was answered by the Court, That in regard certain days had been peremptorily appointed at first for their Arguments, it could not be altered now, nor could they give him any further time.

Whereupon he said, Seeing I may not have any further time, I must therefore deliver my Opinion in Brief, according as I have conceived it in my Conscience to be, which is as followeth, viz.

That the King, *pro bono publico*, may charge his Subjects for the Safety and defence of the Kingdom, notwithstanding any Act of Parliament; and that it is warrantable by *Gascoigne*, 13 E. 4. 14. And moreover, That a Statute derogatory from the Prerogative, doth not bind the King. The King may dispence with any Law in cases of necessity, 2 H. 7. 11. And so he concluded for the King.

F I N I S.

A short Account of Baron Trevor his Argument.

After he had opened the Record, he said, The Question upon it, was, Whether Mr. Hampden should be charged with this 20 s. imposed upon him as this Case is.

This Case, by reason of the weightiness of it, is adjourned, from the *Exchequer* hither to be argued; and the Advice of all the rest of the Judges of *England* is required herein. Many days have been spent in the Arguing of this Case, as it well deserves; six days by the Defendant, and six days on the Kings side. It is some labour in a Case of this extent, to contract my self according to my Conscience and best Knowledge; I shall seriously ponder the weight of this Case, and digest it, as by the Law is warrantable, and so ground my Judgment accordingly: And the Judgment which I shall give in fine, is, That Mr. Hampden ought to be charged with this 20 s. and is to give satisfaction for the same. My Lord Cooke saith of a short Case in his 7th Report, That though it be as short a Case as ever was argued, yet the weightiest in any Court for consequence: So it may be affirmed of this Question; for the Sum is but 20 s. but the weight is of far greater extent, it concerneth the whole Kingdom; Mr. Hampden hath demurred, and hereby hath granted all matters of Fact to be true: The Defendants Council have taken much pains for their Clyent, and (without flattery) so hath the Kings Council.

I acknowledge the laying a Charge upon the People by Parliament is a safe way and a happy way, if time and occasion will permit. Anno 1538, when the invincible *Armado* (so termed) came against *England*, the provident care for the prevention thereof was out of Parliament. Alas! it is not Parliaments can keep us safe: Was not that detestable Gun-Powder-Treason 3 Jac. devised to have been executed in the Parliament time? The Wisdom of the Parliament did not discover this utter ruine and destruction, that had like to have happened to the King and Kingdom, and to the overthrow of Religion, but that it was the great Mercy of God that did it.

This Kingdom hath been always Monarchial;

a Democratical Government was never in this Kingdom. In the time of the *Britains*, 500 years before the Birth of our Saviour, when *Brute* came from *Troy* into *Britain* (as one writes) it had a Politick and Regal Government; this is confirmed by the Letter from the Pope to King *Lucius*. And our King hath as much Power and Prerogative belonging unto Him, as any Prince in Christendom hath. It is the Kings Prerogative to appoint the beginning and ending of Parliaments; so great a Body can move but slowly; a great part of the seven months would be spent, or the Parliament ended; and then we were but to begin to provide Ships, to rigg, and trim them, to provide Powder, Shot, Cable, &c. Many of these perhaps to be had in Foreign Parts; Master Gunners to be got; ready Money must be had for providing of all these; this will require convenient time before this can be done, what hazard may the Kingdom run all this while, what Policy is there to make State Affairs known to the Kingdom? They may thank themselves, they would not make a Ship for the Service, and then they might have had it for their own use afterwards. When the Kingdom is in danger, the King may command a Supply for prevention thereof; and who can tell better than He, how to prevent this Danger, *necessitas non habet legem*; the King then must not forbear. The Common Law doth regard the Common Good in particular, as in Pontage, Murage, Pavage. This provision of Shipping hath prevented us of danger hitherto, and I hope it will still: It hath increased the Honour of the Kingdom; it's known not only to our selves, but to other Princes, That our Navies are of far greater Burthen, and better furnished, and greater Navies, than ever was before; all which redoundeth to the Kings and Kingdoms Honour. The Ship (called *The Sovereign of the Sea*) may be termed, The Sovereign of all Ships.

To conclude, The Sums assessed for this Business, I wish they may be paid by all chearfully; for it is for a general Good, for the Safety of the whole Kingdom, the Subjects are not prejudiced by it, either in their Dignity or Property of their Goods. The Kings Prerogative protects the Subjects Liberty, and the Subjects Liberty the Kings Prerogative; 'tis proper for Kings to Command, and Subjects to Obey. We that are the Judges of the Kingdom have paid it, and therefore 'tis fit our Opinions concur with our Actions in this Case: And so my Advice is, That Judgment ought to be given; that Mr. Hampden ought to be charged with the 20 s. assessed upon him.

Finis Argumenti Baron Trevor.

Mr. Justice Crooke his Argument, as it was presented to the Kings Majesty.

The Case is this upon the Record.

THE King, by Writ under His Great Seal, dated 4 Augusti Anno 11 of His Reign, directed to the Sheriff of the County of *Buck*, and to all the men of that County, commandeth them in these words.

1, *Quia datum est nobis intelligi; quod pradones quidam Pirata, ac maris Grassatores, tam nominis Christiani, hostes Mahumetani, quam alij congregati* The Motives of this Writ which are
Eccc Navies, five.

Anno 1637. Naves, et bona, et Mercimonia non solum Subditorum nostrorum, verum etiam Subditorum amicorum nostrorum in Mari, quod per gentem Anglicanam ab olim defendi consuevit, nefarie diripientes & spoliantes ea ad libitum suum, deportare, hominesq; in eisdem in Captivitatē miseram mancipantes.

2. Cumq; ipsos conspiciamus Navigium indies preparantes ad Mercatores nostros ulterius molestandum, et ad Regnum Gravand⁹, nisi citius remedium apponatur, eorumq; conatus viriliter obvietur.

3. Consideratis etiam periculis, quae undiq; his gaer-rinis temporibus imminēt; ita quod nobis & Subdi-tis nostris defensionem Regni omni festinatione, quā poterimus, accelerare convenit.

4. Nos volentes defensione Regni, tuitione Maris, securitate Subditorum nostrorum, salva conductione Navium & Merchandarum, & Regno nostro Angliae venientium, & de eodem Regno ad partes externas transseunium (auxiliante Deo) providere; Maxime cum nos & Progenitores nostri Reges Anglia, Domini Maris praedicti, semper hactenus extiterunt, & plurimum nos lederet, si honor iste Regius nostris temporibus deperat, aut in aliquo minueretur.

5. Cumque onus istud defensionis quod omnes tangit, per omnes debet supportari, prout per legem & consuetudinem Regni Anglia fieri consuevit.

The Charge of this Writ which are three.

Vobis praefat⁹ Vicecom⁹, Ballivis, Burgensibus, Majoribus, probis hominibus, & omnibus aliis quibus-cunque supra mentionatis in Burgis, Villis, Villatis, Hamlettis, & locis supradictis, eorumque membris, 1. In fide & ligeantia quibus nobis tenemini. 2. Et sicut nos & honorem nostrum diligitis. 3. Necnon sub forisfactur⁹ omnium quae nobis forisfacere poteritis firmiter injungendum.

The Commands of the Writ which are five.

1. Mandamus quod unam navem de Guerra, portan-
gii 450 doliorum.

2. Cum hominibus tam magistris peritis, quam ma-
rinariis valentioribus & expertis centum & octoginta
ad minus.

3. Ac tormentis, tam majoribus, quam minoribus,
pulvere tormentario, ac hastis & telis, aliisque arma-
mentis pro guerra sufficientibus.

4. Et cum duplici Esippamento, necnon victualibus
usque ad primum diem Martii jam proximum sequen-
tem, & tot hominibus competent⁹.

5. Et abinde in viginti & sex septimanas ad custo-
dia vestra, tam in victualibus, quam homin⁹ salariis,
& aliis ad guerram necessariis, per tempus illud super
defensionem Maris in obsequio nostro in Comitiva cu-
stodis Maris, cui custodiam maris ante praedictum
primum diem Martii committimus, & prout ipse ex
parte nostra dictaverit, moratur parari; Et ad por-
tum de Portsmouth citra dictum primum diem Martii
duci fac⁹: Ita quod sint ibidem eodem die ad ultimum
ad praeficiend⁹ exinde cum navibus nostris & navibus
aliorum fidelium Subditorum nostrorum, 1. pro tuitione
Maris, 2. & defensione vestrum & vestrorum, 3. re-
pulsionēque & debellatōne quorūcunque mercat⁹ no-
stros & alios Subditos & fideles praedictos in Dominio
nostro ex causa Mercuturā se divertentes, vel abinde
ad propr⁹ declinantes super mare gravare seu molestare
sat agentium.

The Clau-
ses of the
Affeis.

Assignavimus autem te praefat⁹ Vicecom⁹ Bucks⁹ ad
assidend⁹ omnes homines in villis de Agmundesham,
Wendover, & Marlow magna, & in omnibus aliis
Villis, Villatis, Burgis, Hamlettis, & aliis locis in
Com⁹ Bucks⁹, & terra tenentes in eisdem navem vel
partem navis praed⁹ non habentes, vel in eadem non de-
servientes ad contribuend⁹ expens. circa provisionem
praemissorum necessarium.

2. Et super praedict⁹ Vill⁹ Villat⁹ Burg⁹ Hamlett⁹
& locos cum membris eorundem, sic ut praefertur, assi-
dend⁹ & ponend⁹ viz. Quemlibet eorum super statum
suum & facultates suas.

3. Et portiones super ipsos assessat⁹ per distractiones
aliosve modos debitos levand.

4. Et Collectores in hac parte nominand⁹ & consti-
tuend⁹.

5. Ac omnes eos, quod Rebelles & contrarios inve-
neris in praemissis, carcere mancipand⁹, in eodem mora-
tur quousq; pro eorum deliberatione ulterius duxerimus
ordinand⁹.

Et ulterius mandamus quod circa praemissa diligen-
ter intendatis & faciatis, et exequamini cum effectu
sub periculo incumbente: Nolumus autem, quod co-
lore praedicti mandati nostri,

The Per-
close of
the Writ
for the
ease of
the Sub-
ject.

1. Plus de eisdem hominibus levari fac⁹, quam ad
praemiss. sufficient. expens. necessar.

2. Aut quod quisquam, qui pecuniam de contribu-
tionibus ad praedict⁹ custag. faciend. levaverit, eam
vel partem inde aliquam penes se detineat.

3. Vel ad alios versus quovis quasvis colore appro-
priare praesumat.

4. Volentes, quod si plus quam sufficiat collectum fu-
erit, hoc inter solventes pro rata portionis ipsis contin-
gen⁹ exsolvatur.

By virtue of this Writ, Mr. Hampden is assessed to 20 s. for his Lands in Stoke Mandevill in that County, which not being paid, is certified amongst others in the Chancery upon a Writ of Certiorari, dated 9 Martii, Anno 12 Caroli, by a Schedule thereunto annexed. And by a Writ of Mutimus Teste 5 Maii 13 Car. This Writ of 4 Augusti 11 Caroli, and the Writ of Certiorari and the Schedule annexed, is sent unto the Exchequer, with a Command there to do for the levying of the Sums so assessed and unpaid, prout de jure et secundum legem Regni nostri Anglia fueris faciend⁹. Whereupon a Scire fac⁹ issued out of the Exchequer, (reciting the said Writs) to warn Mr. Hampden, amongst others, to shew cause why he should not be charged with this Money. Upon this, he being summoned, appeareth, and demands the hearing of these Writs and Schedule, which being entred, thereupon he demurreth in Law. And whether Judgment upon this whole Record be to be given against John Hampden, that he is to be charged or no, that is the question: For he is the only party in this Case: And there is no cause why any man should say, that the question is, Whether Judgment should be given for the King, or for the Defendant; for, as this Case is, the King is no party to the Record, but only it is a Judicial Process out of the Exchequer, grounded upon the former Records, for the Defendant to shew cause why he should not be charged; which hath been very elaborately argued by the Defendants Council, who demurred that he should not be charged; and by the Kings Council very learnedly and elaborately argued, that the Defendant should be charged.

This Case is a Case of great weight, and the greatest Case of weight that ever we read argued by Judges in this place, and therefore adjourned into this place for advice of all the Judges: For of the one side it is alledged, that it concerneth the King in His Prerogative and Power Royal; and on the other side, that it concerneth all the Kings Subjects in their Liberties, their Persons, and their Estates; for which it hath made some of us to wish and move among our selves, that it might have been by His Majesties Favour heard and determined in another place, by His Majesty and His Great Council of His Realm, where all conveniences and inconveniences might have been considered of, provided for, and prevented for present and future times, and not to be argued only

Anno 1637. only by us who are accounted his Majesties Council at Law; wherein, if any thing be done amiss, the fault must light upon us, as misadvising the King therein: But seeing it hath pleased his Majesty, that the same should be argued and determined in this place (whose Pleasure we must obey) I must give my best Advice upon my Oath, to the best of my skill; wherein, I hope not to trench upon his Highness Prerogative (which we are all bound by our Oaths, to the best of our skills to maintain) and not to suffer to be diminished; nor upon his Royal Power; but truly to deliver what I conceive the Law to be concerning the Case in Question.

Wherein I must confess I have been much distracted, having heard so Learned Arguments on both sides at the Bar, and so many Records and Precedents cited on either side: But they did not so much move me; for the Council have of either side pressed such Reasons & Arguments, and cited such Records as they thought convenient for the maintaining of their Opinions, and perhaps with a prejudicate Opinion, as I my self by mine own experience, when I was at the Bar, have Argued confidently, and as I then thought the Law to be of that side for whom I argued: But after, being at the Bench, weighing indifferently all Reasons and Authorities, have been of a contrary Opinion; And so the Law hath been adjudged contrary to that Opinion, which I first confidently conceived; But that which hath moved me most, and maketh me most mistrust my own Judgment in this Case, is that all my Brothers (who have all argued upon their Oaths, and I presume have seen the Records and Precedents cited on either side) have all argued one way; with whose Opinions I should willingly have concurred, if I could have satisfied my own Judgment with their Reasons; but not being satisfied, I have learned that I must not run with a multitude against my own Conscience; for I must stand or fall unto my own Master; and therefore I shall shew my own Reasons, and leave my self to the Judgments of my Lords, and others my Brethren; and whatsoever shall be adjudged, I must submit unto, and so do wish all others; and do now declare my Opinion to be, that as this Case is, Judgment ought to be given for the Defendant.

My Reasons and Grounds that I shall insist upon, are these:

1. That the Command by this Writ of *4 Aug.* 11 *Car.* to make Ships at the Charge of the Inhabitants of the County (being the Ground of this Suit, and Cause of this Charge) is illegal, and contrary to the Common Law, not being by Authority of Parliament.

2. That if at the Common Law it had been doubtful, yet now this Writ is illegal, being expressly contrary to divers Statutes, prohibiting any general Charge to be laid upon the Commons in general, without Consent in Parliament.

3. That it is not to be maintained by any Prerogative or Power Royal, nor Allegation of Necessity or Danger.

4. That admitting it were Legal to lay such a Charge upon Maritime Parts, yet to charge any In-land County (as the County of *Bucks* is) with making Ships, and furnishing them with Masters, Mariners and Souldiers, at their Charge, which are far remote from the Seas, is illegal, and not warranted by any former Precedent.

5. I shall examine the Precedents and Records cited to warrant this Writ, which have been all the

principal Grounds of the Arguments to maintain the same; and I conceive there is the chief *Car. 13.* Ground-work; being in my Notes; but I forgot it.

But before I proceed to the Argument, I desire do remove two Difficulties.

1. That by the *Demurrer* the Danger of the Kingdom is confessed, and so to be a Case of Necessity.

To this I Answer, that the *Demurrer* confesseth not Matters in Fact, but where the Matter is legally set down; but if it be not a Legal Proceeding, then the *Demurrer* is no confessing of the Matter in Fact.

This appeareth in the Book-Case of *5 H. 7. fol. 1.* And *Cooke lib. 5. fol. 69.* in *Burton's Case* That a *Demurrer* is no confessing Matters of Fact, but where the Matter precedent is sufficiently pleaded or laid down, and so it is holden in all our Books.

2. The second Difficulty is, That this Case is so resolved by all our Opinious under our Hands, that this Writ was Legal, which was much pressed by Mr. *Solicitor*.

To this I Answer, That it is true, I have set down my Opinion under my Hand unto the first voluntarily, in *Decemb. 1635.* which was thus;

I am of Opinion, that where the Good and Safety of the Kingdom in general is concerned, and the whole Kingdom is in danger (of which his Majesty is the only Judge) there the Charge and Defence ought to be born by all the Realm in general.

This I hold to be agreeable both to Law and Reason; this Opinion I do still hold, and will alwaies maintain; for where the Kingdom is in danger, the King may command every person of his Kingdom with all his Force and Means to come to defend it at all times, and in all places of his Kingdom where he pleaseth; and the King is the sole Judge of the Danger, and of War and Peace; and if any do not perform his Commands therein, he is fineable and punishable in a deep measure.

The Second Subscription was in *Febr. 1636.* Which is, That when the Good and Safety of the Kingdom in general is concerned, and the whole Kingdom in danger, his Majesty may by Writ under the Great Seal of *England*, command all his Subjects of this Kingdom, at their Charges, to provide and furnish such Number of Ships with Men, Victuals and Munition, and for such time as his Majesty shall think fit, for the Defence and Safeguard of the Kingdom from such danger; and that his Majesty may compel the doing thereof, in case of refusal and refractoriness: and that in such case his Majesty is the Judge of this Danger, and when and how the same is to be prevented and avoided.

To this Opinion, I confess, I then with the rest of the Judges, subscribed my Hand, and I then dissented to that Opinion, and then signified my Opinion to be, that such a Charge could not be laid by any such Writ but by Parliament; and so absolutely in that Point one other did agree with me, and dissent from that opinion which was after subscribed; and some others in some other particulars from that which was subscribed; but the greater part seeming absolutely to be resolved upon that opinion, some of them affirming that they had seen divers Records & Precedents of such Writs satisfying them to be of that Judgment, I was pressed to subscribe with them: for that the greater opinion must involve the rest

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as it was said to be usual in cases of conferences. And for that the lesser number must Submit to the opinion of the more, although they varied in their opinion; as it is in our Courts; if three Judges agree in opinion against one or two, where there are five Judges, Judgment is to be entred *per curiam*, if the major part agree, and the others are to submit unto it.

So in Cases of Conference and Certificate of their Opinions, if the greater part did agree and subscribe, the rest were to submit their Opinions: And this (by more ancient Judges than my self) was affirmed to be the continual practice; and that it was not fit, especially in a Case of this nature, so much concerning the Service of the King, for some to subscribe, and some to forbear their Subscription. And that although we did subscribe, it did not bind any, but that in point of Judgment, if the Case came in question judicially before us, we should give our Judgment as we should see cause, after the hearing the Arguments on both sides, we were not to be bound by this sudden resolution.

Hereupon I consented to subscribe, but I then said, that in the mean time, the King might be misinformed by our Certificate under our hands; conceiving us all to agree together, and give him this advice under our hands, and not know that there was any that dissented, or was doubtful; but it was then said, the King should be truly informed thereof; and there upon, we that did assent, did subscribe our hands with such protestations as aforesaid; only for Conformity; although contrary to the opinion I then conceived.

But this being before arguments heard on either side, or any precedents seen, I hold that none is bound by that opinion: and if I had been of that opinion that was subscribed, yet now having heard all the arguments on both sides, and the Reasons of the Kings Council to maintain this writ, and why the Defendant is to be charged, and the arguments of the Defendants Council against the Writ, and the reasons why the Defendant should not be charged to pay the money assessed upon him: And having duly considered of the Records and Precedents Cited and Shewed unto me, especially those of the Kings side, I am now of an absolute opinion, that this Writ is illegal, and declare my opinion to be contrary to that which is subscribed by us all. And if I had been of the same opinion as was subscribed, yet upon better advisement, being absolutely settled in my Judgment and conscience, in a contrary opinion, I think it no shame to declare, that I do retract that opinion: (for, *Humanum est errare*,) rather then to argue against mine own conscience: And therefore now having (as I conceive) removed those difficulties, I proceed to my argument, and shall shew the reason of my opinion, and leave the same, as I said to my Lords and Brothers: Not one Precedent nor Record in any Precedent time, that hath been produced or shewed unto me, that doth maintain any writ to lay such a charge upon any County, Inland or Maritime.

I will examine this particular Writ and the several parts thereof, and do conceive that it is illegal, and not sufficient to ground this charge upon the Defendant.

1. The motives of this Writ are not sufficient to cause such a Writ to be sent.

2. The command of the Writ, to prepare a Ship at the charge of the Inhabitants, with Munition and Men, is against the Common Law and Statutes.

3. That to lay a charge of finding victuals, and Wages of Souldiers and Mariners, is illegal, and contrary to the Common Law, and divers Statutes in point.

4. The power of assessment given to the Sheriff alone, and to deftrain for this, is illegal and not warranted by any Precedent.

5. The power of imprisoning is illegal, and contrary to divers Statutes, and not warranted by the Precedents.

6. That the Perclose of the Writ, and the practice of it, is contrary to it self, and *Oppositum in objecto*.

7. If this writ were legal, yet the manner of the Assessment by the Sheriff, as it is certified, is not warranted by this Writ:

quietly this same cannot be demanded of the Defendant by vertue of this Writ.

8. That the *Certiorari* and *Scir' Fac'*, issued not legally; and so consequently no Judgment can be given against the Defendant thereupon.

For the first point that this Writ of 4. Aug. 11 Car. is against the Common-Law: My reasons are these.

1. Because that this is the first Writ, since the Conquest, that went out to any In-land County, to prepare a Ship with Men and Munition, for ought appeareth by any record that hath been shewed; and where there was never any Precedent by Assent, by the rule of M. Littleton fo. 23. the Law is conceived not to bear any such Writ. And Sr. Edward Cooke in his Commentary upon Littleton fo. 81. saith, that there is no example, it is a great intendment, that the Law will not bear it.

So I conceive here, there never having been a Precedent before of any such Writ to the Sheriff and Inhabitants of a County, to prepare Ship with Men and Munition, upon any occasion whatsoever, that it is against the Common Law to award such Writs.

2. For the common Law of England setteth a freedom in the Subjects, in respect of their persons, and giveth them a true property in their Goods and Estates, so that without their consent or implicitly by a common ordinance, which they consented unto by a Common assent in Parliament, it cannot be taken from them, nor their Estates charged. And for this purpose, the Law distinguisheth between Bondmen, (whose estates are at their Lords will and disposition;) and freemen, whose property none may invade, charge, or unjustly take away, but by their own free consent; and therefore not warranted by Law; which is proved by these authorities

Cooke in his Rep. l. 8 f. 92. in Francis Case, setteth down this Rule, *Quod nostrum est, sine facto seu defectu nostro amitti, sed in alienum transferri non potest*.

Mr. Lambert, fol. 24. setting down the Laws of England which were confirmed by William the Conqueror, hath these words: *Inter alia, volumus & concedimus, quod omnes liberi homines Monarchie Regni sui predicti, habeant & teneant, terras suas & possessiones suas bene & in pace liberas ab omni exactione injusta, & ab omni Tallagio* (not mentioned there *injusta*) *Ita quod nihil ab eis exigatur prater servitium suum juste debitum*: Hereby it appears, there is an absolute freedom from all Tallage: 17 King John in Mat. Paris, fo. 246. the King doth grant and confirm unto his Barons and Commons *inter alia*, these Liberties following: *Nullum Scutagium vel auxilium pancinus in Regno*

Regno nostro, nisi per Commune Concilium Regni nostri, nisi ad redimendum corpus nostrum, filium nostrum primogenitum milit. faciend^o, vel ad primogenitam filiam maritand^o. By this it appears, what was then conceived to be amongst others, their Libertie, and then confirmed, which was, that no aid should be laid upon them but by Parliament; for the Parliament was then called *Commune Concilium*.

That the Law is so, appeareth by the Treatise written by Fortescue, who had been Cheif Justice of England, then Chancellor of England in H. 6. time, when he wrought the Book entituled. *De laudibus Legum Angliae*. For fol. 25. 9. Cap. he saith thus, That the King of England cannot alter nor change the Laws of England at his pleasure.

For, *Principatu Regali, sed et politico ipse populo suo dominatur*: If his power were Royal only, then he might change the Laws, *Tallagia quoque & cetera onera eis imponere, ipsis in consultis*; but adds, that the King of England, *sine Subditorum assensu Leges mutare non potest, nec Subjectum populum renitentem onerare impositionibus peregrinis*, And in this 13 Chapter fo. 31. he compares the King and Subjects of England, to the Head and Body natural, *Ut non potest caput corporis Physici nervos suos commutare, necq; membris suis proprias vires, & propria sanguinis alimenta denegare sui: nec Rex, qui caput corporis politici est, mutare potest Leges corporis illius, nec ejusdem populi substantias proprias subtrahere reclamantibus eis, aut invitis*: Thus he in this place: But in fol. 84. cap. 36. he seems to say, *in hoc individuo Rex Anglia nec per se, nec per ministros tallagia, subsidia, aut quavis onera alia imponit Legibus suis, aut leges eorum mutat, aut nova condit, sine concessione vel assensu totius Regni sui in Parlamento suo expresso*: Which words seem so general, that in no case he may do it.

So it appeareth by the Book Case, 23 H. 4. fo. 24 that the grant of the King which tendeth to the charge and prejudice of his people in general, is not good, unless it be by Parliament. But it is agreed there, that grants of Tolls, of Fairs, of Pontage, Pikage, Murage, Ferrying, or such like, which are for the profit, good, and ease of the people, and profit of them that will take benefit thereof, and not compulsory to any to pay, but to them that will take the benefit of such fees, and being very small and reasonable sums, the Law doth give allowance to them, but if they were great sums, that tend to the charge of the people, the Law will Judg them void.

This appeareth in Sr. Edward Cook his Reports, lib. 5. fo. 63. in the case of the Chamberlain of London, that an ordinance made by the Common Council of London, where they gave a Custom by their Common Council, to make reasonable ordinances, to bind all within the City concerning Cloaths to be brought to *Blackwel-Hall*, there always to be viewed, measured, and searched before they were sold, and a penny upon a broad cloath appointed for the Officer that did that service, that such a charge was reasonable, for that it was for publick benefit of the City and Common Wealth: And a pecuniary penalty laid for not performance of that Ordinance, was allowed.

Ibid fol. 64. in *Clark's Case*, is resolved, that an ordinance made by the assent of the Plaintiff himself, and other Burgesses for the Town of *St. Albans*, for a small tax upon the Inhabitants of the Town towards the Erection of the Courts, and other necessities for the Term to be kept

there; was allowed to be good, and did bind the Plaintiff, being by the Plaintiffs own consent, and for the publick good of the Town.

Also *Cooke*, l. 11. fol. 86 in *Darcies Case*, citeth this out of *Fitz. Natur. Bre. fo. 122*. That every grant of the King hath this Condition in it, Tacit, or expresse, *Quod Patria per donationes illas magis solito non oneretur seu gravetur*; and as by Grant the King cannot charge his People, so neither can he by Writ lay any Charge upon his People, but by their consent, or where they have apparent Benefit thereby; and that is the reason of the Writ in the *Register 127. and Fitz. Nat. Br. fol. 113*. Where by Breach of the Sea-walls any Inundation is of the Country, the King, who is *Pater Patrie*, and taketh care for the Good and Safety of his People, sendeth out his Commission to enquire by whose default any such Breach happened; and to cause all that had Lands or Commons, to be contributory to the making up of the Sea-walls; and this is done by a Jury; but this Charge cannot be laid upon a County or Town in general; but particular men that have Loss or Benefit, or may have Loss or Benefit thereby; and this is done upon enquiry of a Jury before the Sheriffs or Commissioners appointed.

So it is at this day upon Commission of *Sewers*; as appeareth by *Cooke*, lib. 10. fo. 42. in the Case of the Isle of *Ely*, That the Taxation by the Commissioners of *Sewers*, must be upon every particular man, that hath or may have Loss or Benefit by such Inundations and making up of the Walls, and cannot be laid upon any remote parts which are out of the Level of such Loss or Benefit; and it must be certain, and particular upon persons certain, by reason of Loss or Profit, and cannot be laid in general upon a Town: But in those Cases there is a particular Loss or Benefit, and in particular places, and but in petty Charges; and then where the Law alloweth, that which in reason is to be done, that may be done without a special Statute; for *de minimis non curat Lex*: But in this Case there is a general Charge throughout the Kingdom, which the Law doth not permit without common consent in Parliament.

But it hath been alledged, That this Charge hath been imposed for the provision of the Publick Safety and Defence of the Kingdom; and may not this be done when every one hath advantage by it?

To this, I say, when imminent Danger and Cause of Defence is, there must be Defence made by every man (when the King shall command) with his Person; and in such a Case, every man, as it is said in the Precedents, is bound *per se & sua*, to defend the Kingdom: and I think no man will be so unwise, but that he will *exponere se & sua* for the defence of the Kingdom, when there is danger; for otherwise he is in danger to lose *se & sua*: But to lay a Charge in general upon a Kingdom, either for making or preparing of Ships or Money in lieu thereof, is not to be done, but by Parliament, when the Charge is to be born in general by all the Subjects.

To prove further, That no man may have his Goods taken from him, but by his Consent, appeareth by a Record in *Mich. 14 E. 2. Rot. 60*. in the *Kings Bench*, in a Writ of Error brought upon a Judgment given at *Durham*; where an Action of *Trespas* by *William Heyborne*, against *William Keylowe*, for entering his House, and breaking his Chest, and taking away 70 l. in Money.

Anno 1637. ney, the Defendant pleading *Not Guilty*, the Jury found a Special Verdict, That the Scots having entred the Bishoprick of *Durham* with an Army, and making great Burning and Spoils, the Commonalty of *Durham* met together at *Durham*, (whereof the Plaintiff was one) and agreed to send some to compound with them for Money to depart, and were all sworn to perform what Composition should be made, and to perform what Ordinance they should make in that behalf: and thereupon they compounded with the Scots for 1600 Marks. But because that was to be paid immediately, they all consented that *William Keylow* the Defendant, and others, should go into every mans House, to search what ready Money was there, and to take it for the making up of that Sum, and that it should be repaid by the Commonalty of *Durham*; and thereupon the Defendant did enter into the Plaintiffs house, and did break open the Chest, and took the 70*l.* which was paid accordingly towards the Fine. The Jury was demanded, whether the Plaintiff was present, and did consent to the payment of the Money? They said, No: whereupon the Plaintiff had Judgment, to recover the said 70*l.* and Damages; for that otherwise he had no Remedy for his Money; and the Defendant committed in Execution for that Sum; and thereupon, the Defendant *Keylow* brought a Writ of Error in the Kings Bench, and assigned his Errors in point of Judgment; and there the Judgment was reversed; and the Reasons set down in the Record, were,

1. Because the Plaintiff *Heyborne* had his sufficient Remedy against the Commonalty of *Durham* for his Money.

2. Because he himself had agreed to this Ordinance, and was sworn to perform it; and that the Defendant did, nothing but that the Plaintiff had assented unto by his Oath; and therefore is accounted to do nothing but by his Consent, and as Servant unto him; therefore he was therein no Trespasser: and therefore the Judgment given in *Durham* was reversed, because he had assented to that Ordinance, though afterwards he was unwilling, yet having once consented, his Goods were lawfully taken: By which it appeareth, that if he had not particularly consented, such an Ordinance could not have been good to bind him, although this was in a Case of great danger, and for Defence.

2 R. 2. pars 1. The Parliament-Roll proveth this directly; although it be no Act of Parliament, yet the Record is much to be regarded; for it sheweth what the Law was then conceived to be: For *Scroope* the Lord Chancellor, then shewed to all the Lords and Commons Assembled in Parliament, That all the Lords and Sages had met together since the last Parliament; and having considered of the great danger the Kingdom was in, and how Money might be raised in Case of imminent danger, which could not stay the delay of a Parliament, and the Kings Coffers had not sufficient therein; The Record is, That they all agreed, that Money sufficient could not be had without laying a Charge upon the Commonalty; which (say they) cannot be done without a Parliament. And the Lords themselves, for the time, did supply the said Necessity with Money they lent. Which Record proveth directly that this Charge without an Act of Parliament is illegal.

So upon these reasons, I conclude that this Writ compulsarily to charge the Subjects against

their wills, is not warranted by any Books, and therefore illegal.

If this Writ should be allowed, great Inconveniences would ensue, which the Law alwaies will avoid, and not permit any Inconveniences.

First, That if any such Charge may be laid upon the Counties by Writ, without assent of Parliament, then no man knoweth what his Charge may be; for they may be Charged as often as the King pleaseth, and with making as many Ships, and of what Burdens, and with what Charge of Munition, Victuals, and Men, as shall be set down: wherein I doubt not, but if the Law were so, the King, being a very pious and just King, would use his power very moderately; but Judges, in their Judgments, are not to look to present times only, but also to all future times, what may follow upon their Judgments.

That this inconvenience may be, it appears by the *Danegelt*, first appointed in time of necessity to redeem them from the cruelty of the Danes, which often changed, and still increased: for in *Anno Domini* 991. when it began, it was 10000*l.* *Anno Domini* 994. it was increased to 16000*l.* and *An. Dom.* 1002. it was increased to 24000*l.* and *An. Dom.* 1007. it was increased to 36000*l.* and *An. Dom.* 1012. it was increased to 48000*l.* So if this Writ be well awarded, it may bear pleasure what bounds it shall have.

Also there were never but one single Subsidy and two Fifteens used to be granted in Parliament, until 31 *Eliz.* and then a double Subsidy and Four Fifteens were granted, *Sr. Walter Mildmay*, then Chancellor of the Exchequer moving for it, and saying, his heart did quake to move it: not knowing the Inconveniences that should grow upon it, he shewed great reasons for his so moving it, being minded

the Spanish invasion, and so it was granted.

Afterwards in 35. *Eliz.* Treble Subsidies, and Six Fifteens were granted: and in 43. *Eliz.* Four Subsidies and Eight Fifteens; and yet these were not accounted grievous, neither would it have been, if it had been Ten Subsidies; because in Parliament, and convenient times and means appointed for the levying of them.

Tunnage and Poundage were granted to this end, in 13 R. 2. (and have continued ever since by several grants) until this Kings time, wherein it was unhappily questioned in Parliament, but the end thereof was that the Kings might have monies in their purses against time of need for extraordinary occasions; especially for the defence of the Realm, and for guarding of the Seas, as it is especially declared by the Statute of 1 *Jac.* and former Statutes, and for other necessary uses as the King pleased.

Obj. But it is said that Tunnage and Poundage is not now granted to the King, and therefore the King is enforced to these extraordinary courses.

Sol. Though it be not granted, yet I think it is taken; and I doubt not but to the same intent, and for the same purposes employed, for which it was first granted; which was, for the Defence of the Kingdom, and Guard of the Seas.

Therefore, in Case of Danger and Necessity, every Subject (for Defence of the Kingdom) is bound *Ligeantia debito*, as some Records say, and *ligeantia sua vinculo astricti*, as others speak: *Se & sua totis viribus & potestate exponere*, &c. And in such a Case the King may command the Persons of his Subjects, and Arrest their Ships to wait on his, to defend the Sea; yet with this also (when they go out of their Counties) at the Kings

Anno 1637. King's charges, but to command the Subject by VVrit to build new Ships, or to prepare Ships at their charges, or to lay a common charge on the Subjects in general for matter of defence, or avoidance of danger, is not warrantable by the Common Law.

Another inconvenience is, that it is left in the power of the Sheriff to charge any mans Estate at his pleasure, taxing some, and sparing others, as his affection leadeth him, and sometimes by colour thereof, levying more than he need, and enriching himself; which power the Law never alloweth him, although it were in less matters, as to make an Assesment for the breach of Sea walls, but to do it by a Jury, and not by himself alone.

So, for these reasons, I conclude this VVrit is against the Common Law, and so illegal.

I conceive if the Common Law were doubtful in this, whether such a Charge might be imposed by VVrit, yet now it is made clear by divers express Statutes, that the King is not to lay any charge upon his Subjects, but by their consent in Parliament; and that is by many Acts of Parliament in force, and not repealed: And there is no doubt but the King by Parliaments may bind them and their Successors

every King being bound by Oath to perform the Statutes of this Realm.

The Statute of 25 E. 1. cap. 5. which is in these words:

Forasmuch as divers people of our Realm are in fear that the Aids and Taxes which they have given us before time towards our Wars, and other business, of their own grant and good will (howsoever they were made) might turn to a Bondage of them and their Heirs, because they might be at another time found in the Rolls, and likewise for the Prizes taken throughout our Realm by our Ministers, we have granted for us and our Heirs, that we shall not draw any such Aids, Taxes, or Prizes, into a Custom for any thing that hath been done heretofore by any Roll, or any other Precedent that may be found.

Ibidem, Cap. 6. *Moreover, we have granted for us and our Heirs, as well to Archbishops, Bishops, Abbots, Priors, and other Folk of Holy Church; as also to Earls, Barons, and all the Commonalty of the Land, that for no business from henceforth we shall take Aids, Taxes, nor Prizes, but by the common assent of the Realm, and for the common profit thereof (saving the ancient Aids and Prizes due and accustomed) which are the express words of that Statute. Now what those ancient Aids were, is well known, that they were ad redimendum Corpus, ad Filium Primogenitum Militem faciendum, & ad Filium Primogenitum Maritandum. Which Aids concern not the Subjects in general, but particular men were liable thereunto by their Tenures: so this (saving) needed not to have been; for the Body of the Act extended not to them, but to general Aids of the Kingdom.*

However, if this (Salvo) as it hath been objected, would preserve this Aid now in question, yet the Statute made afterwards de Tallagio non concedendo, being without any Salvo, takes it away; which Statute, Raftal in his Abridgment, fol. 441. in his Title of Taxes, abridgeth it in this manner:

Anno 25 E. 1. *It is Ordained, That the Taxes taken, shall not be taken in Custom, nor but by the assent of this Realm, except the ancient Aids and Taxes. And there the Taxes of Wooll of 40 s. a Sack is released.*

Ibidem 2. *That no Tallage by us or our Heirs in*

our Realm, be put or levied without the assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgessees, and other free Commons of our Realm, that nothing be taken from henceforth in the name, or by the reason of Male tout, of a Sack of a Wooll, Statute de Tallagio non concedendo.

Mr. Solicitor laboured much to prove, that there was no such Statute de Tallagio non concedendo.

1. For that it was not to be found in the Rolls of Parliament.

2. For that it was not set down when it was made.

3. That it was but an Abstract out of Confirmatio Charta Libertatum.

Mr. Attorney said he would not deny it to be a Statute, neither would he affirm it; but yet it did not extend to take away the Aid demanded by Prerogative or Power Royal for the defence of the Kingdom.

Sol. To this I answer, this was never doubted to be a Statute until this Argument; and that it is a Statute, appeareth.

1. For that it is printed in the Book of Statutes as a Statute.

2. It is recited in the Petition of Right, 3 Car. to be a Statute.

To that, that it is not found in the Rolls, I answer, that many Statutes which are known Statutes are not found in the Rolls, as Magna Charta is not.

And as touching the time, I conceive it to be made in 24 E. 1. cap. 1. for so it is set down in the great Book of Statutes, printed Anno 1618. to be the first Chapter of the Statutes therein made, viz. in these words.

No Tallage nor Aid shall be taken or levied by us or our Heirs in our Realm, without the good will and assent of Archbishops, Bishops, Earls, Barons, Knights, Burgessees, and other Freemen of the Land.

And that it is a Statute, all my Brothers the Judges have agreed.

The only doubt then is, whether this Statute extendeth to Aids for the defence of the Kingdom, which I think it doth; for it is the precise words, that no Tallage nor Aid shall be taken or levied, but by consent in Parliament, which extendeth to all manner of Aids.

Boden saith, fo. 97. by a Law made in the time of E. 1. that it was provided and enacted, that no Tax, Talliage, nor Aid shall be imposed, but by grant in Parliament; and by this Law the Subjects of England have defended themselves ever since, as with a Buckler, whereby it appeareth that notice was taken of this Law in foreign parts, and so held still to be a Statute in force.

The next Statute is 14 E. 3. cap. 1. which reciteth the grant of the great Subsidy of the ninth Fleece, ninth Lamb, &c. formerly granted; thereupon these words follow.

We willing to provide for the Indemnity of the said Prelates, Earls, Barons, and others the Commonalty of the Realm; and also of the Citizens, Burgessees, and Merchants aforesaid, will and grant for us and our Heirs, to the same Prelates, Earls, Barons, and Commons, Citizens, Burgessees, and Merchants, that the same Grant shall not be had forth in example, nor fall to their prejudice in time to come: nor that they be from henceforth charged nor grieved to make any Aid, nor sustain charge, if it be not by the common assent of the said Prelates, Earls, Barons, and other Great Men, and Commons of the said Realm.

Anno 1637. Realm of England, and that in the Parliament; and that all the profits arising of the said Aid, and of Wards, Marriages, Customs, and Escheats, and other profits arising of our said Realm of England, shall be set and dispended upon the maintenance of the safeguard of this Realm of England, and of our Wars of Scotland, France, and Gascoign, and in no place elsewhere, during our said Wars.

By this Statute it appeareth, that it is expressly provided, that the Subjects should not be from henceforth charged nor grieved to make any Aid, nor sustain any charge, but by common assent, and that in Parliament, which is as express as may be, and exclusive to any charge otherwise, which I conceive was made against the appointment of making or preparing, and sending out of Ships at the charge of the Towns wherein they were, or sending men out of their own Counties at the charge of the County.

Now where it is alledged by my Brother *Wesson*, and my Brother *Barkley*, that this was but a Temporary Statute, and ended when his Wars ended, which appeareth by the last Clause, for imployment of those profits of his Wards, &c. towards those Wars; I conceive it appeareth to be an absolute and perpetual Statute, for it is granted for him and his Heirs, which is in perpetuity: And also it appeareth by *Plowden* his Commentaries, fo. 457. in Sir *Thomas Wroths* Case, where a grant is by the name of the King, which is in his Politick Capacity; this extendeth against him, his Heirs and Successors, although they be not named.

Also the intendment of this Law appeareth to be for the security of the Subjects, from thenceforth for all future Ages; and then the Office of Judges is, as appeareth by Sir *Edward Cook* his Reports, lib. 3. fo. 7. and *Plowden* Commentaries in *Eiston* and *Studs* Case, to construe Statutes according to the true intent of the Makers thereof, which was in this Statute, that it should be perpetual security for the Subjects; and to little purpose it had been to make a Statute to continue but during the time of the Wars, or during the Kings life.

Obj. Also where it is alledged, that this Statute of 14 E. 3. is not mentioned in the Petition of Right, which is some Argument that it was not conceived to be a continuing Statute.

Sol. To that I answer, that in that Petition of Right it is said, that by the Statute there recited, and other the good Statutes of this Realm, the Subjects shall not be compelled to any Tax, Tallyage, Aid, nor other like charge not set by Parliament, in which this Statute is as well intended as other Statutes, and as far as if it had been expressly recited. Also it appeareth by all the Books of Statutes, that this Statute is printed as a Statute continuing, whereas others expired are so set down as expired.

21 E. 3. pars 2. m. 11. A Subsidy being granted by Parliament, viz. 40 s. of every Sack of Wooll transported before *Michaelmas* following, and 6 d. of every 20 s. of Merchandize for the safe guarding of the Merchants, defence of the Coasts, &c. After *Michaelmas*, viz. 31 Octob. 21 E. 3. by Writ the Collectors were commanded to continue the Collection of those Subsidies until *Easter*. But 26. Novemb. 21 E. 3. the King by Writ commanded the stay of the 6 d. in the 20 s. and to continue the Collection of the Subsidies upon the Sacks of VVooll until *Easter*.

22 E. 3. Parl. m. 16. The Parliament being

holden in *Lent*, the Commons complained of this continuance of the Collection of the Subsidy upon the Sacks of VVooll longer than the Parliament had granted it, and provided that it should not be continued longer than *Easter* by the procurement of no person.

By this it appeareth, that the Parliament being careful, that the time for levying of a Subsidy granted, should not be enlarged by any Power, much less would they admit of a VVrit to lay a charge without grant by Parliament.

25 E. 3. m. 8. It was Enacted, That no man should be compelled to find Men at Arms, other than such as hold by such services, except it be by common assent in Parliament.

By this it appeareth, that if men be not compellable to find a Man at Arms, unless it be by common assent in Parliament, much less is any bound to be contributory to the preparing of a Ship with 180 Men at Arms, and Victuals, and Wages of the Souldiers for a time, unless it be by common assent in Parliament.

Rot. Parliamenti 2 H. 4. n. 22. An Act of Parliament (as I account it in the very point) is in these words; For that of late divers Commissions were made to divers Cities and Boroughs within the Realm, to make Barges and Barringers, without assent of Parliament, and otherwise than hath been done before these hours: The Commons do pray the King, that these Commissions may be repealed, and that they may not be of any force or effect; to which it is answered, that the King willet that the said Commissions be repealed in all points, which is an absolute and perfect Statute: but then there is added these words; But for the great necessity that he hath of such Vessels for defence of the Realm, in case that the Wars shall happen, he will treat with his Lords of this matter, and afterwards will shew it unto the Commons, to have their counsel and advice in this point: So by this Record it appeareth, that the Commons did conceive, that no Cities, Boroughs, nor Towns, without assent of Parliament, were to be charged with the making of such Vessels; to which the King agreeth; and from that day to this very day (until the making of these Writs) in no Age (although the Kingdom hath been many times in danger of Invasion, and hath been invaded) there do not appear any Records that ever I have seen, of any Writs directed to any Towns or Cities, at their charges to make or prepare any Ships or Vessels whatsoever.

Obj. And whereas it hath been objected, and specially insisted upon by my Brother *Barkley*, that this latter part (that the King will treat with his Lords concerning them, and after confer with the Commons) is a gentle denial of that Act, as the experience is at this day: *Roy se aviserà*, is a denial of an Act.

Sol. Hereunto I answer, that it is an absolute Act, for it is an absolute assent to the Petition, and that which came after was but a plausible excuse; for that such Commissions had gone out, and this further Consultation never appeared to be made, nor never any such Writ or Commission for such Vessels to be made, went out ever since until this Writ.

13 H. 4. n. 10. A grant is of a Subsidy of VVoolls, VVooll-fells, Hides, and other things there mentioned, and of Tunnage and Poundage for one year for the defence of the Marches of *Calice*, &c. and for the defence of the Realm, and safeguard of the Sea; and therein is the express

Car. 13.

1637. *Ann.* preis proviso, viz. Provided always, that this grant of a Subsidy of Woolls, &c. and of Tunnage and Poundage in time to come, shall not be taken in example, to charge the Lords or Commons of this Realm with any manner of Subsidy for the safeguard of Calice, &c. nor for the defence of the Realm, nor for the safeguard of the Seas, unless it be by the will of the Lords and Commons of the Realm, and that by a new grant to be made, and that in full Parliament to come: by this it appeareth, that it was then provided, that no charge should be laid upon the Lords or Commons, no not for the defence of the Realm, but by grant in full Parliament.

13 H. 4. n. 43. A Petition was in Parliament, reciting, that there was an Office granted of *Almager* within London, and the Suburbs of the same, with Fees to that appertaining, where any such Office never was, nor any such Fees appertaining thereunto; and that by colour thereof, they levy *ob.* of the buyer, and *ob.* of the seller; and upon sale of every hundred Ells of Canvas, a peny of the seller, and a peny of the buyer, wrongfully against the Statutes in the time of your Highness Progenitors made to the contrary; by which it is ordained, that no Talliage nor Aid shall be granted nor levied, without assent and consent of the Lords and Commons of your Realm, as by the said Statute fully is declared: wherefore they pray, that such Letters Patents made thereof shall be void, and holden for none: And this was granted; whereby it appeareth, that it is declared then in Parliament, that these Statutes were, and did continue, that no Talliage or Aid shall be levied without grant in Parliament.

1 R. 2. cap. 2. It is enacted in these words; Our Sovereign Lord the King, remembring how the Commons of this Realm by new and unlawful inventions, and inordinate Covetize against the Laws of this Realm, have been put to great servitude, and importune charges and exactions, and especially by a new Imposition, called a *Benevolence*, whereby divers Subjects of this Land, against their wills and liberties have paid great sums of money, &c. It is enacted and ordained, That the Subjects and Commons of this Realm from henceforth shall in no wise be charged by such charges or Impositions, called a *Benevolence*, or by such like charge; and that such exactions, called a *Benevolence*, before that time taken, shall be taken for no example, to make any such, or any like charge of any his Subjects of this Realm hereafter, but shall be damned and annulled for ever.

By this it appeareth, that it is expressly provided, that the Subjects shall not be charged by way of *Benevolence* (which is in nature of a free gift nor such like charge; that is, no charge of money shall be upon the Subjects for any pretence whatsoever, be it for defence in time of danger, or the guarding of the Seas.

The last and concluding Statute is the Petition of Right, made in the third year of his Majesties Reign, where reciting, that it was enacted by a Statute made in the time of E. 1. commonly called, *Statutum de Tallagio non concedendo*, that no Tallage or Aid shall be laid or levied by the King or his Heirs in this Realm, without the good will and assent of the Archbishops, Bishops, Earls, Barons, Knights, and other the Freemen of the Commonalty of this Realm: And by a Statute of 25 E. 3. That none shall be compelled to make any Loans to the King, because such Loans

were against reason, and the Franchise of the Land: And by another Statute, that none shall be charged by any Impositions, called a *Benevolence*; by which Statutes, and other the good Statutes of this Realm, your Subjects have inherited this freedom: That they shall not be compelled to contribute to any Tax, Tallage, Aid, or other like charge not set by Parliament.

And then they pray, that none hereafter be compelled to make or yield any Gift, Loan, *Benevolence*, Tax, or such like charge, without common consent by Act of Parliament.

And after five other things there mentioned, the conclusion is, all which they pray is their Rights and Liberties; unto which the King answers, let Right be done, as is desired, which is a full and perfect Statute, shewed in this point the liberty of the Kingdom prayed and allowed, which was not done without the advice of the Judges then being, whereof I was one; whose Opinions were then demanded, and resolved, that the same did not give any new liberty, but declared what the liberty of the Subject was in this amongst others, that they should not be compelled to be contributory to any Tax, Tallage, Aid, nor any like charge not set by Parliament.

By reason of all which Statutes, especially of those of 25 E. 1. 34 E. 1. and 14 E. 3. being in the Negative, and in force; I conceive that these Writs, to lay such a charge, is against the Law, and so the Assessment by colour thereof not lawful.

Obj. Now whereas the precedent Arguments have been, that the Kingdom being in danger, therefore these Writs went forth for the making of Ships, because there could not be so suddenly any Parliament called; and the Parliament is a slow body, and the Kingdom may be lost whilst there is a Consultation: And the danger is conceived, to be very great, because the first Writ of 4 Augusti so mentioneth, that the Pyrates provide a great Navy to infest the Kingdom, and it is fit with speed to provide a remedy; and that the Writ of *Mittimus* mentioneth, that *Salus Reipublice periclitabatur*: And we must believe these suggestions to be true; for the Kings Certificate by this Writ is, *Recordum superlativum*, as Mr. Solicitor and my Brother Berkley termed it; and we must leave it upon the Kings Conscience (if it be not true) to lay such a charge upon an untrue suggestion: And the Defendant also by his Demurrer hath confessed all the suggestions in the Writ to be true; therefore it must be conceived that the Kingdom was in great danger, and present remedy must be had by making of these Ships, and must be commanded by these Writs, and not to stay for a Parliament: And my Brother Crawley said, it may be that if a Parliament were called, they will not yield to the going forth of such Writs, although the Kingdom were never so much in danger.

And this Charge (in respect of the making of the defence) is not within the intention of these Statutes; and if it had been expressly mentioned within a Statute, that such a charge should not be imposed, it had been a void Statute, and contrary to the Law, that the Kingdom should not be defended.

Answ. 1. To all these I answer, That the matter now in question is upon the Writ of 4 Augusti, whether that be legal or not, and the suggestions therein be sufficient or not; for the Writ of *Mittimus* mentioning, that *Salus Reipub. periclitabatur*, at the day of the issuing of the Writ of

Anno 1637. of 4 *Augusti* (which is a year and a half after the first *VVrit*) doth not help it: And this is not notified to the Sheriff and Inhabitants of the County, to make them the more careful, and in the greater contempt, if a Ship were not provided: but it is only a notification of the Barons of the *Exchequer*, that the same was the reason why the same issued forth.

Answ. 2. That the suggestions are not absolute, that any such danger was, or such Navy was prepared by the Pyrates, but only mentioneth, *Quia datum est nobis intelligi*, that the Pyrates had done such mischief.

Answ. 3. If such suggestions had been absolutely set down, yet we are not always bound absolutely to believe them, because many times untrue suggestions are made in *VVrits* and *Patents*; and yet it doth not lye upon the Kings Conscience, neither doth the Law impute any fault to the King, if any such be; for the Law doth always conceive honourably of the King, that he cannot, nor will not signifie any untruth under his Great Seal; but he is abused therein, and the Law imputeth it to them that so misinformed the King, and thrust in such suggestions into the *VVrit*; and therefore all *Patents* grounded upon untrue suggestions are accounted void.

Answ. 4. That the Demurrer confesseth nothing, but that which is legally and well set down; but if it be illegal, the Demurrer confesseth it not, but is well offered for that Clause.

Answ. 5. If the Kingdom were in danger, yet a charge must not be laid in general upon the Subjects without their consent in Parliament; for either the danger is near, and then the present provision must be made by mens persons, and the present Ships of the Kingdom, which the King may command from all parts of his Kingdom, as need shall require: but cannot command Money out of mens purses, by distraining of their goods, or imprisoning their persons: But if the danger be further off, by reason of any forreign Combinations (as it is conceived it may be here) then provision must be made of Ships by all the Kingdom for defence; then, as *Philip Comines*, fol. 179. that Cloud is seen far off, before that the Tempest fall, especially by a Forreign *VVarr*; and such Invasions cannot happen so soon, but that the King may call his Sages together, and by consent make provision for such defence.

So I say here, if there be a time to make Ships, or prepare Ships at the charges of the Counties; then is there time enough for his Majesty (if he please) to call his Parliament, to charge his Commons by consent in Parliament to have a Subsidiary Aid, as always hath been done in such cases; and they are not so long coming or meeting, but to make provision for defence, being for all their safeties.

For it appeareth by *Cook*, lib. 9. fo. 1. in his Epistle, that King *Alfred* made a Law, that the Parliament should be held twice every year, and oftner, if need require, in time of Peace: So that it was then conceived, that it was necessary to have Parliaments often to redress inconveniences.

Also by a *Statute* made 4 E. 3. cap. 14. It is Enacted, that a Parliament shall be held once every year, and oftner, if need be: Also by a *Statute* made 36 E. 3. cap. 10. It is enacted, for redress of mischiefs and grievances that daily happen, a Parliament shall be holden every year; as another time was ordained by a *Statute*, which I think referreth to 4 E. 3. Also it appears by the

speed that was in the Parliament held in 3d. of his Majesties Reign, five Subsidies were granted, two of them to be paid within few days after the Session of Parliament ended; and therefore might (as this Case is) have been ordered and provided for by Parliament, within 7 Months, as the time was between the Test of the *Writ*, and the time prefixed for Ships to be prepared and sent.

Obj. Where it is objected, that the Parliament perhaps would not have consented, and so the Kingdom might have been lost.

Sol. It is answered, that it is not to be presumed, that the Parliament would deny to do that which is fit for the safety and defence of the Kingdom, their own Estates and Lives being in danger, if the Kingdom were not sufficiently defended; for it is a Rule, *Nihil iniquum est presumendum in Lege*: So of the High Court of Parliament, that they would not deny that which is fitting; But I confess I do think if it had been moved in Parliament, they would never have consented to these *Writs*, they never having been awarded before, since the Conquest; and if they had consented, they would have taken a course how the same should have been made with most conveniency, and not to leave it to the Sheriff to tax them how, and when he would.

Obj. 7. To that which hath been said, that this charge is not within the intention of the *Statutes*, and that a *Statute* to prohibit such a charge for defence were void.

Sol. I answer, that it is true, if a *Statute* were that the King should not defend the Kingdom, it were void, being against Law and Reason; but a *Statute* that Money shall not be charged or levied, nor that men shall be charged to make or prepare Ships at their own charges, without common consent in Parliament, I conceive were a good Law, and agreeable to Law and Reason; and the King may by Parliament restrain himself from laying such a charge but by consent in Parliament: And then, the King, being a just and pious King as ever governed the Kingdom, (which we that serve in his Courts of Justice have daily experience of) would not assent unto, or suffer any such charge, if he were truly informed, that the imposing of this charge were against any one Law of this Kingdom, as this is against so many; but would say (as it is said in the *Statute* made 35 E. 1. that the Pope should not be permitted to present to Benefices) that he was bound by his Oath to see that, and other Laws in force, and not repealed, to be performed, that he would not suffer such charges to be laid contrary to the Laws and *Statutes* of his Realm, and would do as the late famous Queen *Elizabeth* did, when having required a Charge, upon divers her Subjects by particular Letters from the Lords of her Council, of several sums of money, for present help towards her Wars in *Ireland*, hearing that one of her Judges being Convented before her Lords for not payment of it, thereby discouraging others to pay it, answered, that it was against the Law that the same should be imposed, there being an expresse *Statute* against it, which he being a Judge was bound by his Oath to signifie, he being, as much as in him was, to be a Conservator of the Queens Oath in that behalf; the Queen, I say, was very angry that such an Imposition had been made against Law, and commanded that it should be stopped from further gathering, and to some that had paid their moneys, the same were restored: And therefore the principal

principal and only fault in the charging of his Subjects by these Writs (if they be unlawful, as I conceive they are) is in those that devised them, and informed him that they were lawful, and such as his Progenitors had from time to time used to send out, and in his Judges who have affirmed it to be lawful: Therefore upon this point I conclude, that this Charge by this Writ is illegal, and is no sufficient cause to charge the Defendant.

Obj. 3. Where it hath been much urged and argued by Mr. Solicitor and Mr. Attorney, that this VVrit is warranted by the Kings Prerogative and power Royal, to send forth such VVrits for defence and safety of the Kingdom in time of danger.

Sol. To this I answer, that I do not conceive that there is any such Prerogative; for if it were a Prerogative, I should not offer to speak against it; for it is part of our Oaths that are Judges, to maintain the Kings Prerogative to the best of our skill, and not to suffer the same to be diminished; but if it be (as I have argued that it is) against the Common Law, and against so many Statutes, that the Subjects should be enforced to sustain, or to contribute to any charge, without the especial consent or common assent in Parliament, then there is no such Prerogative: For whatsoever is done to the hurt or wrong of the Subjects, and against the Laws of the Land, the Law imputeth that Honour and Justice to the King (whose Throne is established by Justice) that it is not done by the King, but it is done by some untrue and unjust Information; and therefore void, not done by Prerogative.

This appeareth by the Authorities of our Books; for *Bracton*, lib. 3. fo. 107. who is an ancient VVriter in our Law, said, *Nihil aliud potest Rex in terris, cum sit Dei minister, & Vicarius quam de Jure potest*: And there a little after, *Itaque potestas Juris sua est, & non injuria cum sit Author Juris, non debet inde injuriarum nasci occasio unde jura nascuntur*. Sir Edward Cook in the eleventh Book of his Reports, in the Case of *Magdalen Colledge*, where the Question was, whether Queen *Elizabeth* having taken a long Lease of a Colledge, being conceived to be against the Statute of 13 *Eliz.* it was sought to be maintained by her Prerogative, but resolved it could not, being against a Statute, by which she was bound, although not named; and there fo. 72. it is said, *Hoc solum Rex non potest facere, quod non potest injuste agere*. *Plowdens Comment*, fo. 246. & 247. in the Lord *Berkleys* Case it is said, that the Prerogative of the King cannot do wrong, and his Prerogative cannot be any warrant to do any wrong to any.

Plowdens Comment, fo. 487. in *Nichols* Case, it is said by Justice *Harper*, although the Common Law doth allow many Prerogatives unto the King, yet it doth not allow any that he shall hurt or wrong any by his Prerogative.

21 *E. 3.* fo. 47. the Earl of *Kents* Case, it is said, that if the King under his Great Seal do make any grant to the hurt of any other, he shall repeal and avoid it *Jure Regio*; for the King is accounted to be abused by untrue suggestions, when he is drawn to do any wrong to the hurt of any other, much more, I say, when he is drawn to do any thing to the hurt of his Subjects in general.

Sir Edward Cook lib. 11. fo. 86. in *Darceys* Case, it is said, that every grant of the King hath this Condition unto it, *Tacite* or *Expresse*; *Ita*

quod Patria per Donationem illam magis solito non oneretur seu gravetur.

The Book called *Doctor and Student*, fo. 8. setting down, that the Law doth vest the absolute property of every mans goods in him; and that they cannot be taken from him but by his consent, saith, that is the reason, that if they be taken from him, the party shall answer the full value thereof in damages: And sure, I conceive, that the party that doth this wrong to another, shall besides the damages to the party, be imprisoned, and pay a Fine to the King, which in the *Kings Bench* is the tenth part of as much as he payeth to the party: So then, if the King will punish the wrong of taking of goods without consent between party and party, much more will he not by any Prerogative take away any mans goods without his assent, particular or general.

So I conclude, that I conceive that there is not any such Prerogative, to award such Writs, to command men to sustain such Charge, or to be contributory to it, and to be distrained or imprisoned for non-payment thereof.

Also I conceive, that this is not an Act of Royal Power; for if it be illegal to impose such a Charge, then it is not accounted as a matter of Royal power, but as a matter done upon an untrue suggestion, and a matter of wrong done; and wrong is not imputed to the King, for he can do no wrong, but it is imputed unto them who advised him to this course.

Royal Power, I conceive, is to be used in Cases of necessity and imminent danger, when ordinary courses will not avail; for it is a Rule, *Non recurrendum est ad extraordinaria, quando fieri potest per ordinaria*; as in cases of Rebellion, sudden Invasion, and in some other cases where Martial Law may be used, and may not stay for legal proceedings; but in a time of Peace, and no extraordinary necessity, legal courses must be used, and not Royal Power.

Therefore where by the Statute of 31 *H. 8.* cap. 8. which was made upon the Suppression of Abbies, when Rebellions were begun to be stirred; it is recited, That sudden occasions happening, which do require speedy remedies, and for lack of a Statute, the King was enforced to use Royal Power: It was enacted for the Reasons therein mentioned, That the King, by the Advice of His Council therein named, 2 Bishops, 2 Chief Justices, and divers others, or the more part of them, by His Proclamation may make Ordinances for Punishment of Offences, and lay Penalties which should have the force of a Law (with a proviso that thereby no mans Life, Lands, or Goods should be touched or impeached) so that therein Royal Power was fortified by a Statute; yet that Statute took care, that no mans Life, Lands, nor Goods should be taken or prejudiced; and yet that Statute was thought inconvenient, and therefore by a Statute of 1 *E. 6.* the same was repealed.

Bracton lib. 2. cap. 24. fo. 55. and the same is cited in *Cook* lib. 7. fo. 11. in *Calvins* case, *Regis corona est facere justitiam et judicium, et tenere pacem sine quibus Corona consistere non potest, nec tenere.*

Cooke lib. 7. fo. 5. in *Calvins* Case cited out of *Fortescue*, *Rex ad tutelam Corporum et bonorum erectus est*; which being so, he cannot take any mans Goods, or charge him without his assent by any Prerogative or Royal Power.

Also there can be no such necessity or danger conceived, that may cause these Writs to be awarded

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warded to all Counties of England, to prepare Ships at such a Charge, and with such Men and Munition, without consent in Parliament.

For the Laws have provided means for defence in time of Danger, without taking this course; for that the King hath power to command all, or any persons of His Kingdom, to attend with Arms at the Sea Coasts, to defend the Coasts, or any other parts of the Kingdom. And also by His Officers, to make stay or arrest of all, or any the Ships of Merchants and others, having Ships, or as many as he pleaseth, to go with His Navy to any parts of this Kingdom for defence thereof, and to attend those to whom he appointed the Guard of the Sea or Sea Coasts, at such times and places as they should appoint: And this hath been always taken and conceived to be sufficient for defence against any Prince whatsoever; and yet the same was in times when the Navy of England was not as now (by the blessing of God, and good providence of His Majesty) it is.

That this course was then so taken, it appeareth by divers Records, viz. 23 E. 1. m. 4. The Record reciteth, that the French King had prepared a great Navy upon the Sea, and purposed to invade the Kingdom, *Et linguam Anglicanam de terra delere*; and thereupon the King commanded all His Ships and Men with Arms to be in readiness, to defend the Kingdom.

Seco. 10 E. 3. m. 16. reciteth, That certain Gallies in the parts beyond the Seas were prepared with provision of Men and Arms, and other necessities of War, and ready to invade the Land, command was, That divers Ships shall be in readiness to defend; and the Ships of the Ports of Ireland be sent into England, to help to defend the Kingdom.

Seco. 10 E. 3. m. 22. A Writ was to the Bailiff of South Wales, reciting, That the Scots, and divers others confederating together, prepare themselves to Arms and Ships in a great number, and intend to invade the Kingdom; Command to them was, To have one Ship ready upon the Sea, to defend their Coasts: The like Writ was then to North Wales.

Alm. 12 E. 3. m. 10. A Writ to the Major of London, *Quia hostes nostri in Gallis cum multitudine non modica congregati, in diversis partibus Regni hostiliter ingressi sunt & civitatem predict. celeriter si possunt invadere proponunt*: The King commandeth them to shut up the City towards the Water, and to put all their men in Arms ready to defend, &c.

Alm. 13 E. 3. m. 13. A Writ to the Bayliff of Great Yarmouth, *Quia pro certo dediscimus quod hostes nostri Franci & adherentes eisdem Gallias & naves gucrinas in copiosa multitudine in partibus exterius congregarunt, & eis hominibus ad arma & al. arma parare faciunt & proponunt se movere versus Regnum nostrum, et navigium Regni nostri et portus prope mare situm pro viribus destruere et idem Regnum invadere, &c.* Command to the said Town to prepare 4 Ships, with 240 Men, &c.

At the same time like Writs went forth to twenty other Towns upon the Sea Coasts, Franc. 26 E. 3. m. 5. A Writ to the Earl of Huntingdon and others, *Quia adversarii nostri Franci nos & Regnum nostrum invadere machinantes, magnum navigium parare fecerunt & armari naves ad Regnum nostrum Anglicum subito attrahenda, sed ad nos et Dominium nostrum et totam nationem Anglicanam pro viribus subvertenda, &c.* Commanding them to Guard all the Sea Coasts of Kent, and to array all men ready with Arms to defend the Sea Coasts.

5 H. 4. m. 28. A Commission is to Thomas Morley and others, *Quod cum inimici nostri Franci Brittan. Sco. et al. sibi adherentes inter se obligati magna potentia Armari super mare in statu prox. futur. ordinarunt Regnum nostrum Anglie invadere, &c.* commanding them to array Men with Arms to defend, &c.

4 H. 8. pars secunda; The King by Proclamation into the County of Kent, sheweth, that it is come to His Knowledge of certain, that His Ancient Enemy the French King, hath prepared and put in readiness a great and strong Navy, furnished with Men of War to invade the Kingdom of England; The King appoints the Lord of Abergavenny and others, to put men in array, and to be ready to defend that County.

Anno 1588, when the great Invasion was by the Navy, termed, *The Invincible Navy*, which was foreseen long before: This course of preparing Ships by every County of the Kingdom was not appointed. Yet in all these times, when there appeared so great dangers of Invasions, there never went any such Writs into any the Counties of England to provide Ships: But the Navy of England and Army of England was always accounted sufficient for the Defence of the Kingdom: So I conclude this point that I conceive this course cannot be taken by any Prerogative or Royal Power, nor any Allegation of Necessity or Danger.

For the 4th point, I conceive, That if it were legal to lay such a Charge upon Maritime Parts, yet to charge any In-land County with making of Ships, and furnishing them with Masters, Mariners and Souldiers at their Charge, which are far remote from the Seas, is not legal, nor warranted by any former Precedent; for it commandeth an unreasonable and impossible thing by them to be done: And then a Writ commanding such a thing as is unreasonable, and not possible for the Parties commanded of themselves to perform without help of other Counties, is always illegal, for it is a Rule, that *Lex non cogit ad impossibilia*; If one by Covenant bind himself to do a thing impossible, the Covenant is void.

This appeareth by the Book-Case in 40 E. 3. fo. 6. where the Case is expressly, That if a man do covenant to do a thing that is impossible, this Covenant is void, and the Deed is void in that respect: Also the Book in 2 E. 4. fo. 2. If a Feoffment be made upon condition to be void if the Feoffee do not a thing which is impossible, this Feoffment is good and the Condition void, for it was the fault of the Feoffer to annex such a Condition; and this appeareth by the Case of an Arbitrement: If the Arbitrator award that one shall enter into Bond with such an one as his Surety to pay a Sum of Money, or to do any other Act, it is void, as to the finding of a Surety at the least; for it is not in his power to compel him to be his Surety, therefore the Law accounteth it unreasonable, and so void; and this appeareth by the Book, Case 17 E. 4. fo. 5. wherein it is so resolved.

So this Writ, commanding the Sheriff and Inhabitants of an In-land County to find a Ship furnished with Masters and Mariners, whereas there is not any Ship-Wright that hath skill to make Ships, nor any Masters nor Mariners ever there inhabiting, to guide a Ship; for they are still conversant about matters of the Plough, and feeding Cattel, and Husbandry, and are trained up by Musters for skill of Arms to defend the Countries, but not with Sea Affairs; for most of the

Anno 1637. the County never saw a Ship, nor know what belongeth to Masters or Mariners of Ships; and the County is not bound to seek out of the County for such men; and perhaps if they should, they cannot tell where to hire them: Therefore when such Writs to In-land Towns have been awarded to find a Ship with Masters and Mariners, it being conceived by information, that they were Maritime Towns, and had Ships and Mariners dwelling with them; the truth thereof being made to appear to the contrary, they have been discharged as it appeareth by a Record in 13 E. 3. pars 2. m. 14. where a Writ went to the Admiral of the Fleet: These Ports, upon complaint to the King, by the men of Bodmyn in the County of Cornwall, that they were unjustly charged to find a Ship with Masters and Mariners, whereas that Town was no Port Town, nor adjoining to the Sea, but far within the Land, nor ever had Ships lying there, nor Mariners, nor Seamen, nor ever used to find any such for Sea-Service; and that their Majors and Officers were imprisoned for not finding such a Ship; thereupon the King appointed to have it inquired, whether their Allegations were true, and if it were true, signified, that he would not have them so unjustly charged; but that they should be discharged thereof; which sheweth, that it was there accounted unjust to lay such a Charge upon a Town that was an In-land Town, and had no Mariners inhabiting in it, much more when such a Charge is upon an In-land County which is much further remote from the Sea, and cannot perform by themselves that which the Writ commandeth.

But this Record being objected by the Defendants Council, Mr. Solicitor gave answer, the same was because the Admiral of his own Authority had charged them, which was not according to his Commission, for he was only to charge the Port Towns and Sea Towns, but that the same may not be done by the Kings Writ, the Record doth not prove.

But to this I answer, that I conceive it is all one when such a Charge is laid upon a Town by Writ which is an In-land Town; for so it appeareth by another Record of the same year, viz. 13 E. 3. pars 1. m. 14. where a Writ was directed to the Admiral of the Fleet, *ab ore Thamisis versus partes occidentales*, reciting, That where the King by His Writ to the Town of Chichester commanded the Major and Commonalty there, that they should make *unam navem & duos escularios de guerra parari*, with Mariners and Men at Arms to be at Portsmouth such a day to go with the King's Ships, and that they had complained that they had not, nor ever had any Ships arriving in that Town, nor had any Seamen or Mariners dwelling there, and that it appeared unto the King by Inquisition of a Jury returned into his Chancery this Allegation to be true; therefore, because the King would not have them *indebite pregravari* (for so be the words of the Record) the King commandeth the Admiral, that they should not be troubled nor distrained for not performance of such Service; whereby it appeareth, that if they being within few miles of the Sea, should not be charged to find such a Ship, much more In-land Counties which are much further remote from the Seas are not justly to be charged with finding any Ships and Mariners; therefore I conclude this point, that I conceive this Writ in that respect is not legal, nor warranted by any former Precedent.

The Answer to the Precedents.

The fifth and great point hath been, and indeed the chief Argument hath been a multitude of Records and Precedents which have been cited that should warrant these Writs, and that the King hath done nothing but what His former Progenitors have done, and have lawfully done, and that he doth now but *Mores Majorum*; and that which always in ancient time hath been done and allowed, and therefore ought now to be done.

I confess, these Allegations much moved me when I heard these Records cited, and so learnedly and earnestly pressed by Mr. Solicitor; and after by Mr. Attorney, to be so clear, that they might not be gaind; but that they proved a clear Prerogative, or at least a Royal Power, than the King might do so, especially when my Brother Weston and my Brother Barkley (who had seen the Records) pressed some of them, and relied upon them for the Reasons of their Judgments; I say, I was much doubtful thereupon, until I perused all these Records sent me by the King's Council, and satisfied my Judgment therein.

But now I answer, That if there were any such Precedents (as I shall shew that there was not one shewed to me) to prove this Writ to be usual, yet it were not material; for now we are not to argue what hath been done *de facto*, for many things have been done which were never allowed: But our question is, what hath been done, and may be done *de jure*; and then, as it is said in *Coke lib. 4. fol. 33. in Witten's Case, Judicium est legibus, non exemplis*: And *lib. 11. fol. 75. in Magdalen College Case* it is said, *Multitudo errantium non parit erroris patrocinium*: And *lib. 4. fol. 94. in Slades Case*, Multitude of Precedents, unless they are confirmed by Judicial Proceedings in Courts of Record, are not to be regarded; and none of these were ever confirmed by Judicial Record, but complained of.

But to give a more clear answer unto them, I say, that in my opinion, upon view and serious reading of all the Records that have been sent me on the Kings part; for I have read them all over *verbatim*, and I presume they sent all that were conceived to be material, and I having taken notes of every one of them, I conceive that there is not any Precedent or record of any such Writ sent to any Sheriff of any Inland Counties, to command the making of Ships at the charge of the County; But this is the first Precedent, that ever was since the Conquest, that is produced in this kind; but it is true, that before 25 E. 1. there have been some Writs to Maritime Towns and Ports, and other Towns, as London &c. where they have had Ships, and Mariners to provide and prepare Ships, and to send them to places where the King pleased to appoint, upon any Just cause of fear of any danger for defence: And great reason that they having Ships, and Masters of Ships, and Mariners, should be at the Kings command, to bring all, or as many as he pleaseth, for the defence of the Sea and Kingdom, being those that had the most benefit of the Seas, and likely to have the loss, if the Seas and Coasts were not duly guarded; and those were most commonly appointed no be at the Kings charges: But sometimes upon necessity they were appointed to be at the charges of the Towns and

parts adjoining, which I think was the true cause of the complaint in Parliament, in 26 E. 3. and the making of that Statute for the staying of that course; for there is no record afterwards of any such Writs in R. E. 1. time after that Statute to Maritime Towns to prepare or send Ships at the charge of the Towns, but in time of E. 3. then the wars began between him and the French King: in *Annals* 10, 11, 12, & 13. of E. 3. were the most Writs awarded to the Maritime Towns to send Ships at their charges sufficiently furnished; and those I think were the principal cause of the making of the Statute of 14 E. 3. Cap. 1. and after that Statute, no such Writs, nor any Commissions for that purpose, were awarded to any Maritime Towns and Inland Towns for the making of Ships but one, which Record was much pressed by Mr. Weston, and my Brother Barkley, to prove that this course was and might be practised after the Stat. of 14 E. 3. for sending forth such Writs, and allowed; but that Record is fully satisfied; for it was grounded upon an ordinance in Parliament in 1 R. 2. m. 52. That all ancient Cities, Boroughs and Towns, that would have then confirmed their Charter without any charge of Fine, save only to make a Ship of War for Defence of the Realm, so this was not Compulsary to any, but voluntary to those that would have their liberties confirmed, and afterwards in 1 H. 4. Commissions were awarded for making of such vessels of War, But those stirring forth without any ordinance of Parliament, were complained of in Parliament, 2 H. 4. as to be against the liberty of the Subject, as appeareth by the Statute before recited, and those Commissions expressly repealed, and since that time of 2 H. 4. no such Writ issued forth in any age to any Maritime Towns to make Ships, or prepare Ships at their own charge for the Kings service, until these late Writs.

This general answer I give to all the Records; and now I shall take a short view of all the Records that have been cited, and sent to me, and leave them to the Judgment of my Lords and others, if any of them prove these Writs usual and Legal.

The Records of King John.

6 Jo. m. 1. 9 Jo. m. 3. 14 Jo. m. 2. 17 Jo. m. 7. Three of these are to arrest & make Stay of Ships, that they should not go out of the Kingdom, but to be ready for the King's Service; and the other was to bring Ships of particular Towns to the Mouth of the Thames for the King's Service.

15 Jo. m. 4. A Commission to Guard the Seas to John de Marston, and to the Sheriff of the County of Lincoln, and all others to attend his Commands.

15 Jo. Writs to the Barons of the Cinque-Ports, and divers other Towns, to have their Ships ready for the King's Service.

In the Time of H. 3.

14 H. 3. m. 14. A Writ to the Bayliffs of Portsmouth, to prepare one Galley.

14 H. 3. m. 5. A Commission to the Sheriff of Rochester, and others, and to the Sheriff of Kent, to cause all men to be in Arms in that County, and to Assess them without Arms they should find.

48 H. 3. m. 4. A writ to the Sheriff of Norfolk, commanding him to cause them which were ap-

pointed to attend all the coasts in that County, and having served Forty days intended to depart, they should stay Eight days longer, by reason of the danger, and longer if need require.

The like was sent to the Sheriff of Suffolk and Essex.

48 H. 3. m. 2. A Writ to the Mayor of Bedford, commanding him to provide for the expenses of them that were sent from thence, for the guarding of the Seas; yet it is but for Eight days more after the date of the Writ.

48 H. 3. m. 3. A Writ to the men of Essex, Norfolk, and Suffolk appointed to attend for the guarding of the Sea coasts, reciting, that the King had appointed T. de M. Custod Maris, & partium Marinarum within their Counties, commanding them to assist him and to perform therein what he required.

48 H. 3. m. 7. A Writ to the Sheriff of Cambridge and Huntingdon, to command all men of those Counties able to bear arms to come to the King in London.

In the time of E. 1.

25 E. 3. m. 5. A Writ to those of Essex, Norfolk, and Suffolk, reciting that such persons were appointed, ad custodiam Maris in those Counties, commanding them to attend them.

Ibid. Another Writ to the Sheriff of Norfolk and Suffolk reciting, that certain Constables of those Counties were appointed to assess men at Arms sufficient for the guarding of the Sea Coasts, commanding them to distrain and compel them, so Assessed, to go.

24 E. 1. m. 17. Writs to the Sheriff of Lincoln, York, and Northumberland, reciting, that he had commanded A. de B. Ad congregand' & capiend' Centum naves between Leigh and Barwick, et ad homines potentes in eisdem Navibus ponend' commanding them to assist him therein.

24 E. 1. Rot. 62. A Writ out of the exchequer to Adam de Guendo, et aliis Gardiani of the Sea Coasts in the County of Southampton, to distrain the Abbot of Reading for to find 9 Horses, which he was Assessed at for that service.

24 E. 1. m. 16. Writs to all Arch-Bish. Bishops, Earls, &c. in the Counties of Somerset, Devon, and Cornwall, to attend with their horsemen and footmen, for defence of the Sea Coasts in those parts, when they shall be required by the Guardian of those Coasts.

24 E. 1. Rot. 78. A Writ out of the Exchequer directed to all Arch-Bishops, Bishops, Earls, &c. in the County of Norfolk, reciting that Peter de Ruilin was appointed ad custodiam, partium Marinarum illarum commanding them to assist him.

24 E. 1. Rot. 78. A Writ out of the exchequer to the Sheriff of Berks, reciting that the King was informed by Adam de Griden guarding of the Sea coasts in the County of Southampton. that those men of the County of Berks, which were assigned to come to the defending of the Sea coasts in those parts, came not as they were warned, commanding to distrain them and compel them &c.

The like Writs were awarded to the Sheriff of Wilts and Southampton. &c.

24 E. 1. Rot. 81. A Writ to the Bailiff of great Tarmouth, reciting, that the King was informed,

Anno 1637. formed, that certain of *Flanders* and *French* in a great multitude apparelled like Fishermen, intending to invade their Towns: warning them to gather their Ships together, and all their Arms to defend themselves against such Attempt.

24 E. 1. *Inter Commun.* A Writ to all Sheriffs and Bailiffs, &c. Reciting, that he had appointed some therein named *ad Congregandum numerum navium & Galliarum Majorum* &c. Commanding the Sheriffs in their several Counties to be assisting unto them therein.

24 E. 1. m. 9. A Writ to the Guardian of the Seas in the County of *Southampton*. to discharge *Hugh Plessis*, to find Arms for his Lands in that County, for the guarding of the Seas, because he was in service with the King.

24 E. 1. m. 26. A Writ to the Sheriff of *Essex*, to discharge for the Winter time, those that stay at the Sea Coasts with their Arms to defend the Coasts; but commanding them to be in a readiness, when they should be again Commanded.

The like Writs were then awarded to divers Sheriffs of Maritime Counties, to the same purpose.

25 E. 1. m. 12. A Writ to the Sheriff of *Lancaster*, reciting, that whereas the King had formerly commanded him to go to all the ports, and Towns, where Ships were: Commanding the Bailiffs of the Ports to have all the Ships of the burden of Forty Tuns at *Winchelsey* by such a day; now commandeth the Sheriff to see them made ready and sent.

Ibid. 13. The like writs directed to the Sheriff of *Lincoln*, *Tork*, *Northumberland*, and *Cumberland*.

Ibid. 14. The like Writ directed to 19 other ports and Towns in other Counties.

21 E. 1. m. 26. A Commission to send away men at Arms in the County of *Westmorland*.

24 E. 1. Rot. 77. In the *Exchequer* shewed by the Defendants Council, Writs were to several Maritime Towns upon the Sea Coasts, and other Towns where Ships were usually made, to make Ships and Gallies, And that the King will allow and pay for them when he knoweth the charge thereof.

In the time of King Edward the 2.

Pat. 9 E. 2. pars 2. A Writ to all men in the Towns upon the Sea Coasts and ports of the Sea, between *Southampton* and *Falmouth*, reciting, that the King had appointed *John de Norton* to make provision for a Navy in the said Towns and Ports at their charges, commandeth them to perform what he in that behalf shall require.

Claus. 20 E. 2. m. 8. A Writ to the Bailiffs of *Tarmouth*, reciting that where the King had commanded all the Ships of the Burdens of 50 Tuns from the *Thames* mouth towards the West parts to be at *Portsmouth* such a day, &c. And they had sent two Ships, that the Masters and Mariners complained, that they could not serve without wages, and therefore appointeth them to send them wages.

20 E. 2. m. 10. A writ to the Bailiffs of *Tarmouth*, commanding them to send all their Ships of the Burthen of 30 Tuns and above to *Orewell* in *Suffolk*, with double tackling, Victuals and other things necessary for one month.

The like Writs at the same time to other Towns to the number of 34.

20 E. 2. m. 10. A Writ to the Mayor of *Lon-*

don, to provide 3 Ships with Men and Munition to go with 9 Ships of *Kent* to guard the Sea Coasts, *Car. 13.*

15 E. 2. m. 15. A Writ to the Sheriff of *Norfolk*. Commanding him to warn all Barons, Baronets, Knights, and others of that County, to attend the King at *Coventry*, at such a day to go with the King.

15 E. 2. m. 15. A Writ to the Sheriff of *Norfolk* and *Suffolk*, commanding them to arrest all Barons, Baronets, Knights, and Esquires, which were commanded to attend the King at *Coventry*, at such a day therein named and came not, to be before the King and his Council at *London*.

The record saith, like Writs were then Awarded to divers other Sheriffs of other Counties

16 E. 2. m. 13. A Commission to array all persons between the Ages of 16 to 60, with Arms, convenient to come to the King, when they shall be required.

19 E. 2. m. 6. A Writ to the Arch-Bishop of *Canterbury*, Commanding him to array all his servants and families, to be ready to defend the Kingdom, if any invasion should be.

The like Writs at that time to all Bishops.

In the time of E. 3.

2 E. 3. m. 92. A Writ to the Mayor, and Bailiffs of *Southampton*. Commanding them to cause all their Ships of the Burden of 40 Tuns and above, to be furnished with men of Arms and Victuals, ready to defend the Land if any Invasion shall happen.

Scoc. 7 E. 3. m. 19. A Commission to *Hugh Courtney* to guard the Seas, in the Counties of *Devon*, and *Cornwall*, and commanding all others to assist him.

10 E. 3. m. 25. The like commission to *Hugh Courtney*, for guarding the Seas in the same Counties.

Idem A Writ to *Bartholomew de Insula*, for Custody of the Sea Coasts in the County of *Southampton*. and therein is a command by *John Fitchborn*, and others for the County of *Southampton*. and to *William de Parshire* and others, for the County of *Berk* and to *Jo. Meridit*, and others, for the County of *Wilts* to array men with Arms, and to have them in readiness to defend the Coasts of the County of *Southampton*.

Scoc. 10 E. 3. m. 2. A Writ to *Will. Clinton* Guardian of the Cinque Ports, and others to survey all the Ships of the Cinque Ports, and other Ports, from the mouth of the *Thames* unto *Portsmouth*, and to cause them to be furnished with Arms, and Victuals for 13 weeks, from the time they shall go from *Portsmouth*.

Scoc. 10 E. 3. m. 2. A Writ to the Mayor of *Winchelsey*, to cause the Ships appointed for that Town to be furnished with men, and Arms, and Victuals, and other necessities for Thirteen weeks.

Scoc. 10 E. 3. m. 16. A Writ to the Admiral of the Fleet, from the mouth of *Thames*, unto the west parts to keep upon the Seas the Ships of the Cinque Ports, and other Ships arrested to defend the Kingdom against any attempt of any Invasion.

The like Writ was then to the Admiral of the Fleet, from the Mouth of the *Thames* unto the North-parts, with like Command to hold the Ships together upon the Sea.

Scot. 10 E. 3. m. 16. A Writ commanding the Ships of the Ports of *Ireland* to be sent hither to Guard the Seas there.

10 E. 3. m. 12. A Writ to the Bailiffs of *Tarmouth*, to cause the Men of that Town to contribute to the Charges of the Ships, and Men, and Victuals sent from thence for the defence of the Kingdom.

Scot. 10 E. 3. m. 22. A Writ to all the Bayliffs of Liberties and Men of *South-Wales*, to have one Ship riding upon the Seas for the Defence of those parts.

Idem. The like unto the Men of *North-Wales*,

Scot. 10 E. 3. m. 21. A Writ to the Arrayers of Men for the County of *Berks*, to compel them of that County assigned and assessed for the keeping of the Sea-Coasts in the County of *Southampton*, to go to *Portsmouth* by a Day therein appointed.

Alm. 12. E. 3. m. 12. A Commission that the King had appointed all the Ships from the Mouth of the *Thames* Northward, to be Arrested, and to cause them to be furnished with Munition, Men and Victuals, and to be brought to *Tarmouth*, and that the Men of *Lynn* refused to contribute to the Expences of the Charge of the Men sent in the Ship from the Town, and the furnishing of that Ship; and therefore commandeth the Commissioners therein named, to assess them that refuse so to contribute, and to distrain them.

Alm. 12 E. 3. m. 13. The like to compel the Men of *Bardefsey* to contribute for the Expences of the Men of that Town.

Clause 12. E. 3. m. 17. The like to compel the Men of *Surrey* and *Sussex* to contribute to the Expences of the Men of those Counties that attend for the Guarding of the Sea-Coasts there.

Vasc. 12. E. 3. m. 8. A Writ to all Archbishops, Bishops, &c. and to the Sheriff of *Kent*, and to the Barons of the *Cinque-Ports*, and all others in that County, commanding them to be assisting to *J. de Cobham*, to whom the Custody of the Seas in those parts is committed, and to defend those Coasts against Foreign Invasion.

Alm. 12 E. 3. m. 10. A Writ to the Mayor of *London*, reciting the danger of Invasion; and commanding to shut up the Gates towards the Water, if the Enemies approach.

Alm. 13. E. 3. m. 12. A Writ to the Bayliffs of *Tarmouth*, reciting by his Writ he had commanded 4 Ships of War of that Town to be made ready, with Men, Munition and Victuals, for three Months, at the Charges of the Town, to be brought to *Grewel*; and that they failed to come at their Day, to the great peril of the Land; therefore commandeth the Bayliffs to compel them at another Day therein prefixed, to be at the same place.

There is set down, that the like Writs were awarded to the Bayliffs of 17 other Towns, for sending their Ships, being Charged some for one Ship, and some for two Ships.

Clause. 13. E. 3. m. 38. A *Supersedeas* for the Abbot of *Ramsay*, for being Charged with Arms for Guarding of the Coasts in *Norfolk*, for his Lands in *Norfolk*. because he was by command attending with all his Forces in the County of *Hunting.* for the Safety of those Parts.

Clause. 13. E. 3. m. 14. A Writ of *Supersedeas* to the Arrayers of Arms in the County of *Oxon*, to discharge *John Mandist* to serve there, because he attended in *Wilt.*

Clause. 13. E. 3. m. 14. A Writ unto the Arrayers of Arms in the County of *Wilt.*, which

is only concerning the Payment of Soldiers wages then attended to Guard the Sea-Coasts.

These being all the Records shewed, it appeareth, that there were no Writs issuing out of those times to any Sheriffs of In-land Counties, or Maritime Counties, to make or prepare Ships upon any occasion whatsoever; but only to Maritime Towns, to send their Ships, or prepare Ships at their own Charges.

The Records shewed me since 14 E. 3. do not shew any Writs to be awarded to any Maritime Town to prepare Ships at the Charge of the Towns.

But these Records of 1 R. 2. and 1 H. 4. which I have before answered; and they, since that time, shewed unto me (except such as I have formerly mentioned in my Argument) are these.

Scot. 26. E. 3. m. 14. A Commission to *Nicholas de Cartlage*, to Array Men to resist the *Scott.*

Idem. A VVrit to the Mayor of *York* to Array all their Men to be ready when they shall be required.

20 E. 3. m. 15. A Commission concerning the Arrays of Men in the Counties of *Derby* and *Northingham*, and to punish them as came not when they were appointed.

Rot. Franc. 21. E. 3. m. 31. A VVrit to the Arrayers of Men in the County of *Southampton*, to discharge the Abbot of *Battail* to find Arms for the Sea-Coasts there.

Franc. 25. E. 3. m. 23. A Commission to *John Bodingham* for the Custody of the Ports and Maritime parts in *Cornwal*, and to Array all the Men to be in readines

There is set down that the like Commission is to others in several Counties.

Franc. 26. E. 3. m. 5. A Commission to the Earl of *Huntingdon* and others, to have the Custody of the Ports in *Kent*, and to Array Men, and to set up Beacons, &c. which is the first I observe in this kind.

The like Commissions then to several other persons to Array Men in several Counties, as *Warw.* *Oxford*, *Berks*, *Bucks*, &c.

Franc. 46. E. 3. m. 34. A VVrit to the Archbishop of *Canterbury*, reciting the danger of the Invasion by the *French*, to hurt the Church and Kingdom; commanding him to Array all his Clergy in his Diocess, and to be ready to go with the King's Forces, &c.

The like VVrits to all other Bishops in the Kingdom.

Franc. 50 E. 3. m. 47. A Writ to the Arrayers of Men in the County of *Norfolk*, and to the Sheriff of *Norfolk*. commanding them to command all Great Men and others that had Mansions upon or near the Sea-Coasts, to resort with all their Families, for defence of the Coasts.

The like to the Arrayers, and to the Sheriffs of Ten other Maritime Counties.

Scot. 29. E. 3. m. 13. A Commission to the Bishop of *Durham* and others, to Array Men in *Durham*, *Cumberland* and *Northumberland*, to resist the *Scotts.*

Franc. 40 E. 3. m. 31. A VVrit to *William Zouch* and others, to remove with all their Families

milies to their Houses upon the Sea-Coasts.

Anno

1637.

In the Time of R. 2.

1 R. 2. m. 7. A VVrit to the Bayliffs of Scarborough, because their Town was upon the Coasts of the Sea, and in danger by Invasion, carefully to look to the Custody thereof, &c.

Eodem. Rot. m. 12. A Writ to the Mayor and Bayliffs of Oxford, to repair the Walls of the Town, and to compel those that had Lands there, to contribute to the Expences thereof: This Record hath been much urged by Mr. Solicitor and Mr. Attorney, that if the King have such a power to command the walls of a Town to be repaired, much more to command Ships to be made, which are the walls of the Sea, and consequently the walls of the Kingdom; but this is clearly answered; for that it is but a private Town, and that which hath formerly been so walled, and for defence and safety of the Town, and none charged but those that had benefit thereby, and so proveth nothing to the Case in question.

Eodem. Rot. m. 42. One Writ to the Sheriff of Kent, and another to the Sheriff of Essex, commanding them to perform an Ordinance made by the King and his Council, for setting up of Beacons, and keeping watch about them.

Scot. 7. R. 2. m. 8. A Writ to the Archbishop of Canterbury, to command all his Clergy between 16, and 60, to be Arrayed and put in Arms, both Horse and Foot, according to their Qualities, to be ready to defend the Kingdom.

Franc. 11. R. 2. m. 13. A Writ to Serjeants at Arms to Arrest all Ships of VVar in the Ports of Plymouth and Dartmouth, and other parts in the County of Cornwall, and to bring them to Hants Hook, to go with the Kings Majesties Ships.

In the same Roll divers other VVrits to divers other Serjeants at Arms, to Arrest the Ships in divers other Ports.

Scot. 21. R. 2. m. 3. A Commission to the Duke of Albnall. to Array Men in the VVest-Marches towards Scotland, to resist the Scots.

Rot. Vioagii, 1 H. 4. m. 11. A VVrit to the Sheriff of Derby and Nottingham. reciting that the King certainly understood that the Scots intended with a great Power to invade the Kingdom, commandeth him to proclaim in all parts of his Counties, that all men between 16, and 60, should put themselves into Arms competent, according to their Degrees, to be ready upon two days warning to defend the Kingdom.

The like Writs were then directed to the Sheriff of Lincolne, York, and Lancaster.

Claus. 1 H. 4. m. 12. A Writ to the Arch-Bishop of Canterbury, *Satis informati estis qualiter inimici nostri Franc. & alii sibi adhaerentes, cum magna classe Navium, cum magna multitudine Armatorum, super mare congregat, diversas villas per Costeram Regni nostri invadere, & nos & Regnum nostrum destruere, & Ecclesiam Anglicanam subvertere intendunt & proponunt*; Thereupon commandeth that the Clergy in that Diocels be arrayed and Armed, and to be ready at the Kings command to go against the Enemy.

The like Writs were then awarded to every Bishop of England.

Pat. 5 H. 4. pars 2. m. 28. A commission to Thomas de Morley, and others, and to the Sheriff of Norfolk and Suffolk, and to the Bailiffs of Great Yarmouth, reciting, *quod cum inimici Franc. Brittan, Scotia & alii sibi adhaerentes, inter se obligat. magna potentia Armatis. super Mare in Esbat. proxim' futur' ordinaver' & intendunt Regnum invadere, &c.* Command to survey the Town of Yarmouth and fortifie it.

Note here also notwithstanding such great danger mentioned, and such distance of time, yet no Writs issued to any Counties to prepare Ships.

Pat. 3 H. 5. pars 2. m. 37. A Commission to Array all men at Arms in the West Riding in Yorkshire, to be ready to Defend those parts.

The like Commission to others in 19 several Counties.

Pat. 13 H. 6. m. 10. Pat. 39 H. 6. m. 12. Pat. 39. H. 6. Pat. 39. H. 6. m. 1. Commission for arraying men for the defence of the Kingdom, if Invasion shall be, and for repressing of Rebels.

Pat. 10 E. 4. m. 12. Commissions to George Duke of Clarence & al. to Array men for Defence.

Pat. 10 E. 4. m. 13. Commissions to Marquess Mountague to array and put in Arms all men beyond Trent,

Pat. 1 H. 7. pars 1. A Commission to Richard Fitzhugh and others, and to the Sheriff of Yorkshire, to array and to cause to be Armed all able persons, Abbots and others, to be ready to Defend the Kingdom.

1 H. 7. pars 3. A Writ to the Sheriff of Norfolk and Suffolk, to proclaim in all parts of these Counties, for that there was like to be open Wars between Charles of France and the King of the Romans, and great Navies are prepared of either side, commanding that watch and ward be kept, and Beacons kept to give warning that every man be ready if need be, to come and Defend the Kingdom.

4 H. 8. pars 2. A Writ to the Sheriff of Kent, commanding him to proclaim in his County, that the King being certainly informed that the French King hath prepared a great and strong Navy, furnished with men of War, to invade this Kingdom: Therefore commandeth all men within the age of 16 to 60, to put themselves in Arms to be ready to defend the Kingdom at an hours warning.

11 Eliz. Commissioners went to take view of all the horses of Engl. for service, and to survey all the Arms, to have them all in readines as necessity should require.

Now it appeareth upon view and examination of all these records (most of them being cited by Mr. Solicitor and Mr. Attorney, in their several Arguments,) they are none of them to prove the sending of any such writs to Inland or Maritime Counties, to prepare such Ships, although there have been many times of great danger, nor yet any VVrits to Maritime Towns, after the Statute of 14 E 3. to charge to find any Ships at their Charges; So then I conclude this point, that I conceive this VVrit is not warranted by any former Precedent.

Now I come to examine the point of this writ whether the same be legal and warranted by any former Precedents? and I conceive it is not.

First, the motives mentioned in the VVrit, Ffff 3 are

Note although this great danger be mentioned, yet no command to prepare Ships.

are quia datum est nobis intelligi (which is no certain information) *Quod quidam prædones & Maris Grassatores*, did take the Kings Subjects, Merchants and others, and carried them into miserable Captivity.

Secondly, *Cumq; ipsos conspicimus Navigium indies preparantes ad Mercatores nostros molestand' & regnum nostrum gravand'*, all these and those following I conceive are not sufficient Motives, and were never in any Precedent before to have a Royal Navy prepared, for the former Precedents are, that great Princes in open time of Hostility, had provided great Navies with Munition, and Souldiers, with intent to invade the Kingdom, as appeareth by the former Precedents, and against such provision it was necessary to provide a Royal Navy, the Kings Ships, and all the Ships of the Kingdom to be gathered to withstand them: But to make such preparation against Pirates, it was never put in any VVrit before; for when Pirates infested the Seas, they came as it were by stealth to Rob and do mischief, and they never dare appear, but when they may do mischief and escape away by their lightness, but against them the usual course hath been that the admiral or his deputy with some few Ships, have scoured the coasts, and not to imploy the whole Navy, and this appeareth by a Record of 25 E. 1. m. 9. *Will. Leighborn* the admiral was appointed upon such an occasion with 10 Ships to lie upon the Seas for the safeguard of the Merchants, and the usual practice hath been when they hover upon the Sea, by sending a few Ships of war to scatter them, to make them absolutely to fly away, and there is no doubt of loss of the Dominion of the Seas by any Act Pyrates can do, neither is it convenient that every County of the Kingdom, should prepare Ships against them.

Thirdly, the command of this writ is to provide a Ship of 450 Tuns, at the charges of the County, furnished with Masters and Mariners, which is impossible for them to do for the reasons before alleaged, and therefore is illegal, and not warranted by any former precedent.

The command of this VVrit as to find wages for Souldiers, for 26 weeks after they come to *Portsmouth*, when they are out of their Counties; and in the Kings service is illegal being against the Course of Precedents in divers times, and against divers expresse Statutes, and this appeareth by divers records.

15 Jo. In the VVrits of Summons of the Tenants by Knights service, it is expressly mentioned, that after 40 days service (for so many days they were to do service by their Tenures) they should be satisfied *ad denarios Regis*.

Pasch. 26 E. 1. Amongst the VVrits of the exchequer, it is there set down, that the foot-men of *Cheshire*, being 1000, which were appointed to go to the defence of the Borders upon *Scotland*, would not stir out of that County without wages, and there is set down that one therein named was sent down with money to pay the said foot-men.

Mich. 26 E. 1. Inter Brevia irretornabilia in the Exchequer, by reason of the Invasion of the Scots, many Souldiers were taken from divers parts of the Kingdom, *ad vadia Regis*; and there is mentioned, that Clerks were sent down with Money to pay the Souldiers of several Counties their wages.

30 E. 1. In the Exchequer in Account the wages for Land-Souldiers for several Counties, and

the wages of Mariners are set down, what the wages that was paid came to by day, and by week, both by Sea and by Land. Car. 13.

Tr. 31 E. 1. Inter Brevia in the Exchequer, the VVardens of the Marches of *Scotland* signified to the Barons, that the Men of *Cumberland* and *Westmerland*, appointed for the defence of the Marches, would not stir out of their Counties without wages; whereupon Order was given for wages for them.

19 E. 2. Commissions went out to pay the Souldiers which served out of several Counties, for defence against *Scotland*.

Hill, 2 E. 3. Rot. 16. In the Exchequer, it was Ordered in Parliament, that where some Souldiers had received of some of the Kings Officers Money for their wages, were fain to give Bonds for repayment, that those Bonds should be all redelivered.

1 E. 3. cap. 5. That no man shall be compelled to go out of his Shire, but where Necessity requireth, by sudden coming of strange Enemies into the Countrey; and then shall be done as hath been done in times past, which I conceive to be at the Kings wages, when any are out of their Counties.

But to clear all doubts, the expresse Statute of 18 E. 3. cap. 7. is, that Men of Arms, Hoblers and Archers, chosen to go in the Kings service out of *England*, shall be in the Kings wages, from the time they go out of their Counties where they were chosen, until the time they came again.

1. 19 H. 7. cap. 1. Those that had any grants of Lands from the King. And

2. 11 H. 7. cap. 1. Those that had any Offices of the grant of the King are to serve the King in his Wars; but in both it is appointed they shall have wages, from the time they shall come from their houses, until they return.

2 and 3 E. 6. cap. 2. It is enacted, that no Captain receiving Souldiers, serving by Sea or by Land, shall receive any wages for more Souldiers, or more time than they serve, and shall enter the days of their entring into wages, upon pain, &c.

3. All which Records and Statutes do prove, that the Souldiers should be at the Kings wages; therefore this Command for Souldiers wages for 26 weeks, when they go from *Portsmouth*, is illegal, and expressly against the said Statutes; and so the Assesment being entire, as well for the wages as the other charges, I hold it to be clearly illegal, and not to be demanded.

4. That the Command of this Writ to the Sheriff to assess men at his own discretion is not legal, nor warranted by the Precedents; for the Precedents are commonly, that Assesments for Contribution for making or setting out of Ships, have been by Commissioners, which by presumption had knowledge of such matters, as commonly Sheriffs have not.

Also this leaveth to the Sheriff too great a power to value mens Estates, as to inhaunce whom he will, and favour whom he will.

5. That the power to the Sheriff and Mayors of Towns, &c. to imprison, especially as it is used, is illegal, and expressly against divers Statutes; for it is provided by *Magna Charta*, cap. 29. *Quod nullus capiatur vel imprisonetur, nec super eum ibimus nisi per iudicium Parium suorum vel per Legem terra.*

Also in the 5 E. 3. cap. 9. That none shall be attached,

attached, nor his goods seized, contrary to the form of the great Charter.

Also by the Statute made in the 37 E. 3. cap. 18. it is recited, that by that great Charter none should be taken or imprisoned but by due process of Law; yet by colour of this Writ, the Sheriff may imprison any person, yea any Peer of the Realm; for although Peers are not to be arrested upon ordinary Process between party and party, as it was resolved in the Countess of Rutlands Case in *Cook lib. 6. fo. 32.* yet for a Contempt, and upon Process of Contempt, which is always for the King, any Peer may be imprisoned, as it is resolved by all the Lords, and all the Judges in the *Star-Chamber*, in the Earl of *Lincolns* Case; and so the Sheriff, by colour of this Writ, may arrest any Peer as for a Contempt, in not paying. But by the Book Case, 2 E. 3. fo. 2. it is resolved, that a Writ to imprison one upon suggestion before he be Indicted, or without due process of Law, was illegal: So for this Clause I hold this Writ to be illegal.

6. The last Clause of this Writ is, that by colour of this Writ more should be gathered than will be sufficient for the necessary expences of the premises; and that none that shall levy any money towards these Contributions, shall detain the same with them, or employ the same to other uses; and if more then did suffice were collected, it should be paid amongst those that paid after a ratable proportion: These are reasonable Clauses, but as the course is taken, it is not to be performed; for no Ship, nor Tackling, nor Munition, nor Men, nor Wages, nor Victuals being provided, it is not to be known whether more to be gathered, or less than would suffice; and there being money gathered, it is of necessity either detained with the Collector or Sheriff, or employed to other uses than are appointed by the Writ, so the Writ is not performed, and the money assessed and collected is not duly paid nor collected, and the money assessed and unpaid, cannot duly be demanded.

7. Admitting that the Writ were legal, and the Commands therein legal, yet the Assessment, as it is certified, is not sufficient to charge the Defendant; for it is not certified that any Ship with Munition, and Men, and Wages for Men and Victuals was prepared; and this is a year after the time that it should have been prepared, and sent to *Portsmouth*; and if it were not prepared, there is no cause to charge the Defendant, and that not appearing to be done, it shall be conceived not to be done.

For if one be charged in consideration of a thing to be done, before a certain time to pay a sum of money, if the thing be not performed according to the time, none can be charged for not payment of the money after the time is past; for it is in nature of a Condition precedent, to have a duty or sum of money to be paid after the Condition performed, and there he that will have the duty, must shew that the Condition is performed.

This appeareth in the Case of 15 H. 7. 1. and *Cook lib. 7. fo. 9. Ughbreds* Case: And therefore if the Ship be not prepared according to the Writ, nor money employed for preparing a Ship for and in the name of the County, then every one that paid any money, either voluntarily, as in obedience to the Writ, or compulsarily upon distress, may demand their money again of the Sheriff, or of them that received it; for as they paid their money, so it must be disposed of, and

cannot be disposed of otherwise by any Command whatsoever, although it be under the Great Seal; for the Command being under the Great Seal to prepare and furnish a Ship to such a purpose, as in the Writ is mentioned, and they paying it to that purpose, it cannot be otherwise disposed, although it be more for their advantage; for private men having interest therein that cannot be taken from them, nor dispensed withall: Therefore in *Cock lib. 7. fo. 37.* in the Case of Penal Laws, it is resolved, that if the penalty appointed to be forfeited upon a Penal Statute to be given to the poor of a Parish where the offence is committed, the King cannot dispence with the penalty for that offence, because the poor have an interest therein; but if the penalty be given part to the King, and part to the poor, the King may dispence with his own part, but not with the part of the poor.

Obj. And where it hath been said, that it is by way of Accommodation, because the Country cannot well know how to provide to content, and perhaps with more charge.

Sol. To this is answered, they must do it at their peril, if the Writ be legal; and then if it be done, they shall have the benefit thereof: For (as my Brothers *Weston* and *Berkley* have both agreed) if the Ship were made when the service is done, the County for which it is made shall have the benefit of the Ship and the Munition, and of the service of the Men, being made more expert against another time, and the Ship may with some easie charge serve again, and nothing lost but the expence of the Victuals, and the Kingdom shall be so much the more strengthened, by having so many Ships made or prepared; and they may have account of their money how it was bestowed, and if any surplussage be gathered, to have it restored; and that the Law is so, that if money be received of the County, and not employed accordingly, the party so receiving it, and detaining it, or misemploying it, is to pay a Fine unto the King for the same, and is accountable for the money, appeareth by two Records.

The one in *Hill. 16 E. 3. Rot. 23.* in the *Kings-Bench*, where two Souldiers were Indicted, for that they S. E. 3. taking 3 l. a piece towards their Armour, and to the bringing them to the place where they were appointed to serve the King in *England* in his VVars, they went not, but tarried still in their houses, and retained the Armour, and the money which they had received for that purpose; they thereupon being Convented, pleaded not guilty, and the one was found to go in service according to the appointment, so he was discharged, and the other was found that he received the money, and went not to do the service, nor restored the Arms nor Money; thereupon he was committed to the Prison, and paid to the King a Fine, and found Sureties to pay the money to the Hundred again, from whom he had received it.

The other was *Hill. 20 E. 3. Rot. 37.* the *Kings-Bench*; there two High-Constables were Indicted, for that they S. E. 3. had received six Marks of the Towns in their Hundreds to set forth Souldiers, and had not set them forth, but retained the money, which they denying, it was found that they had received the money for that purpose, and had disbursed 41 s. 6 d. thereof towards the setting forth of Souldiers, but had retained 38 s. 6 d. and not disbursed it; thereupon they were fined and imprisoned, and after enlarged,

Anno 1637. enlarged, upon Sureties to pay the money they had retained undisbursed, at the next time the King commanded Souldiers for those parts: By both which Records, being for offences done so long before, it appeareth, that those that have received money of the Country to prepare Ships, and not imployed it accordingly, they are answerable to the King, or his Successors, to pay a Fine for their imployment of it otherwise: and are chargeable to those of the County, of whom they received it, for repayment thereof.

8. For the last point, I conceive, that this *Certiorari* directed to the two that were late Sheriffs at the times of the Assessment, and not to the Sheriff that was at the time of the *Certiorari* awarded, who is the only immediate Officer to return the *VVrits*, is not legal; for it is the first that hath been seen of that kind, for all *VVrits* are directed to some immediate Sheriff, requiring him to demand of the former Sheriffs, what they did upon the former *VVrit*; and they are to return to him what hath been done, and he to return the same unto the Court whereunto he is an immediate Officer, and the former are not any Officers; so the *Scire Facias* thereupon grounded, I conceive is not good: Also the *Scire Fac.* to warn Mr. Hampden, *ad ostendend. si quid pro se habeat, & quare de predict. vigint. solid. onerari non debet*, not shewing to whom, is uncertain and insufficient: Therefore I conclude upon the whole matter, that no Judgment can be given to charge the Defendant.

Finis Argumenti Justic. Crooke.

Judge Jones his Argument.

IN *Easter Term* there issued forth a *Scire Fac.* and this doth rehearse divers sums of Money assessed upon divers persons in the County of *Buckingham*, for providing a Ship of 450 Tun with Men, Munition, &c. to attend the Kings Navy for the defence of the Kingdom.

And afterwards upon a *Certiorari* out of *Chancery*, directed to the Sheriff to certify those Assessments, and those that made defaults of payment, Mr. Hampden was returned Selled at 20 s. and had made default.

Upon this Return, the King by *Mittimus* out of the *Chancery* sent the Writ, the *Certiorari*, and the Return, to the Barons of the *Exchequer*, to do as the Court should think fit.

Thereupon a *Scire Fac.* went forth to the Sheriff, to summon Mr. Hampden to shew cause why he should not pay the 20 s. assessed upon him; he was returned, warned, and appears, and demands *Oyer* of the several Writs and Returns, and of the *Scire Fac.* and upon all this he demurreth in Law, and Mr. Attorney hath joyned in the Demurrer with him; and my Lord Chief Baron, and the rest of the Barons, have adjourned this hither, to desire the Advice of all the Brothers of the Law; and indeed it requires advice, for it is as great a Case as ever came to be advised on before Judges.

I say, it is a great Case, it concerns the King in his Royal Prerogative, and the Subject in the Interest, in his Lands, and Goods, and Liberties of his person; they that have spoken already, and those that shall speak hereafter, shall hardly escape the Censure of the people, of some that have some understanding, some peradventure

that have less, and some that have none at all, but speak according to their opinion, affection, and will; *Falces essent Artifices, si per solos Artifices Judicarentur*; We should be happy to be adjudged by them that are Learned: But when it is by them that understand not, then it turneth to Calumny and Reproach.

Some have taxed them that have gone, or will go with the King, as though they were fearful, and went about to captivate the liberty of the Subject, and take away their goods; some are taxed on the other side, if on the contrary Opinion that they are given to popularity; so as I may say as the Psalmist, *Domine posuisti me in lubrico loco*, for it is impossible to escape the venom of their tongues: Between those two Rocks of Censure I am like to fall; and howsoever I may fall in my sentence, with Gods Grace I shall make no shipwrack of my Conscience; I am trusted by the King to dispence his Justice equally to all, and sworn to maintain his just Prerogative, as well as the Subjects Liberty, and if we do otherwise than as Judges, we do as false men; if any man offend contrary to his Oath, he doth forfeit his Lands, Goods, and Tenements, and is at the Kings mercy; I shall not therefore for any respects do against my own Conscience, but descend to give my judgment, not regarding the watery mouths of others.

The Kings Council, and the Council at Bar, have spoken so largely to this business, and it is spoken to by my Brothers so fully, that I can hardly say any thing, but what hath been said before; so I will select some few things, to satisfy my own Conscience, though I can satisfy no mans else, which I will do as plainly as I can, and as I ought to do; and if there had not been a variety of Contestation, I should have spoken very little; but now necessity requireth, that I must enlarge my self a little more.

(1.) I will state the Question, and in it put many things objected out of doors.

The Question is, Whether the King of *England*, when he perceiveth danger to be imminent to the Kingdom, and a necessity of defence, may not by his Writ send to all Counties, Inland as outward, and at the charge of the County, for a convenient time, to provide Shipping, with Men and Munition, &c. but no money to come to his Purse, but the Ships to go to defend the Kingdom.

The Question stands not, whether the King may draw it to be a perpetual charge upon the Subject, which, under favour, he cannot, for this goeth upon a fear, upon a danger which continueth for a time, and therefore this cannot be perpetual; for when the occasion ceaseth, the Tax must likewise cease. There is a Case to this purpose, 39 H. 6. fo. 39. *Protection. Brooke*; a Protection granted to one for three years, and the question was, whether a good Protection: The Rule is, the King may grant a Protection for one year, and at that years end renew it for another year, if the occasion require it, and so for a third year, yet he cannot at the beginning give a Protection for three years together: So in this Case, though the King may upon an emergent occasion command Ships, yet by reason of that occasion, he cannot make it perpetual, for the occasion may cease.

(2.) Set out of the Case this, that I will not exempt the Kings Majesty himself to bear a part of the burden; the Head and Body must go together.

together, he must joyn with his Subjects in the defence and charge thereof.

(3.) The question is not, whether for a Foreign War he may command this charge; it must be only in defence of the Kingdom, in case of eminent danger.

(4.) It is not, whether the King may lay this, to draw a sum into his Purse; for the King tends to have no money, but to provide a Ship: and if the Sheriff accordingly provides a Ship, there is an end of the business. All this is out of the Book.

What *Carlin* Chief Justice compared a Fine to *Janus Bifrons* having two Faces, the one looking backwards, the other forwards; so may I, my Argument it shall first look backward, and tell you *quid fecimus* what we have done; and then forward, and tell you *quid faciemus* what we shall do.

The *quid fecimus* rests in what advice we heretofore have given his Majesty in the Case, and the Opinion of the Judges subscribed with their hands, delivered over to his Majesty; which being read at large by the Judge, he said the advice we gave consists of four Assertions.

1. That when the Kingdom is in danger, all the Kingdom is to joyn in the defence.

2. What shall be a Danger and what not, His Majesty is the sole Judge thereof, and of the Means how to prevent it and avoid it.

3. In this case of Danger he hath power to send to In-land places as well as to Maritime, to defend against Invasion.

4. The King hath a Power of Compulsion, to punish them that refuse to contribute towards this Charge.

This Opinion being jointly and severally delivered by us, declared by my Lord Keeper in the Star Chamber, in the presence of us the Judges before the Lords of the Council, with an Intimation as if it were the full consent of all the Lords of the Council before hand, and there commanded to be enrolled in all the Courts at Westminster; yet we so delivered our Opinions, that if better reason to alter them, we might go back, we had better *recurrere*, than *male currere*.

Now to the second Point, *quid faciemus*, whether to stand to this Opinion or not; and then, whether this Book or Record will warrant it, and how far it differeth from what we have done?

I shall speak my Conscience; I am an old Man, and ready for my Grave; my Tongue and my Heart shall go together; I am of the same Opinion I was of then, and conceive what we then delivered was according to Law, with all modesty and humility submitting to those that have been or shall be of a contrary Opinion.

For the grounds of Law and Nature support it.

1. *Salus Populi Suprema Lex, qui sentit commo-
dum, sentire debet & onus, quod omnes tangit ab om-
nibus debet supportari*, what do these Rules intimate else, but that, when a Danger is eminent, that the Charge must lay upon the whole Kingdom, and the Burthen must be born by all; and that is not denied by them, that were of the Council on the other side: It must not be every kind of Fear or Rumour that must draw this kind of Burthen upon the Subject, but a Danger the King in His Understanding perceiveth to require a speedy Defence.

2. That the King is sole Judge of this Danger, and how to prevent it and avoid it, is not to be literally understood, for we are His Judges de-

puted, but our Judgment flows from Him; Judgment is settled in the King, He is the Fountain of Justice, from which other proceeds; *Bracton, Rex Vicarius Dei est in terra sua*; we are Judges cumulative, not primitive, so is the Supreme Judge.

In the Parliament the King is the Sole Judge, the rest but Advisers, 22 E. 3. fo. 3. Br. Hence it is, the old fashion of penning of Statutes was, *Rex Statuit*, 7 H. 7. Afterwards it came to be with the Advice of the Commonalty, Tr. 6. H. 6. Rot. 41 Kings Bench. There was a Prior brought a Writ of Annuity against one in Ireland, there was Judgment in the Common Pleas; then afterwards a Writ of Error in Parliament, and there both Judgments reversed. And in the Entry of the Judgment the Record saith, *Nos cum assensu & ad requisitionem communilitatis*, do reverse the Judgment; where note, that the King is the Man that is the Sole Judge thereof; but it left not here. By the way observe out of this Record, the Power of the Kings Bench in England: For upon this Record it appears. A Writ of Error brought in the Kings Bench in England, to reverse a Writ of Error in Parliament in Ireland: This sheweth the King in Parliament is Sole Judge, the rest but Advisers; so, as I said before, He shall be the only Supreme Judge. For my part, I thought my Brothers were all of Opinion, That the King is the Sole Judge of the Danger Himself alone, and of the way of prevention, whether by His Council or by His Parliament.

3. Assertion, That the King without Parliament, in case of imminent danger, hath Power to send to In-land and Maritime Counties to provide Ships; and I think He may by the Fundamental Laws, Common Laws, Statute Laws, and Precedents.

First of all for the Common Law admitted in Parliament here. I leave the Divines to talk of the Kings Power, who, under favour, take more liberty than is fitting: To say in a Pulpit, That he that will have the Statute de Tallagio non concedendo to be a Statute, or that if it be, that it binds the King that such a man is not *Cesar's Friend*. *Bracton* saith, That by the general Law of Monarchy, the Subjects Goods are at the Kings Pleasure: But a King ruling by Politick Advice, is to Rule according to His Fundamental Laws, which yet in England takes not away, but preserves those *Judicia Suprema Majestatis*, as to pardon all Offences, *nummum percussere*, and infinite others more declared in Parliament, 1 Jac. which Court is that *Treshault Court*, of which none ought to think dishonourably; I leave Divines to take their pleasure; we are to Judge according to the Fundamental Laws and Customs of this Realm. There is a Book which Mr. Attorney remembreth well, That the King of England hath more Power, than any other King: If the King must defend by Law, he must lay a Charge to provide for the same: The Common Law owns the King as Sovereign and Head of the Kingdom, that should defend and protect it, 8 Sam. 19, 20. They would have a King to be adjudged by, as other Nations had, and go in and out before them; that was the Fashion of Kings before. To Judge His People, and to defend His People with Arms: It is an incident quality inherent in the King: It standeth with Nature and Reason that the King should have the Charge of the Defence. If this Inherent Quality should be taken away, how can He defend His People, and be no more than a common Person? He cannot be a King, unless He take Defence and Protection over His People. Mr. At-

torney

torney shewed learnedly the King is a Monarch and Sovereign, and the People His Subjects: He is the Head of the Body, and therefore may command it, *Fitz N. B. fo.* and *Stamfords* Prerogative, That the King protects the Body and Lands of His Subjects, He is *Vicarius Dei*, appointed to protect the Kingdom: So there is a tie of Allegiance which binds every man, *Stamfords 2 Cap.* of Prerogative. The King by Law is the Protector of the Body, Lands and Goods: So He hath a Liberty and Prerogative for this end (not for His own Profit) in the Bodies, Lands and Goods of His Subjects in time of Danger. 11 H. 7. Every man in his own person is bound to serve the King for the Defence of the Realm, and gives a Reason, and that is the Reason of Protections; because they are bound to it, therefore they should have no harm done unto them: The King himself cannot free any man from his Allegiance without Act of Parliament; neither can the Subject free himself, as in *Doctor Stories* Case: So you see the Kings Majesty hath interest *pro bono publico* in the person.

Now also he hath an Interest in our Estates, if it be *pro bono publico*, as in the Case of *L----* adjudged to come over mens Lands, what Prerogative hath the King concerning that; and yet by *Popham*, 2 Chief Justices and Chief Baron agreed, That where a man hath an Inheritance in Lands and Woods, the King cannot cut their Inheritance for his private Use, unless it is *pro bono publico*, nor digg Gravel in another mans Lands; but yet in case *pro bono publico*, he may do it, and make Bullwarks on their Grounds for defence of the Kingdom.

So for Pontage and Murage the King cannot compel the Subject to make the Walls of his own House, or a Bridge for his own private use: But when it is commanded to be done, where the Subject hath a Benefit by that, there it is good. So here is the difference of the Case, where the King commands for his private Benefit, or *pro bono publico*.

My Brother *Crooke* saith, That the King may press Ships for His Service in the Defence of his Kingdom, but not from In-land Counties; yet there is a Precedent in *Oxfordshire* to the contrary.

By the Fundamental Laws of the Kingdom, he is the Defender of his Subjects, of their Bodies, Lands and Goods, and where it is *pro bono publico*, they are to pay towards it. If there had not been Objections which have dazl'd me, I should have done before this.

The Case of the Abbot of *Roberts Bridge* is an allowance of this Charge, a double Charge for Lands there in two several places. I remember in a Parliament, where I learned a great deal of good, 1 Jac. the King without consent in Parliament laid an Imposition on Merchandize, but it was in case of necessity *pro bono publico*.

Now to answer Objections, and those were many: My Brother *Crooke* did double, and redouble them. Brother, we sit one next another, Ancient Judges, though different in Opinion; I speak out of my Conscience, as you have spoke out of your Conscience; so though variety of Opinion, yet Conscience is the same.

First, saith he, the Fundamental Laws of the Kingdom have settled a property in the Goods in the Subject, that without their consent it cannot be taken from them. This doth not trench upon the property of the Subject, if you take the Case right: If this be a lawful Prerogative in the King

to lay this Charge, then how can it be said, That the Subjects property is invaded? For if the property *ab initio* be in the King, then the Law annexed this tie to the Goods of the Subject in the beginning, and made them liable to it by a secret tacit condition, which binds the property. If a man do enter for a condition broken, this is no divesting of the property out of the Subject. If Goods be given to one until such a thing happen or upon such a condition, there is a property in the Donee, yet it is clogged with a limitation and condition; and when the one or the other happens, the property may be reduced or transferred; as in all Assessments and Rates goods are subject to the payment thereof: So for the payment of those things necessary for the defence of the Kingdom without their consent; for if legal, what needs this condition? I could wish no man to clamour, that this is to divest the property of the Subjects Goods, for it is nothing but what is for defence of the Kingdom.

The next Authorities objected by my Brother *Crooke*, the Laws of *William the Conqueror* and Charter of *King John*, then with the Statutes, then with *Forrescue*, and thereof saith very much, That the King of *England* cannot lay Taxes upon the Subject without their consent.

And where he speaks of Taxes and Charges cannot be imposed without consent, some other places of the Author do shew, That it is where the King imposeth it for His own private Use, and not in case of publick defence.

Next 13 H. 4. the Charge of 1 d. upon a Cloth, for measure, adjudged void.

I conceive it was not adjudged void upon that point; True, in Parliament it was complained of as an Aggrievance to the Subject. But every Petition in Parliament doth not argue a Right; it may be it was *ad damnum*, and yet *absque injuria*. That Case differs much from this; for there was a Charge to a private Benefit, and no regard to the Publick, which perhaps the Law will not allow: But where there is a *quid pro quo*, nor the Case of Dice and Cards, Monopolies, those Cases look nothing like to this: So for a Commission of Sewers, may lay (a Charge) for a Repair when the Lands are over-flown, and the Owners of the Land be not able, the Neighbourhood must be taxed; so in case of a Bridge.

Then the Statute of 2 R. 2. was objected: Nothing must come to the Kings Purse nor to the Kings Coffer, but for the Defence of the Kingdom.

This was no Charge, because the intention there was to fill the Kings Coffers which were empty, and that could not be done but by Parliament; so it is not in our Case, no Money is to come to the Kings private Purse.

That of H. 4. for repealing of Commissions awarded to provide Barringers; the Record saith only, that the Kings Answer to the Complaint was, *Le Roy se advisera avec ses Seigneurs*.

Then he cometh to the Statute of Tunnage and Poundage only for ordinary Defence.

Why there should be any difference between an In-land County and Maritime, I know not, since to common defence all are equally engag'd as one entire Body; and the In-land Counties have the benefit of Wools by Sea, and yet they must not help to the defence of the Kingdom. As in the natural Body one Member helpeth another, so when the Maritime Counties are not sufficient to defend (as in case of extraordinary defence they cannot be) the In-land must contribute; besides, the King may unite

1637. unite an In-land County to a Maritime County, and make them but one County: Is not he Lord of the Land as of the Sea? What was the Law before the division of Counties? sure it was equal in charging the whole Kingdom; for I see no reason but an In-land County should be chargeable by Law, as well as Maritime.

6 R. 2. In ancient times things done upon the Sea were tried upon the Land in the *Kings Bench*, as by many Records appeareth; one of a *Norman Robber* upon the Sea, &c.

Obj. That if this be so, then the Law suffereth a great inconvenience, to wit, That the *King* may by His writ charge what and whom he pleaseth.

Sol. This the Law trusteth the *Kings Goodness* with, that he will not require this but when there is occasion; and he may do it, so that he continues it no longer than there is occasion.

Obj. But were not Dr. *Cowel* and Dr. *Manwaring* censured in Parliament for these Tenents?

Sol. They were censured, and deservedly, but different from our Case: I was a Member in the Parliament, and was in the Lower House when *Cowel* was sentenced: I tell you what Dr. *Cowel* did, he wrote a Book, and under the words *Prerogatives, Subsidies, and Kings*, inferred as though the *King* might make Laws without consent in Parliament, and wrote against the Common Law, which the *King* is sworn to maintain; thereupon he was sentenced, and his Sentence was just, and I gave my Voice for it. The other was Dr. *Manwaring*, he preached two Sermons, that the *King* was not bound to observe His Laws, that the Right and Liberty of the Subject are at the *Kings Will* and Pleasure without Parliament, and that this doth bind the Conscience of the Subject, and that they are bound to pay Loan-Money upon Eternal Damnation, and that they that did refuse to pay the Loan-Money did offend against the Law of God, and were guilty of Disloyalty and Disobedience; and the Authority of Parliament was not necessary to the granting of any Subsidy: For this he was sentenced and made his Submission. That was for raising of Moneys for his own Use, but this is to require his Subjects to provide Ships for the Defence of the Kingdom.

Next Objection was *Escuage*, that by that Tenure great profits arise to the *King* for defence. Shall the Defence of the Kingdom be laid upon them which have a Revenue for their own Maintenance? What will you have to maintain the *King*, with Wife, Children, Intelligencers abroad? will you strip Him of all this? It is true, I hold that the *King* with the Subjects must joyn together in the Defence. If the *King* be Rich, you should have pleaded, The *King* hath sufficient in His Purse.

Obj. That there is no apparent danger, that this Charge is not due by the Common Law, Statute Law, nor Custom.

Sol. I say, it is due by the Common Law; but will you have the Danger so apparent, as *Hannibal ad portas*; will you suffer an Enemy to come in before you prepare to resist? If once he come in, you will hardly get him out. Is not that as much to be commended, that doth prevent a danger before it cometh, as when it comes? Is not the care to prevent Fire from a House, before the Fire take hold of it, as great, when it is on Fire? Therefore the *King*, (like a good Physician) sees a Disease growing, and before it gets too much strength, prevents it.

Obj. In a Months time, a Parliament may be called.

Car. 13.

Sol. Though it may; yet after they do meet, a long time they spend in Consultation, before they can do any thing; which would be too mischievous in a sudden Invasion.: And therefore *King Edw. 3.* in His 10, 11, and 12 years, while the Parliaments were sitting, sent forth Writs for Aids.

Obj. Objected by Mr. *Holborne*, That the Law of Nature teacheth every Man to defend himself.

Sol. What, I pray you, will you then have done on a sudden Invasion? when Forces must be raised in *Cornwall*, some in other parts of the Kingdom as remote, and all must meet together? If the *King* must expect such an Actual Invasion, before such time as He send forth His Writs to have them all in readiness, how poorly would the Kingdom be defended? At that time our Forces will be scattered, and cannot be brought together; which thus divided, cannot withstand a Forcain Power.

Obj. Last Objection, That the *King* at His Pleasure may draw when He will this Charge upon the Subject, if he say he is of Opinion that there is danger.

Sol. Why may not the Law allow this and trust the *Kings Judgment* here, as well as in the Case of a *Ne exeat Regno*; in which if the *King* command His Subjects to stay at home, for such and such a Cause, as for danger, &c. the Case is not traversable. *Fe. 165, 85. 7 H. 7.* saith, If the *King* doth certify an Act of Parliament, you cannot say against it: To the *Kings Certificate* under Seal *Nul tiel Record*, is no plea.

Again, (God Almighty bless the *King*) it is against the presumption of the Law, that the *King*, whose Heart is in the Hand of the Lord, should tell a Lye: God gives Wisdom to govern aright; lying Lips do not become a Prince; Truth to God Almighty he owes. The Law sayes, that the *King* may *nescire verum*, but not *discere falsum*. The *King* may not know a truth, but cannot teach false. Next, *Juramento stricto*, he is bound to administer Justice, and not to grieve his Subjects; Is he so unwise to charge them and himself without cause with a provision of Ships? what benefit comes to him by it? surely to tell a lye will be for some advantage; He were a *King* of Wickedness, to lay a Charge on the Subject to no purpose, here he shall charge himself and his Subjects to go about nothing: Doth any man think that he will put a Burthen upon his Subjects without Cause? We have a Good *King*, and our Imaginations ought to be Good of our *King*.

4. Assertion, That the *King* hath power to compel them to the contribution of this Charge; this Power of the *King* is a Special Prerogative, and if good at Common Law, it taketh away the Statute, when It is *pro bono publico* to defend the Kingdom.

The general words of a Statute shall never be construed to extend to it: The Charter of *King John* shall never take away the *Kings Prerogative*, neither the Statute *de Tallagio non concedendo*, which I agree to be a Statute, and so my Lord *Cooke* allows it to be. Now this Power of the *King* of which I argue is a Special Prerogative in point of Government: It is a *proprium* to a Scepter *quarto modo*; therefore the general words of a Statute shall never be construed to extend unto it; as if the *King* have a special Interest in Land by His Prerogative: It shall not pass away without precise

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cise words; as the Books are infinite in it.

If the King grant away Lands by his Letters Patents, parcel of a Forest without special words, this shall remain subject to the Forest Laws; still so many Cases may be put, when general Words of this Statute extend not to particular Prerogatives. If the general Words of this Statute should take away this Ayd, why do they not take away these Ayds *pour Jaier Fitz Chevalier, pour Marier, &c.* since that general words may include them as well as this? But you all grant that these Ayds are not taken away, and by the same Reason I conceive this remains.

My Brother *Crawley* held that special Words in an Act of Parliament could not take away his Prerogative, because it would have been an Act against Reason: I will tell you what I have heard adjudged in this Case in the Parliament held 1 Jac. There were two things expressly moved; One, That there might be no Wardships or Tenures of the King: The other, That the King might not allow Purveyors. To these Questions, after long Disputes, it was Answered by the whole Parliament, That such an Act of Parliament to Top the Prerogative of Tenures, would be void, because it is inherent to the Crown; every man holds immediately or mediately, absolutely of the King; as 2 H. 7. An Act of Parliament to restrain the Kings *Non obstante* to dispence with Penal Laws, as not to pardon Murder, is void; his Person and Royal Prerogative cannot be restrained by Parliament. Thus I have done with the forme, and larger part of my Argument.

Now I come to see, whether this Record will maintain that which we have here; and I think it will bear it both for matter and form. 1. To see whether there be Substance enough to shew, that there is danger sufficient for this prerogative to require Aid and Assistance; and I think that there is sufficient: The *French King*, the *Spaniard*, and the *Low-Country-men*, are all up in Arms, who knows what danger this Kingdom may be in? and if the King say it is in danger, it is not traversable if the King had said no more but this *pro defensione Regni*; without more saying, it had been sufficient; It also Recites that there were *predones, Pirata* that took away both men and Ships, and that Foreign provision was making to take away the dominion of the Sea, and that all this was *ad gravandum regnum nostrum*, and therefore commands a Ship to be provided *ad defensionem regni*; Here the danger is general, and therefore the defence must be general.

An indifferent and equal Assessment is first to be made, and then the overplus of the Provision to be restored according to the Writ; for till the money be had, how can the provision be made? though it hath been said, let the Ship be first builded, and then make the assessment: That cannot be, for with what shall the provision be made? the money must do it,

For matter of Precedents as *Danegelt*, &c. I do not much stand upon, because I have not time to peruse them; But conclude on my former reasons.

(My Lord Chief Justice *Finch* asking the Judge what his advice was, he answered) My advice is upon the whole matter, that (the Barons finding the other process of Court and *Scir. fac.* to be according to the Course of the Exchequer, for that he would leave to them) Judgment shall be given that Mr. *Hampden* shall be charged with the 20 s., with this limitation and condition, that

none of it come to the Kings purse, for it did, his Opinion was against it.

The Argument of Judge Hutton.

THE King by his Writ 4 *Augusti* Informs, that there were certain *Pirata & Marii Grafsatores*, and they were gathered together in Hostile manner to hinder all our Merchants from landing their goods in our Ports, or for having any free passage to foreign parts: And reciteth that there are Wars abroad, and that considering these perils and dangers, and that the Defence of the Subjects consists in the defence of the Sea; which at all times belongs unto the Kingdom, and the charge of the defence to be supported by all, the King is sorry that in his time it should fall away and not be defended; Hath sent forth a Writ therefore to the Sheriff of *Buckingham* (as to other Counties) to provide a Ship of such a burden against 1 *Martii*, and to come to *Portsmouth*, and there to remain for 26 weeks, and to do as shall be directed them for the defence of the Kingdom, and the Writ directed, That all that are Inhabitants shall be Assessed for the providing of this Ship with men and munition: By force of this Writ, Mr. *Hampden* being assessed at 20 s. there went forth a *Certiorari* a year and a half after, directed to the two Sheriffs of the County of *Buckingham*, to certify what Sums they had assessed by vertue of the said Writ 4 *Aug.* Two several Certificates into the Chancery of this Mr. *Hampden* 20 s. 3 *Mois*, 13 *Car.* The King by *Mittimus* out of Chancery recites, that when he had awarded the Writ 4 *Aug.* to the Sheriff of *Bucks*, and that it was for the defence of the Kingdom, and security of the Subjects, he doth send this Writ 4 *Aug.* and *Certiorari*, and commands the Barons to do that which appertaineth to be done; whereupon a *Scir. Fac.* is awarded, whereupon Mr. *Hampden* hath appeared and demanded Oyer of the *Scir. Fac. mittimus, Certiorari*, and the Writ 4 *Aug.* And hath joyned in demurrer. And how this *Scir. Fac.* lieth is the question, and I am of opinion that this *Scir. Fac.* doth not lie, and that Judgment in this case ought to be given against the King.

For the better understanding of the Court, I shall observe, in the method of my proceeding.

1. Whether a charge of this nature may by the King be imposed by original Writ; only under the great Seal of *England*, without a Parliament? wherein I hold it cannot be proved by authority and reasons, unless in time of Actual war and invasion.

2. I will answer those objections made only before by them that have argued, that these Statutes do not extend to this kind of Prerogative, that this Prerogative is not taken away by any of these Statutes.

3 I will answer the Precedents, both by Precedents of equal nature and by some reasons, whereupon I will conclude that this Prerogative and Power which is monarchical is included, and taken from the King, and that this must be done by Parliament.

4: I will answer some objections that now and before have been made by Mr. *Solicitor*, &c.

5. I will insist upon this Writ, that it neither containeth matter sufficient in the Writ it self; nor is there matter to warrant any such Levy, as is pretended, neither is the same lawful, nor

can it be mended by the *Mittimus*, nor can be commanded by those Sheriffs that are in this case no Sheriffs upon the matter.

Now, as my brother Jones hath taken a great deal of time, I will not be drawn from my own order by what he hath said, but answer him in his Argument.

First I say that this power of Assessing of money being a general charge; cannot be by the law at this day, (unless in time of actual war,) imposed upon the people, but by the Act of Parliament.

The Acts of Parliament that have been mentioned.

The first was *magna charta*; which is an ancient and great Statute, it cometh unto us with an *Inpeximus* from E. 1. Confirmed 30 several times; the words are, *dedimus & concedimus has libertates subscriptas in perpetuum, nullus liber homo capiatur vel imprisonetur, aut dissestetur de libero Tenemento suo vel libertatibus, &c. aut aliquo modo distringatur, aut in carcerem mittitur, nisi per legale iudicium parium suorum, vel per legem terra.* King William the conqueror made those Laws and swore men unto those Laws, and then King Edward in the last chapter, commands them to be kept, and he will keep them so long as concerned him, and all his people for ever, and for this they granted him a 15 part of all their goods, and it is a Statute clear to this day, *Stamford* 172. to be tryed *per pares*, as the Barons at this day have for their tryal the privilege of this Statute.

Next Statute 25 E. 3. Ca. 5. reciting: and forasmuch as divers of our people, &c. we have granted for us and our heirs, that we shall not draw such aid and prize into custom, for any thing done heretofore by any other rule or Precedent that may be found, so their is now not only for tax for war, but for any other business whatsoever; *forsq; de Comon Assent de tout la Realm*, saving the Ancient aids and prizes due and accustomed, and this saving is nothing; for these Statutes extend to no particular; for if any extend to aid by Tenure, all England is not bound unto this, but some few, the Statute extends to such aids as the whole Kingdom is Subject unto; none will say that all the people hold of the King *pur file marier*.

The Statute of 34 E. 1. concerning certain Liberties granted by the King to his Commons, this is 1524 printed 25 H. 8. no Talliage to be taken or levied to us, our heirs or successors without the good will, assent of Arch-Bishops, and Bishops, or other Burgesses, free men of the Realm. This Statute hath been quarelled with all, but the words thereof are very effectual.

Statute 14 E. 2. agreed to be perpetual by my brother Jones; for my part I can see no reason why it should not be so, the Statute reciteth that whereas the Barons and Commons of our Realm have granted of their good free will, the King an aid towards his wars as well on this side the Sea as beyond; the ninth Sheep the ninth Sheafe, &c. the ninth part of all their goods; And we Will and Grant for us and our Heirs that the same so charged, shall not be brought into example to make any Aids, he doth not say such Aids; and that in the Parliament, no man can say against these words, they are so full and absolute.

The Statute of 25 E. 3. Enacts that none shall be compelled to find Hoblers; *si il ne soit per*

Common Consent in Parliament; The reason given in the Parliament-Roll is very Observable *Car. 13. Car ceo est encounter le droit del Realm*; these words are in the Roll; and yet left out in the printed Statutes; But the reason I know not.

This Statute of 25 E. 3. is confirmed by the Statute of 4 H. 4.

The Statute 1 R. 2. a very good Statute, though in a young Kings time, enacted and done by the Lords and Commons in Parliament, there hath been made Injunctions to charge the Subject.

Now H. 4. invented divers benevolences and that is recited; that whereas divers inventions, &c. (All the world I think is full of Inventions) It is enacted from henceforth that the Subject shall be no ways Charged with any such like Charge, they gave it the name of Benevolences; But indeed were impositions, and great charges collected with that name.

I conclude with that of the Statute of the King, the petition of right which reciteth the Statute de Tallagio very many particular things are mentioned there, men not to be compelled to lend money, without common consent in Parliament; which is rather a confirmation, then an affirmation of those Statutes; I have done with the words of the Statute.

For the Authority of the Year-Books.

I will confirm those two Authorities cited by my Brother Crooke, though my Brother Jones slight the Authority. 13 H. 4. The principal Case being then a Grant of an Office of Measurage of Cloth, and put in practice; and being granted out of Parliament, condemned to be void; for the King can grant no common Charge on his People, but in Parliament. And though my Brother Jones saith, that perhaps such a Charge was *Dammum*, but not *Injuria*, surely had not there been more in it, it had not been damned as not Legal.

The other Authority is that of Fortescue, (though my Brother Jones in that Book doth omit that which is material; for that man he was sworn Chief Justice of England, afterwards made Chancellor, who saith expressly in his Ninth Chapter, That the King of England cannot alter any Law; that he governeth his People not only by Royal, but by Politique Power and can lay no Charge upon them but by Parliament.

The King can change no Law, nor make Land Gavel-kind which is not; nor make Land *devisable* which is not; which he might do, if it were to be done by Power Royal. Fortescue concludeth with this excellent Saying, fol. 26. 6. *Rejoyce therefore Sovereign Prince, and be glad; for the Law of your Realm administreteth to you and to your People no small Security and Comfort, &c.* Prerogative strengtheneth Ability, Liberty maintaineth Prerogative. Cap. 38. is strong and full against the King; which my Brother Jones was pleased to omit: The King may by his Officers take Necessaries for his House; nevertheless he is bound by Law to pay for it; for by the Laws he ought not to take any of the Subjects Goods without making satisfaction for the same; neither can he lay any Talliage, Subsidy, or other Burden, or make new Laws, or alter old Laws, without express Agreement of his People in Parliament.

I have done with the Positive part of my Argument; I will not trouble you long: I will Answer

swer some Objections now made, and heretofore made against these Statutes.

Anno 1637. 1. For the Statute *de Tallagio non concedendo*; True, it was very probable it was no Statute, but an Extract out of the Statute 25 E. 1. which is upon Record; the other not being to be found upon the Roll. It is averr'd (*una voce*) it was a Statute, though not without probability no Statute; as it was learnedly observed by Mr. Solicitor, in respect of the Kings Absence, being beyond the Sea: only I collect this out of his Argument, that he thought that that Statute did tend very far against the King; which he could Answer no way, but to take it away, therefore he thought it a Statute of some force.

Next, my Brother Barkely would have the Statute of 14 E. 3. to be but a temporary Statute, and during the continuance of those wars, the first part of the Statute is absolute; but the latter part is but a temporary Statute, and during the continuance of those wars; it must needs be perpetual, because it is granted for the King and his Heirs.

Next Objection, by my Brother Jones and Brother Crawley, That this Power Royal is a part of the Prerogative appertaining to his Person, and inherent to the Crown, a *Proprium quarto modo*, so inseparable, that an Act of Parliament cannot take it away.

Sol. I confess there are some inseparable Prerogatives belonging to the Crown, such as the Parliament cannot sever from it: And I will prove unto you out of Book-Cases and Statutes, that the King cannot release his Tenures *in Capite*. It was endeavoured a Law should be made, that the Court of Wards should be shut up: It was resolved, that it had been a void Law; such is the Care for the Defence of the Kingdom, which belongs inseparably to the Crown, as Head and supreme Protector: so that if an Act of Parl. should enact, that he should not defend the Kingdom, or that the King should have no Aid from his Subjects to defend the Realm, these Acts would not bind, because they would be against Natural Reason; but in our Case here, there is no such thing; for therein is no Act that restrains the King to lay any Charge at all, but only ties him to one Means by which he should come by it, to wit, by Parliament. If before the Statute, a Man Alien Land held of the King, without Licence, the King shall seize the Land, and have it forfeited to him and his Heirs for ever. Now by that Statute the Prerogative is restrained to a reasonable Fine only; this was as inherent in his person, as any thing could be; and yet it is restrained by Parliament.

Before *Magna Charta*, the King might take any Mans Goods for his Provision, and cut any mans Woods down to Build or Repair his Castles; yet since that Statute, it is Enacted, That *Nullus Vicecomes, nec Ballivus noster capiet Equos, &c. nisi reddat liberationem, nec capiemus boscum alienum ad Casira, vel ad alia agenda nostra, nisi per voluntatem ejus, cujus Boscus ille fuerit*: And to this day this Statute is of force, that the King cannot take these things, nor use his Prerogative.

This Prerogative of *Nullum Tempus occurrit Regi*, is a great one, yet in some Case of Lapse of Churches, this Prerogative is taken away by the Statute of 25 E. 3. cap. 1. where the King granteth for him and his Heirs, not to Present, but in his own time; and this being pleaded, 11 H. 4. fol. 7. is adjudged against the King, not-

withstanding the Rule of *Nullum Tempus occurrit Regi*.

The Statute of 7 H. 8. cap. 3. concerning Restraint of Informations, and that of 21 Jac. whereby the King excludeth himself, to make a Title to any Lands whereof he had not been in possession within 60 years before this time; he was tied to no time, but unlimited; and yet this great Prerogative is thus bounded. 30 E. 3. cap. 10. Parliaments to be holden every year one or more, oftner if need be, because of divers mischances that may happen. It is to be acknowledged as a Gracious Favour from his Majesty to his Subjects, that he would admit of this Case to be argued in an ordinary Court of Justice, and not reserve it to the Parliament; to which place all such weighty Causes are most fit to be reserved. I am satisfied in my Conscience, he would do nothing in this Case, if he were justly informed, or may be informed he ought not to do it by Law.

The Laws of England *mutari non poterunt* without consent of Council gathered together, *si in usitatum emerferit* (saith Fortescue) as this Case is ore, it is referred to the next Parliament; *si aliquid aut inconsuetum*, then it is to be put to the Parliament.

2 E. 3. fol. 7. There ariseth a new Question concerning the Statute of Winchester, about recovering by Actions against the Countrey, when Robberies were committed; there the Case in respect of the difficulty, was referred to the Parliament; and there the Sheriff was warned to have his Money.

You shall see a Notable Case in the Register 224. among the Writs of Two that were at York, and served by a Clerk in the Chancery there, to appear at Rome; and because of this Contempt, they were committed to Prison, and a Writ came to Bail them, returnable *coram nobis in Parlamento*. So Matters of Difficulty were Adjourned into Parliament.

Westm. 2. cap. 28. *In novo casu fiat novum Remedium in Parlamento*, to resolve Cases of Difficulty, Statutes have Enacted, That there should be Two Parliaments every year. 4 E. 3. cap. 4. which was a great Confirmation of this Realm. Lit. 110, 180. Parliaments frequent. I know not what to say, that this Kingdom that hath thus long flourished, should now forget her frequent kind of Government by Parliament, whether by reason of things past, or some Disaster fallen, that this which is the Ancient way (I do not say that Parliaments is the Government, but that Kings have governed by Parliament) is so much out of use now adays; I do not prescribe Power to the Parliament to govern the Realm, but the Publick have been governed by the Parliament.

There was seen too much of the Ambitious Humour of some in the last Parliament, that stirred up nothing but Confusion and Discontentment, as we now feel it to our great prejudice.

PRECEDENTS.

Now I come to the Precedents. First, That of *Danegelt* hath been Objected: Of which there were two kinds; as Sir Henry Spelman in his *Glossary* observes; one *ad pacandum*, the other *ad coercendum Danos*; Great Sums of Money they had to go home again; from 12000 to 48000 l. per Annum, it was raised in three years: It conti-

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 nued till King Stephen's Time ; in which Time it is said it was released : For my part , I see not , but that it might be now put in use as formerly , had it not been for these Statutes of E. 1. and E. 3. before-mentioned ; for it was not laid down when the Danger ceased ; but was continued and taken up by Princes when they had a mind to it ; as by William the Conqueror , and William Rufus : But since these Statutes , it was never used (and here he read the Words of the Statutes) so if these Statutes took that away , why do they not bind in our Case ? which is a full Answer in my opinion to that and all other Precedents before these Statutes ; there have been 200 shewed on the one side , 200 on the other ; But I say , it had been better they had never made use of them : So to all the Precedents before the Statute *de Tallagio concedendo* , I give this general Answer , wto be of no force ; for the Precedents in the Time of H. 3. which were many , yet in those Commissions for preparing of Gallies , after they were made , they were at the Kings Cost ; this may be done at this day . And with the Statute of 14 E. 3. I Answer those Precedents of 10, 11, 12 E. 3. And by the way observe the Times that were then ; that Statutes were forced to be made to remedy those Evils ; and surely those were the Burdens and unreasonable Taxes which the King in the Thirteenth year of his Reign confessed he had oppressed his Subjects with , and desired they might be forgotten , because he was urged to it by his necessities , and not for any ill end of his own , (And so he caused the record it self to be read openly before all the Judges) 2 H. 4. 2 R. 2. a general assembly called and resolved that money could not be raised but by Parliament , since this time all the Precedents that have been vouched , were for arraying of men and putting them in Arms and readiness.

28 H. 8. There were some forced upon their own charges , to go to suppress some Rebels in Lincoln-Shire ; But afterwards were recompensed for their charges ; saith the record , our pleasure is to send a messenger and a bill of charges he shall satisfy them ; I do agree and there are many Statutes , that men should be arrayed ; as Statute of Winchester , which are only preparations to make men ready.

Now , for that hath been urged by Mr. Attorney excellent well , that the King by the Law of the land , hath a Prerogative in the Lands and Goods of his Subjects : So that the Sheriff may in some cases for him break open a man's house , and the like , because he cannot execute Justice . Tis true the King hath such a Prerogative and fit it should be used ; for otherwise Justice could not be administered , as it is in many cases ; The Sheriff (tho a verdict by default) hath power by the Prerogative of the King , to break into the house , and give possession ; for otherwise Justice could not be administered if all laws were contemned ; for which contempts the King may use his power : Again the King of his own charge maintains his Courts of Justice and is bound so to do 39 H. 6. 34 H. 6. and in lieu of these charges the Law gives these Fines and other duties ; for there is upon the matter a *quid pro quo* , But where there is an Interest in a Subject , he cannot take it away without his consent , as he may do it in Murage and Pontage and the like ; for their is a particular benefit to the Subject , so I think I am almost at an end of Answering the first and second part of the Pre-

cedents , the Ancient time was one way , the modern time another way.

In E. 4. Time Rich. 3. Hen. 7. Time , All for wages for Mariners , certain allowances they had , what a week and what a day.

But you say , here in this case appears no money to be paid by the Subject , but only for a Ship to be provided by the Sheriff , and not any money to come unto the Kings purse.

Sol. I must conclude this part with an Agreement agreed by all , That If this Writ had been to Levy Money , all have agreed it had been void.

As I do take it , the Writ is to prepare a Ship of such Burden ; So the Ship is the Matter ; then give me leave to say this ; and I say , as it appears plainly by the Record , there was no Ship prepared at all : then if no Ship , no Writ can be had against him for disobedience to his Commandments : Its known to all the world , it is not Ships , but Ship-money ; Ship-money in every mans mouth . It hath a Name of preparing of Ships , but the end of it is to prepare Money ; as in *Yorkshire* 12000 l.

If the Provision of a Ship had been expressly alledged , it might have been traversed ; and therefore Mr. Hampden's Counsel could do nothing but Demur ; and by Demurring , they confess nothing but that which is materially , and so sufficiently alledged , that it might have been denied by a Traverse.

But you will Object , That I did subscribe to a contrary Opinion , and set my Hand unto it.

To this , for my own part , I must say , and say it truly , That my private Opinion was ever against it : I did subscribe ; but it is true , that it was but for Conformity : for it is known to all , when a great Number meet together , the Judgment is , that as the greater Number saith : Besides , these words to which we subscribed our Opinion , are no ways pursued.

Secondly , Our Opinion was very suddenly required ; for the King's Letter bears Date Feb. 2 , and our Opinions unto it , bears Date following ; and it was in a Case wherein we never heard any Argument ; so that we usually do ; and God forbid but that we may dissent from our private Opinions upon better Reason heard ; but I am of the same Opinion now I was then.

But it will be said , we might have done it more advisedly . No man of us , but sometimes deliver our Opinion , and yet after we have heard an Argument , have changed our Opinion , and gone contrary to our former Judgment.

Thirdly , If after any Arguments heard , I had been of the same Opinion that was delivered , yet this Writ doth not pursue the Direction : for though we directed that the King might Charge in case of a general Danger , yet this was , and is intended not in danger of Pyrates : but upon an imminent necessity and apparent danger , as could not be avoided ; for I do agree , in time of War , when there was an Enemy in the Field , the King may take Goods from the Subject . Such a danger , & such a necessity ought to be in this Case , as in case of a Fire , like to consume all without speedy help ; such a danger as tends to the overthrow of the Kingdom : Give me leave to say , that Kings of England have had great Power to take this to themselves . 17 H. 8. In the Cardinals Time , that it was lawful to send forth Commissions throughout England to take a Sixth part of the Subjects Goods : whereupon , many upon Refusal ,

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1637. fusal, were sent to Prison; Lord Cobham amongst the rest sent to Prison from *Huntington* to *London*, that at length *Norfolk* and *Suffolk* grew to such a heat, for taking away their Goods in that undue manner, that the King was forced to call a great Council, who suppressed those kind of Writs, and the King laid the fault upon the Cardinal: and the Cardinal said, it was the Advice of the Kings Council; and they denied it, and he bore the Shame.

So in the Time of Gracious Queen *Elizabeth*, who was a Gracious and Glorious Queen; yet in the End of her Reign, whether through Covetousness, or by reason of the Wars that came upon her (I know not by what Council) she desired *Benevolences*. The Statute 2 R. 2. was offered; yet it went so far, that by Commission and Direction, Money was gathered in several Inns of Court; and I my self, for my part, paid 20 s. But when the Queen was informed by her Judges, that this kind of proceeding was against Law, she gave direction to repay all such Sums as were Collected; and so I (as all the rest of our House, and I think, of other Houses too) had my 20 s. repaid me again: and Privy Councillors were sent down into all parts, to tell them it was for Defence of the Realm, and that it should be Repaid unto them again.

Exceptions to the Writ.

Now for the Exceptions to the Writ it self, I must Answer my Brother *Barkley*, That no Conceit afterwards (if the first Writ be not good) will help it. The Writ is said to contain matter sufficient; *quia datum est nobis intelligi, quod quidam Pirata, Naves & hominum Subditor. nostr. &c.* and lead our men into miserable Captivity; and provide Ships, Mariners, &c. *ad Gravandum Regnum.* Now nothing here at all for the defence of the Kingdom: here is no *Cognoscimus hostium Adventus*, as the Writs did anciently run.

Again, Pyrates are to be withstood with ordinary Defence, which appertaineth to the King himself; but for extraordinary Defence for Invasion, when the Kingdom is like to be overthrown, there indeed the whole Kingdom is to contribute to the Defence; and our Resolution was, when such a Danger was apparent, the whole Kingdom in danger, then the Defence to be extraordinary.

Obj. But you Object, That though there be no Danger set forth in the Writ, yet it is in the *Mittimus* certified, *Salus Populi periclitabatur.*

Sol. The Writ issued 4 Aug. 11 Car. the *Mittimus* came not out till two years after; now the Council perceiving the first Writ was not sufficient, they politickly add to the *Mittimus* this Clause of *Salus Regni periclitabatur*; so this coming so long after, cannot make that which was not Legal *ab initio*, to be good by Matter *ex post fact.* This could not be helped by any subsequent Matter (as in Case of a Fine, &c.) This was much stood upon by my Brother *Barkley*: But I shall Answer him with Two Cases not to be denied

1. *Vernon's Case*, Report 4. A Man conveys Land to the Use of himself for Life, the Remainder to J. S. for Life, the Remainder to his VVife for her Joynture; though in this Case, J. S. die before the Husband, so that now it falls out to be advantageous to the VVife, as if it had

been limited to her immediately after the Death of her Husband, yet 'tis resolved, that because it is not so limited in the beginning, no good Joynture to Barr her of her Claim to her Dower.

Also in *Chenayes Case*, Report 5, A VVill uncertain (and so not good) shall not be holpen by an After-Averment, subsequent to alter the Estate; so it is in our Case, if the VVrit were not Legal when it first issued, no subsequent Matter shall make it good.

The VVrit commands the Sheriff, *Et quos Rebelles invenerit*, to imprison, and to distrain all such as refuse to pay.

This is direct against the Statute of *Magna Charta*; None ought to be distrained, or imprisoned, but by the lawful Judgment of his Peers, and according to the Laws of the Land, never contained in any VVrit before; nor any such VVrit can be maintained. Besides, the VVords of the VVrit are to Rate every man in the County *secundum Statum & Facultates*. Shall the Sheriff be a Judge and a Party? If Assessment upon himself be not done according to the VVrit, he must be the Judge and the Party: never such a VVrit before. All Sheriffs must pay nothing for themselves, or every Sheriff must Sess himself, 8 H. 6. Dy. 320. So for the VVrit, for the Reasons aforesaid, I hold it to be against the Law.

For Demurre.

Again, No Ship was prepared; if it had been prepared, it had been their own Goods; and therefore the making of the Ship might have been pleaded, that there was never a Ship; and then the Sheriff might have been punished for not on beying the Kings Commandment.

It hath been said, he hath confessed all Matters contained in the VVrit; whereas in a *Demurre* he confesseth not Matter of Fact; but with sufficient, 30 Eliz. Lord Cooke 23. resolves the same.

But to the VVrit of *Scire Fac.* I conceive it not Legal: No such VVrit can go forth to two Sheriffs of one County; they being neither of them Sheriff at this time; for it went out after they were out of their Sheriffwick; therefore some Return should have been made by Inquisition. I never see nor heard of any VVrit that went to two Sheriffs of one County (as it was to *Buckingham*) and so two Sheriffs made two several Returns

Again, This Money cannot be levied by *Scire Fac.* because the VVrit directs other Means, either to distrain, or to imprison, therefore not by *Scire Fac.* for it is contrary to the words of the VVrit; and seeing the Sheriff hath not followed that Direction, he must Answer the Contempt.

But here to Answer my Brother *Trevor*, I do agree in some Cases, if a Certificate or Presentment, that a Bridge was out of Repair, or a High-way stopt, there shall go a *Scire Fac.* upon that; but that tells to whom the Money is to be paid: this VVrit doth not demand the Money to be paid the King for not preparing a Ship: It must be by Office, or Inquisition of Record, if a Legal Certificate, as it is; 2 E. 3. fol 2. The King commands by his VVrit, the Sheriff of *Leicester* to Summon J. S. &c. to come and meet him with Ayd, to go into *Scotland*; he spent the Money to a great value: There went a VVrit out of the *Exchequer* against this man,

1637. 10 Attach him; yet after long Debates it was held fit, the King must be first informed by matter of Record.

I agree, the King as he is Lord of the Sea, may lay Imposition; but then he ought to defend the Merchants Goods from the Pyrates: That famous Case of *Mich. 4 Jac.* in which Case I was of Council, of Imposition of 5 s. a Tun upon Currants; one *Bates* stood out, and would not pay it; adjudged that, that Imposition was lawful, for the King may make an Imposition, for he hath the Rule of the Sea, and hath power to hinder Merchants to Traffique; and if they Traffique, he secures them.

To conclude with that which my Brother *Barkley* said, That the Subjects of *England* are Free-men, and not Slaves, Subjects, and not Villains: Here is no apparent necessity of any Invasion; therefore by the Law they cannot be thus compelled by Writ to part with the Interest in their Goods; if an apparent necessity, they were without limit or stint. Thus have I, with as much perspicuity as those imperfections which attend my Age would give me leave, set forth my Reasons, and without any further Protestation, I conclude both for matter and form, that you are not to give Judgment for the King.

Baron Denham his Opinion presented in Writing; as also his further Declaration of that Opinion (upon some misconstruction thereof) with his Reasons presented in the Court also in Writing.

May it please your Lordships;

I Had provided my self for to have made a short Argument, and to have delivered my Opinion, with the Reasons; but by reason of want of rest the last night (my old Disease being upon me) my Sickness and weakness are greatly increased, insomuch that I cannot attend the business as I desired; and if my Opinion be required, it is for the Plaintiff.

Serjeants-Inn, Fleetstreet,
26 Maii, 1638.

His second Certificate directed to the Lord Chief Justice Bramston, 28 Maii 1638.

My Lord,

Understanding that some misconstruction was taken by some in the Declaration of my Opinion, which I desired your Lordship the last Saturday to deliver in my Name; for further satisfaction therein, I have sent again, although I was most desirous to have passed my Vote in silence, in this work of weight, by reason I heard not the four last Arguments; yet I delivered my Opinion for the Plaintiff, which I took to be Mr. *Hampden*, by reason it appeareth by the Record, that he coming in upon Process, *Queritur de Colore premissorum graviter vexatum & hoc minus iuste*, which satisfied me that he was Plaintiff: And therefore I now declare my Opinion for Mr. *Hampden*, who did demur.

I shall only deliver these two Reasons for the maintaining of my Opinion.

Car. 13.

The first is, that the Kings Majesty is *sola & suprema Justitia Regni*: And the Rule of the Law is, and hath always been, that his Majesty can do no wrong: And thereupon ariseth another Rule of our Law, which I give for my second reason; That the Kings Majesty being of a Corporate Capacity, can neither take any Lands or Goods from any of his Subjects, but by and upon a Judgment of Record, which (according to our daily experience in the *Exchequer*) there must precede some Judgment in that or some other Court of Record, whereby his Majesty may be entitled either to the Lands or Goods of a Subject; as namely, where seizures of Goods is made for his Majesty, either upon Outlawries, Attainders, or matters of the like nature; as in Cases of seizures in the Court of *Exchequer*, where seizures are given by *Statutes*, yet without a Judgment in that Court upon a Tryal for the King, the Goods are not to be recovered to the use of the King, as forfeited.

Upon consideration whereof, and comparing the same with his Majesties Royal Writ, I find no Judgment thereupon had, nor given, which was the chiefest Reasons of my Opinion for Mr. *Hampden*.

28 Maii, 1638.

Finis Opinionis Baron. Denham.

My Lord Chief Baron Davenport his Argument.

My Lords;

There hath appeared unto us (upon this Record) many several Arguments, and excellently made; it comes now to my course to express my own Opinion.

It appeareth upon this Record, that *Pasch. 13 Car.* a *Scire Fac.* issued out of the *Exchequer* to the Sheriff of *Bucks*, reciting, that whereas several sums of money, mentioned in a Schedule to that Writ annexed, by vertue of the Writ *4 Augusti*, assessed upon several persons for providing of a Ship, and were not paid; whereby he was commanded *quod Scir. fecerit* to those several persons in the Schedule annexed named, to appear in the *Exchequer Octab. Trin. 13 Car.* to show cause why they should not pay those sums of money assessed upon them: Thereupon a *Certiorari 9 Martii 13 Car.* was directed to the Sheriff of *Buckingham*, to certify the sums, and the several persons upon whom they were assessed, and of the warning given unto them to pay the same: The *Certiorari* being returned, and in Court, in *April 13 Car.*

Quinto Maii, then came there a Writ of *Mittimus* out of the *Chancery*, by which he said the former Writs were sent unto the Barons of the *Exchequer*, which *Mittimus* recites the *VVrit 4 Augusti*, and not the Record it self; and the Barons are commanded, that they should thereupon proceed, as by the *Mittimus* is required.

Upon these Records thus certified, there issued out of the Court of *Exchequer 2 Scire Fac.* that is now in debate, which was awarded against the parties mentioned in the Schedule; and Mr. *Hampden* being returned, hath appeared, and demandeth

Anno 1637. mandeth Oyer of the Writ 4 Augusti 11 Car. of the *Certiorari* 9 Martii 13 Car. and of the *Mittimus* 5 Maii 13 Car. Upon Oyer of these, and they being read unto him as hath been demanded, Mr. Hampden doth demur in Law, alledging, that the VVrits, and every of them, and the Returns of them, and the matters therein contained, are not sufficient to charge him for the sum of 20 s. on him charged; and thereupon demandeth Judgment, if the King will be pleased any further to proceed upon this VVrit.

To this Demurrer thus tendred by Mr. Hampden, Mr. Attorney hath joyned in Demurrer, alledging, that the Writs mentioned, and all of them, and the matters therein contained, are good and sufficient in Law to charge the Defendant with 20 s. and demandeth Judgment thereupon for the King; and that thereupon Judgment would proceed for the King, that the Defendant Hampden should be charged with the sum of 20 s. and thereof make satisfaction, but to whom is not expressed upon the Record.

This Demurrer thus warily joyned on both sides, there hath been thereupon several Arguments, both at the Bar and Bench, excellently (no doubt) argued, and very fully: There hath been introduced and pressed to the Court (and whereof there hath been several Notes delivered) a number of Records appertaining to the question, so far forth, that in one of the Arguments at the Bar, there was excellently well remembered, at the least upon the particular of Records and great Authorities, above 300.

Upon this Record the Demurrer being thus joyned, my purpose is, after my meanness, (being not able to give an account of every particular) to make a summary Collection of that I am to say, and with that shortness and brevity that appertains to me (the weight of the Cause not deserted) upon the duty of my place, and upon my Oath, which I have learned, and hold to be *Ligamentum fidei inter Deum & Animam*, to declare unto this Court what I do conceive upon the Question arising upon this Record, wherein my meaning is to retain my self unto the parts of the Record.

Judgment is not here to be given, but a Judicial advice; and according to the number of voices, here Judgment must be given in the *Exchequer*, without any respect of our own particular Opinions which sit in this Court.

I shall do my best endeavour to open unto you such questions as do appear to me upon the Record to be aptly and fitly debated before us.

The state out of the Record will appear to be this.

That 4 Augusti 11 Car. there issued out of *Chancery* a Writ not returnable unto the Sheriff of *Buckingham*; this Writ was *inter Brevia irritabilia*, according to those styles in that Court, and in the Court of *Exchequer*.

By this Writ 4 Augusti, which I do conceive to be the original main ground of this Record.

It appears what was the occasion and ground that VVrit was then awarded; it was touching, and in respect of certain grievous Incurfions by the Pyrates upon the Sea-coasts, who commit depredations, and take Goods and Merchandizes both of the Kings Subjects, and others that traffique here, and carry them into Captivity; and this is said to be to the great damage of the Kingdom; that the times were dangerous and hostile times, *tempora hostilia*, and therefore it was fit there should be a convenient remedy pro-

vided by the Kingdom for defence thereof; and thereupon in that VVrit two several *Mandates* or Commands are imposed: The first of those was a Command and direction unto the Sheriff of the County of *Buckingham*, and to the Mayor of *Buckingham*, and to the Bayliffs and Burgeses of the Borough of _____ and Parishes of the County of *Buckingham*, & *probis hominibus* of those Towns, and of all others dwelling and inhabiting in that County; these are the persons who are charged.

By that same Writ 4 Augusti, they were charged with this particular, that they should before the first of *March* then following, at their own costs, provide and prepare a Ship of VVar, of the burden of 450 Tun, furnished and fitted with Victuals, Men and Munition, that they should be ready to be brought to *Portsmouth*, at their own charge, at or before the first day of *March*, and from thence to be maintained at their own proper Charges for the space of 26 weeks then following, to attend such Noble persons to whom the King should be pleased to commit the Custody of the Sea, and to pursue their directions.

The second sort of those two *Mandates* descends from the persons, to whom the VVrit was directed unto some few, and that is upon the matter unto the Sheriff of *Buckingham*, and to the Mayor and Burgeses of the Town of *Chipping Wicomb*, to those is given and limited a power by the VVrit distributively, as therein is appointed respectively, to tax and assess the whole County *secundum statum & facultates*, and those that they should find to be Rebels, they should distrain them, or by any due means commit them to Prison, there to remain, until his Majesty send forth an Order for their deliverance. This I do conceive to be the end of those two *Mandates* mentioned and comprised in the Writ 4 Augusti 11 Car.

After this Writ 4 Augusti 11 Car. almost a year and a half, then cometh forth the *Certiorari* out of the *Chancery*, dated 9 Martii 12 Car. directed unto the Sheriff of *Buckingham*, who with the other Referrees should certifie unto the King the names of such persons as were assessed, and when they were assessed, and who have performed the Assessment, that Writ was returnable 26 Aprilis then next following, and therein Mr. Hampden appears as a Defendant unto the *Scire Fac.* therein was he certified to have been taxed to the Sum of 20 s. for the Town of *Sroak Mandevil*, and that he did refuse to pay it, and did not pay it unto him, nor unto any of the Collectors that were appointed: This being returned into *Chancery*, and no Order there made, or any Rule that the Sum imposed on Mr. Hampden should be paid; then in 5 Maii then following the same Term, cometh a *Mittimus*, reciting the effect of those Writs, and is directed to the Lord Treasurer, and Barons of the *Exchequer*; herein the Tenor of the Writ 4 Augusti, and not the Writ it self, is certified into the *Exchequer*; and withall certifieth the rest of the Record, together with the Schedules annexed unto those Writs, and by that is commended unto the Court, that they should proceed to do for the further receipt and collection of the Sums behind, as by the Law and Custom of the Kingdom of *England* should be required; and upon that Certificate here cometh a Writ of *Scire Fac.* directed to the Sheriff of *Buckingham*, to give notice to the persons that were defective, and that they should appear, and shew cause, if they could say any thing, why they should

1637. should not be charged therewith according to the Laws and Customs of the Realm; and the Writ is so returned, and upon that return Mr. Hampden appears at the day in person, and after Oyer of the proceedings hath demurred.

Upon this Record, this being the Case, and the Demurrer thereupon joyned, we are to see what is the Law and Custom of *England* upon the matter extant in this Record, for I intend not to expatiate besides the Record, but to stick close to it, as it is in the Case now depending in Court upon this Record; and therein I shall restrain my self unto some few general Heads, nor will not be long I trust in any thing.

1. The first thing is, whether these two Powers and *Mandates* mentioned in this Writ 4 Aug. 11 Car. (the original ground thereof) the one for preparation of a Ship, and furniture, and of the residue therein mentioned, and the other for the Taxation, at pleasure of the Sheriff and persons therein referred, and that expressed upon the Motives in the Writ 4 Augusti; whether (I say) that these same *Mandates* were and are good in Law, according to the Law and Custom of the Kingdom of *England*, upon the matter upon this Record, that is the first question; if that do fail, then the *Scire Facias* is at an end: if there is no Legal Charge imposed upon the Country, then he ought to be discharged.

2. The second question upon the principal Head, admitting that these were legal in themselves, according to the Tenor of the Writ, to see then how it is reduced by the Record; therein I shall offer unto consideration, whether that upon this Certificate upon the Writ 9 Martii out of the *Chancery*, after the time so past for execution of the first Writ, which is irreturnable, that upon that it be so legal, and according to the course of Law conveyed over by the Record to be a sufficient ground and warrant of the *Scire Facias* here brought, is the second question.

3. The third question: This Writ of *Scire Fac.* issued out, the Defendant appeared, and demurred in Law, whether hereupon there be such matter therein, that they may charge the Defendant with the sum imposed upon him, so that the King may have a Judgment and Execution upon it; that I conceive to be the last question.

This Cause is a Cause of great weight, and doth nearly concern every one of us to have a special eye unto it; it is not an usual question in our Books, whereof we have much view.

However it be in the Record to which we are now tyed, it concerns highly the Prerogative of the King, and the Estate of the Subject: In my Conscience I think, for the Act that was done was a gracious Act, an honourable Act, a Royal Act, and proceeding upon just Cause, that there should be a present remedy for the avoiding of the inconveniencies that did appear, no doubt for our good: Herein, though it be known to every one that knoweth me, but especially to my self, if I partake of the Rule that every man is bound unto, *Nosce te ipsum*, knows withal, that no man is more bound, nor oweth a more tender care to preserve the Kings Prerogative, and to do that which may advance the same, as we are all bound unto by the great Oath that we have received upon our Promotion: And in that particular, I profess none more bound than my self.

Upon this I have been told, and I have truly looked into the Records, so far forth as my

meanness will give leave, and according to what I understand of the Law and Custom of the Kingdom of *England* to be upon this Record. Car. 13.

I must needs say, though I do confess in my own particular unwillingly, that upon this Record Judgment ought to be given for the Defendant, *Quod Johannes Hampden sit quietus*, &c. however, with submission to the greater Vote of my Brothers: For first, I do conceive that this Charge thus commanded, and thus taxed, is not warrantable by the Laws and Customs of the Kingdom of *England*: I shall therefore offer unto the consideration of the Court, the several discussions upon the Writ.

First, For the Writ 4 Augusti 11 Car. directed to the Sheriff of *Buckingham*, to the Mayor and Burgesses of *Buckingham*, and Bayliffs and Burgesses of *Chipping Wicomb*, & *probis hominibus Com. Bucks*. Hereby are they charged upon their Allegiance, that they should before 1 Martii following, prepare at their own costs and charges, *per probos homines*, throughout all the County, a Ship of War well furnished; and that the same Ship of War they shall maintain at their own costs and charges for the space of 26 weeks, to attend the Kings Navy for the custody of the Sea, as the King shall appoint and direct.

This first part, I take it not warrantable by the Law and Custom of *England*, in respect being a matter of so great a charge, and by them being an Inland County impossible to be performed to prepare a Ship before that time, being no Maritime County, but an Inland County: This I do take in it self, that this is not a Charge to be imposed upon by the name of *probos homines*, or of the particular men there named, except it were by their own consent and approbation, and with their consent I agree a Charge upon *probos homines*, so they receive nothing to their own use, is good enough; whereof I find an excellent Record, 24 E. 1. a Writ that issued out of the *Exchequer*, and whereof there is the Record remaining to this day enrolled, and certified to be a true Copy; there it is directed, in case of necessity, when the King is absent beyond the Sea, upon Information of the discovery of a present and instant incursion of the Enemies in *Flanders* and *France*, under colour of coming as Fishermen, to surprize the Town of *Yarmouth*, and all the parts of the Coast thereabouts; my Lord Treasurer that then was (the King being beyond the Sea) the Under-Treasurer who had the custody of the Sea, and the Barons of the *Exchequer*, caused a Writ to be directed unto the Bayliffs & *probis hominibus*, and no doubt of it, in the Judgment of our Predecessor himself was good Law, and the Writ legally executed, upon the instant necessity appearing: But *Forrescue* speaks not so much of the necessity, as hath been observed; therefore it is not good to conclude upon some general words in him, that in no case of necessity the Charge may be laid, for the scope of the whole Book considered well will not warrant it, the intent of it is not against Cases of extremity; you see not in the Case, but that therein the Regal course must be observed, according to the Law and Custom of the Kingdom of *England*: But when I do consider of the first charge of preparing of a Ship at their own charges, and of the consideration of the next charge in the same Writ for Taxation, I do not see, nor I do not perceive how the same do agree, but that the one is repugnant unto the other; for that

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the former part commands the Charge to be generally by all, and by this last power it is limited to be done by a particular person, and that to be done at his Will, and as he shall think fit, whereby the Sheriff and Bayliffs thus employed, are excluded from the Charge, for they can do no Act upon themselves; it should have been done *per Sacramentum proborum hominum*, considering these two different Powers, I hold the Law so to be clear in this point: It appeareth not upon this Record that they were assenting unto it, or agreed upon any Ordinance herein. Now the Power of the Preparation, it is upon the whole, upon the Sheriff himself, Major, Bayliffs, & *probos homines*. But when you come to the latter *ipso facto*, by the Laws and Customs of the Realm, a great part of the former is removed directly from those that were therewithal chargeable: Power and Taxation is appointed; to whom? to the Sheriff; and how can he Tax himself; he and all his Estate and Goods within the County of Buckingham under the first Charge, and all discharged by the power of Taxation limited in the second Clause; & therein I take it that this same is not legal according to the Custom & Laws of England, the one doth not agree with the other; if you ask me the reason of it, my Brother Hutton hath given it; That the Charge is upon the Sheriff, and not possible for the Sheriff to Tax himself, he cannot find himself *inter Rebelles*; he cannot commit himself to Prison, there to remain till such time as the Kings Majesty shall deliver him, that he cannot do: So for other Referrees of Buckingham exempted likewise. If they can do this, then clearly the former Charge imposed by the first, and said to be done by them all, is out of doors. Now it cannot be done according to the Law of England upon the Sheriff, upon his Land. This point, I think, is very evident in our Books, 18 H. 8. If a Defendant that is Sheriff be to be summoned, and he return that he cannot do it, Justice H. was of Opinion that that return was not good, for he might summon himself, 8 E. 3. But if it come to a further Question, That if there be any Execution to be done where another will be prejudiced, he cannot do it, as to impanel a Jury upon a Writ where he is a party which may prove a prejudice to another, for if he do it, it is not lawfully done. As it is in Dyer, 8, and 9. Of the Sheriff in a common Recovery, so upon these Authorities for the first Question; I could it manifest, that this Act which the Sheriff is charged to do, is afterwards by this second Power discharged. These two Powers do not cohere, and therefore not warrantable by the Laws and Customs of the Realm of England.

Concerning the first of these Questions, my Opinion is clear, that there is a material and legal Exception appearing upon the self same Writ: My Reason is, The Sheriff is the Great Officer of the County, but when he must do it, I take it legally, he ought to do it according to the Duty of his Place by the Law of England: That I do not take to be at his will and pleasure to lay one thing upon one, and another thing upon another; for my part, I conceive this must be done *per Sacramentum*; he is not to be Judge in case of uncertainties when a division of Charge and Taxes is to be made; where things are put in certainty in any of the Kings Courts, there he may execute, as, take a mans Goods, Imprison, &c. But in such cases of uncertainty, the Law hath annexed to his Office a way and means how to reduce the thing to a certainty, and that is, *per Sacramentum*

proborum hominum, As in the Case of Perceners, if they have a mind to make Partition of their Inheritance, they may do it by agreement between them if they will, or by making of Lots by a third person, the elder shall choose; but if she her self make the Partition, she shall not both divide and choose, that alters the case for execution, when it is in *propria persona*. But admit they cannot agree, the Judgment of the Law is, that the Sheriff shall go in his proper person into the ground; shall he in his discretion make the Partition as he pleaseth? No; the Judgment is, The Sheriff shall go in person unto the Land, and that there *per Sacramentum, per Inquisitionem*, to be taken by chosen Jurors, they must consider of it; upon such a thing so done *per Sacramentum*, then indeed it is in the Sheriffs Power, he may now chuse whether he will prefer the elder or the younger. But for our Case that this should be done by a Sheriff, by his discretion, while the Interest of several persons are concerned as it were to make a Rape, I do not find that, in a Book of Law, I must confess. In that Act which is done by the Law, there can be no error or partiality: So in Fitz N. B. in his Writ *de onerando pro rata portione*, see what there is to be done; it goeth to the Sheriff, he is trusted with the doing of this, but he is trusted by legal means, what shall he there do? Where 20 Acres of Land held of the King in chief, they are sold to several hands, there must be a Writ *de onerando pro rata*, for discharge of the Rent, but this must be done *per Sacramentum*, not by the sole power of the Sheriff. Hereof I find a notable Precedent; it is true it is not in our Books of Law, but in an Historian, yet he doth set it down in that manner as a man may trust him so far; *Matt. Paris, fo.* He saith and sheweth us there, That 17 H. 3. 8 years after the making of the Statute of *Magna Charta* authorized by Parliament, That the King himself in His Parliament was pleased (that according to the Institutions of Parliaments) to require *Concilium & Auxilium* for the Kings Wars, where by the way let me observe, that *Auxilia* from the Subjects to the King granted in Parliament are not merely voluntary, but Duties, to give Moneys for supply of necessities of State; and in that I agree with the Opinion of my Predecessor Ho. Chief Baron, 19 H. 6. the King is bound to defend the Kingdom; the same Law that binds him to the Defence of the whole Realm, gives the King a right of Inheritance to claim Subsidies for the defence thereof. But to return to *Matt. Paris*: It appeareth there, that the King in Parliament did demand Aid of His Subjects, *Concilium & Auxilium*, their Counsel as they were bound, their Help as they were able; it is said there, that they made choice of the Earl of Chester, to give their Answer, who at first held not fit to do it, alledging their Estates were but weak, that by the Law of the Kingdom they that had been there in person, they for their *Escuage* might not be touched: The Prelates they were more courteous in their Answer, they desired time to assemble themselves together, many being far distant: Thereupon was a time assigned until *Mens. Pasch.* In the mean time they all considered, the Lords on the one side, and the Lords Spiritual on the other side; and being demanded a Fifteenth of their Goods, they answered, So as they might have their Ancient Laws established unto them, for which there had been so much trouble, they would willingly assent unto it: The King consented unto it; and thereupon the Statute of *Magna Charta* was there confirmed upon grant.

grant of the Fifteenth to His Majesty. But when they came afterwards, they did all agree, That for necessity, and for the Kings Charges in His Wars, which did require a speedy Supply, they were contented to yield to Him a Fourth part of their Goods to be levied in this manner; that is, for so it is mentioned expressly in *Matt. Paris*, and the Form is there set down *de verbo in verbum*; there it is set forth, how the Collection and the manner of it should be; it is in this manner, I have it here to read it; That every Sheriff within his County should return a Juror in every Town, that to four Gentlemen of good value and accounted principal men in every Town power is given they should do (as a Jury to set forth upon their Oaths) Assessments reasonable according to their Estate and Power; and because it appeared then there, the very exception now taken, that the Assessors could not tax themselves, they had power to tax the residue; therefore a Power was given to two others of every Town, and they should be sworn, and upon their Oaths tax the four former Assessors. This tells unto me what the Ancient and Usual manner was of Taxes and Assessors by the Custome of England; the manner was not at the voluntary pleasure of the Great Officer of the County: That they that did tax others, should be taxed by others. And this Opinion is directly in *Matt. Paris*, that the Laws of England were so; and therefore for my own part, for the Sheriff to tax at his discretion, I know no Law for it.

Stat. 1 E. 3. by the true Record according to the Manuscript of the *Exchequer Book* here, in French it is there, *cap. 7.* And so it appeareth in the *Tower* there enrolled; it is expressly there upon a complaint made, that they held themselves agrieved with an Assessment, their grief was, That whereas Aids were granted to the Crown more than formerly was used, &c. and Taxes not rightly laid upon them by the Sheriffs and Communioners. This grievance thus complained of here in Parliament, and the manner of their taxing disliked; the King saith, that from thenceforth the Taxations and Assessments should be made as in ancient manner and not otherwise: Here is an expresse Negative, no taxes to be done but by Jury, which excludes in my Opinion this same Tax thus done; that is by his own power and discretion, is not warrantable by the Law of the Land: And herein give me leave, as I think in my Conscience, and as I think the truth, if this Inconvenience had not tended to a Grievance in very many particulars, we should never have heard of this Question, but by this means it cometh in question, both the one and the other; for the Act it self, it is a Gracious and a Loyal Act. It is requisite and necessary as the State and Condition (if it so appear upon this Record) of the Kingdom may be in, That there be a Supply according to the necessity, for the King is Lord of the Sea, as it was argued at Bar in a Case brought in question before us the Barons in the *Exchequer*, where we did unanimously agree and adjudge, That the King was, and is, in my Conscience, rightly true Lord of the very propriety and ownership of the Sea: The occasion upon which this grew, a Question was, as I conceive, upon the writing of two Books, the one called *Mare Liberum*, That no Ownership of the Sea should belong to the King, whereas it is the Sea of our Sovereign, and defence by Sea under Almighty God, that is our Protection; and if we should suffer any else to have an Interest in it, it would hazard

the whole Kingdom. But in answer to this Book Mr. Selden hath very learnedly writ a notable Book called *Mare Clausum*, approved of by His Majesty, and enrolled in the *Exchequer* by Command from His Majesty, and there to remain. But since there is another Book written (which I had at my Argument) by one *Pontanus*, directed to the great Chancellor of the K. Denmark, and he undertaketh therein to make an Answer to every particular Chap. in Mr. Selden's Book; and truly, as I think in my poor Opinion, though weak, Mr. Selden hath a Judgment in Law against him upon a *nihil dicir*.

Of how great consequence the Dominion of the Sea is to this Kingdom who knows not? So that without question the Tax was very fit to be done, if the Power given to the Sheriff had been as warrantable. But this same second Power to free himself and lay it upon the residue, is not good nor warrantable by the Law. Thus much for the First Question concerning the Powers contained in the Writ 4 Augusti, which doth not resort unto the Rule and Custom of the Kingdom of England.

In the next place, let us see whether the Writ mentions Causes sufficient for the Issuing of it: For the Incursions of Pirates, I conceive it no just Cause. But the Expressions in the Writ, as, *Quod datum est nobis intelligi, ut informatur, vulgaris opinio est & rumor est*, &c. If the King do undertake it upon this, He is not to shew how He discovereth it: I am satisfied in my Opinion upon view of the Precedents; it is sufficient if the King do alledge *Quia datum est nobis intelligi*, or *Quia intelleximus*, &c. It is enough, for it is so in these Precedents, *Quod vulgaris opinio*, &c. All these, or any of these containing such a matter, that the Kingdom is in danger, I do agree the same doth conclude the party, and that the King is the Sole Judge of it; the Case is not traversable; the Writ must be obeyed, agreeing with the Laws and Customs of England. That this may be done by the Kings Writ, excellent and strong Arguments have been made, that this Imperial Power belongeth to the Crown, I heartily acknowledg it; His Power declareth it so, Reason it should be so; not voluntary at His Pleasure, but it is according to His Politique Capacity, not excluding His Natural Imperiality, *Quia Rex* he doth it not, but *Quia Rex Anglia* he doth it; so I find it in *Fortescue*: The Grounds premised in this Writ, that the Kingdom was in present danger, truth, in my Conscience it was so; and if that had not been done so, England had heard of it before this day. Therefore there must be an expression of the Kingdom to be then instantly in danger, or such a preparation in such a convenient time, or else it will be in a great danger; but that must be expressed, for I hold the Law to be so. Doctor and Student saith, It is the old Custom of the Land the King shall defend the Sea: True; Against whom? Against Pirates and petty Robbers, but not against a sudden Invasion at his own Charge. These *Pradones* which were spoken of in the Laws of King Edward, when *Danegelt* was given, they were in that condition that they endangered the whole Kingdom. They did occasion that of *Danegelt* from 16 to 26 a Hide; *William Rufus* to 46 a Hide, imposed upon a just ground, to repel the Danes, being common Enemies; and was continued until *H. 2d's* time, but since taken away by several Statutes, 25 E. 1. &c.

That

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That same *Danegelt* which was heretofore imposed upon the Kingdom by the Terror of the *Danes* continued still though the name be altered; It is mentioned in the *Red Book* in the *Exchequer* to be used in *H. 1.* time, but after the time of *H. 2.* I hold that they are taken away by those Statutes before mentioned of *E. 1.* & c. And therefore if for private danger this Assessment be imposed, it is not according to the Laws and Customs of the Realm.

I am over-troublesome and shall hardly hold out; give me leave to proceed to the Second Consideration: And admitting those Charges in the First Writ to be legal, the next Consideration to be had, is, Whether the *Certiorari* and the *Mittimus* do legally revive the First Writ, it being a Writ irreturnable, and not excluded according to the Tenor of it within that limited and prefixed time.

This *Certiorari* issued long after the first Writ, dated a year and an half after; and in my Opinion this cannot be, for the nature of a Writ not returnable is to command a positive thing to be done within such a time; if it be not done accordingly, there is an end of the Force of that Writ. So that here in our case the Power given to the Sheriff being not executed in due time by him, but done out of time, cannot be renewed now; for otherwise you would make a man an Offender by a Relation, which being a Fiction of Law, cannot so operate, nor be made penal unto him for non-performance; though afterwards by the *Mittimus* these words, *Salus Regni periclitabatur* come in, yet they will not revive or make good the Commands of the First Writ: If the First Writ had been returnable, and return made, and a default according to the Return, the Writ had been still continued; and must have been informed by another Court, presented by a Jury upon default, and upon presentment and indictment, shall have his remedy to the King; but it being not so, it is but a suggestion, upon which a *Scire facias* cannot issue, as in *Butler and Bakers Case*, 3 *Rep.* And being not returnable, is but dead in Law, and being certified upon the second Writ, is not good, it cannot be to relate to make him a wrong Doer; to that purpose is the case cited in 26 *E. 3.* *Leicestershire Case*, reciting, Whereas one Sir John de *Lungston*, that he had delivered certain Moneys to Robert de, &c. and that he had wasted such a Mannor, and taken away goods to the value of 2000 *l.* And thereupon it was commanded he should be Attached by his Body; he appeared at his day, and because, &c. he was discharged of it: And according to that I find it 7 *E. 3.* there it was suggested to be made in one Kings time, and whereas it was not, and there abated: Then the question, Whether the King may do it or no? He giveth the Answer, That where it concerneth the King in his own Right, there the King may do it; but when the Title came to the King from another party, there it is otherwise.

Upon this I do conceive this same *breve irreturnabilis* falleth short of making him punishable, as if it had been a Writ returnable. Let the Writ 4 *Augusti* be never so good, the Writ thereupon is not legally issued.

Next thing is upon the *Scire facias*; the question is upon this Record, Whether this doth appertain unto the King? I conceive it doth not appertain unto the King: My reason is this, Because in the very Writ 4 *Augusti*, it is expressly provided for by that, that it shall be employed to no other

use but for the Preparation of the Ship therein mentioned, by no means to any other purpose: Car. 1. It doth not now appear who were Collectors therein appointed to receive the Money, whereby to become chargeable over to the King, it doth not appear upon this Record that any Ship was provided, or that any fault was in them that were employed, or of Surplage in the Collectors hands; though it was a worthy and gracious Act of His Majesty, yet this is not so legally executed as the King may have a Writ of *Scir' fac'*.

If Judgment be for the King, it must be with this limitation, that it must not go to the proper Coffers of the King (as my Brother Jones observed) And in my Conscience, if it were paid unto him, he is a loser by it; you see what the Writ is; you should be charged upon, for what? *onerari & satisfacere*, one Ship, *non constat*, there was any Ship, or any Collector, or any Act concerning it. This Money was pre-ordained only to prepare a Ship, and to be employed meerly upon that, and for no other purpose; and this appeareth not at all, whether any Ship made yea or no: for whom shall we give Judgment? The *scir' fac'* is, That Mr. *Hampden* should shew cause why he should not satisfy the Sum imposed upon him; but whom he should satisfy, or to whom the Money should be paid *non constat*, well penned upon the Demurrer, *si Dominus Rex valet aut debeat onerari le Defend.* But *oneretur & inde satisfac'*; nothing of that put into the Record to bring this unto the King; therefore *Quod oneretur*, cannot be executed at all, according to the Books of 39 *E. 3.* and 49 *E. 3.* where if Judgment be to be given, and cannot be executed, there it shall not be given at all. So the Judgment required upon this *Demurrer*, is upon the matter, *oneretur*, and shall by no colour come unto the King; God knows, it belongs unto him, and that deservedly, but in legal course *non constat*. Therefore to give Judgment *quod oneretur*, and not know to whom; to the King he cannot; for this reason I cannot see how Judgment can be *quod oneretur*.

But hereupon another thing troubleth me very much, and which in my Opinion makes it clear, that Execution cannot be made upon this *Scire facias*, and that is the *Mittimus* to us in the *Exchequer*, which by *Recordum ipsum* is not certified, but only the Tenor of the Record. I do conceive the Law to be so upon this difference, as it is taken in a Case excellently well argued 33 *H. 6.* where it is said, If the Record be in any other Court whence Execution may be awarded, and the Tenor of that Record is by *Mittimus* sent into another Court where Execution may be likewise awarded; in such a case a *Scire fac'* cannot issue upon such a Record, for this is but an Extract of the Record. So if a man should sue out Execution upon a Judgment given before the Justices of Assize, what will you do with this, and he have no goods within the Precinct? You must remove this: How do you remove it? Not by certifying the Tenor of the Record, but *ipsum Recordum*: But if the Record it self be certified into the *Chancery*, and sent by *Mittimus* into the *Common Pleas*, that is good, as we are Judges of the Record, no other Court can give Judgment upon that Record, but we.

Here is sent unto us the Tenor of the Writ, and not the Record it self that I can find, and so two Executions may be upon one Judgment, 37 *H. 6.*
A Transcript

Anno 1637. A Transcript or Tenor of a Recognizance came out of Chancery into the Common Pleas, to have Execution & non allocatur. And so it is Dy. 4, & 5, and 22 of the Queen; there was a Transcript there of a Recognizance to the intent that they might have a Scire fac. upon it, and held clearly by the Court, that upon the Tenor of a Record, no Scire fac. could lye. So all this appearing upon the very first Branch of the Record, that this fame was meerly a Tenor of the Record, and not Recordum ipsum; I do not know how upon this Record there can be Execution.

Thus have I done with the several Discussions of the Writ and Record, which upon my Reasons before alledged, I conceive it not sufficient in Law to Charge Mr. Hampden.

I come now to the great Question concerning the danger of the Kingdom, and our Certificate to His Majesty: Give me leave (according to our former Resolution made in Answer to His Majesties Question proposed) to speak of what we did certifie; and in my Conscience, truly, and I hold it real, That when any part of the Kingdom is in danger, actually in danger, or in expectancy of danger, and the same expressed by His Writ, I do agree the King may without Parliament charge the Subjects towards the Defence; For *necessitas est Lex temporis*: In vain to call help when the Enemy is landed. Clearly, I hold the King to be the Sole Judge, and the Danger being certified so by His Majesty, I hold it not Traversable. And in such a Case he may without Parliament charge the Subject, so that the very Cause be expressed effectually upon the Record, that the Kingdom was in danger: But if a Parliamentary Advice may be called, and the danger not so eminent, then regularly no such Charge can be laid out of Parliament; legally and rightly I hold things done by the Advice of Parliament were the best. But if it be so that the necessity will not admit the delay of Parliament when the Enemy is in view and expectant; that is such a Danger as we did certifie to the King in our Opinion to be; and in E. 3. time Writs issued the Parliament sitting.

To say, there cannot be Incurfions but that they may be known within seven months, wherein a Parliament might be had, is a great hazard to the Kingdom.

It is probable indeed the danger may be discovered before it come, but it is possible it may come unexpected. In 88; when that great Invasion was, at which time, if the Queen should not have used Her Royal Prerogative without calling a Parliament, the Kingdom perhaps might have been lost by the delay, and yet great expectation was then of a Parliament.

So if William the First, not William the Conqueror, for he did not conquer the Kingdom, he conquered the King of the Kingdom; his coming was sudden, he landed at Hastings; and was not the King advised of this at York? Did he not then make all haste by Post, raised a sudden Army and bad him Battel, and Will. the Conqueror had the Victory not of the Kingdom, but against the King. *Lamert* saith, He came not in *per Conquestum*, but *per acquisitionem*. After that he was Crowned and received by the Londoners, he sent forth Commissions to all the Counties of England, to enquire *per Sacramentum*, what the Ancient Laws of England were, and of the State of the Kingdom, and Certificate made thereof; and that of Danegelt certified to be a Tribute enforced. I say

in times of Necessity the King may command this Aid by his Writ under the Great Seal, when the Danger is instant, nay the expectation is not traversable. *Car. 13.*

Obj. Then upon every Certificate that the K. makes that he is of Opinion that the danger is instant or expectant, this Charge may come by that means to be Annual.

Sol. No: We need not fear that the King will require it but upon just Occasion; the Law presumes it: And legally it cannot be laid upon the Subject but in such Cases of Necessity as aforesaid. By the Charters of Will. the 1. K. John, and H. 3. no Charge without Parliament by the Stat. of 10 E. 3. None is forced to go out of his County, 14 E. 3. I hold it to be a general Statute, and doth bind, but doth not bind in case of necessity; for they are not to be understood to be binding in all Cases.

The Charter of K. John as it is inrolled (not as it is printed) according to *Mag. Cha.* saving two Clauses that are not now in *Mag. Cha.* hath this exemption in it to the Subject, of these and these Immunities; No Tax nor Tallage but by a Parliament. But he excepts three Cases, 1. *Nisi ad redimend^{um} corpus nostrum, pur Faier Fitz Chevalier, & pur file marier.* These Prerogatives of the K. are not bound up by the Parliaments: The very Commons themselves did agree to these 3 Cases. As for the Stat. *de Tallagio*, I hold to be a good Stat. and much for the Liberty of the Subject; but if you come to a Case of Necessity, they will not stand in force.

There is an Omission in the Printed Stat. 25 E. 3. which is in the Records of the Tower (as it was observed by my Brother *Huston*) of these words, *Car ceo est encounter le droit del Realme*; how this comes to pass I know not, I caused it to be searched, and I find these words only in the Articles upon the Roll, where they do complain for finding of *Hoblers*, and are grieved for it, and give this as a reason, *Car ceo est encounter droit del Realm*; And the Answer which the K. gave unto it, was a Royal Answer to the thing proposed; but those words are left out of it: But if it were the Right of the Subject (*le droit del Realme*) as *Littleton* saith, that cannot dye.

And certainly in Case of Necessity there is a Right belonging to the K. to prevent danger; for legally when the safety of the Kingdom is in danger, in danger apparent, in that Case the K. hath a Power of Prerogative do compel Aid. And if an Act of Parliament should be made to restrain such a Charge on the Subject in case of necessity, it would be, *felo de se*, and so void, for it would destroy that *Regale Jus*.

So to this great question of imposing this Charge in case of Necessity, I am of Opinion it may be done without Parliament, as it was in 88, so long as the present and apparent danger continueth; and I am of Opinion (as I was when we gave in our Certificate to His Majesty) That the King is the Sole Judge of the Danger, and how to provide against it. But however, I do conceive upon this Record vpon which I am to give Judgment, That the Mandates in the Writ 4 Augusti are not good in Law, nor according to the Laws and Customs of the Kingdom of England, nor well grounded upon the Certificate; and that the Information afterwards cannot make a former Writ good which was first defective: And the Sheriffs which were, their Return is not effectual, upon which Judgment may be given.

Anno 1637. I cannot see how Judgment can be given *quod oneretur*, and not tell to whom, and nothing visible in this Record to whom we may find it; and therefore in my Opinion Judgment is to be given for Mr. Hampden.

F I N I S.

Sir John Finch, Lord Chief Justice of the Common Pleas, his Argument touching the Ship-Money, June 9. 1638. in the Exchequer-Chamber.

A Writ under the Great Seal of England, Dated, 4 Augusti, 11 Car. went to the Sheriff of Buckinghamshire (Sir Peter Temple) commanding that a Ship of 450 Tun, and 180 Men be ready Furnished with all Ammunition and Tackling, at Portsmouth, for 26 Weeks; to go with other of his Majesties Ships, and of the Subjects, to defend the Dominion of the Sea, and Realm, being in danger; and for to Charge and Assess all his Majesties Subjects, and all the Inhabitants within the said County, and all Occupiers, Tenants and Ter-Tenants there, that have no part in the Ship, nor serve in the same, to contribute for and towards the Preparation and Setting forth of the Ship, according to their Abilities.

The Record of *Certiorari* saith, Stoke Mandeville is within the said County, and was Assessed upon the Lands of John Hampden Esquire, as by a Schedule of 9 Martii, 12 Car. annexed unto the *Certiorari*, may appear.

Whereupon a *Mittimus* 5 Maii, 13 Car. with the *Certiorari* and Schedule, was directed unto the Barons of the Exchequer, to do there for the Sum unpaid, *prout de Jure & per Legem & Consuetudinem Regni nostri fieri faciend.*

A *Scire Fac.* upon this went forth of the Exchequer, to warn Mr. Hampden to shew Cause why he should not pay the 20 s. Upon the Return of which, Mr. Hampden appeared, and demanded Oyer of the Writ, *Certiorari*, Schedule, *Mittimus* and *Scir. Fac.* and upon hearing of them read, he Demurred; and Mr. Attorney joyned. Then my Lord Chief Baron and the Court of Exchequer Adjourned it to the Exchequer-Chamber, desiring the Advice of all his Majesties Judges; and look what Advice we (or the greater Number of us) give, the Court ought and must give Judgment upon it accordingly.

In the Debating of this Case, there hath been great variety of Opinions amongst the Judges; a thing usual and frequent in all great Cases and Consultations; which shews commonly the difficulty of the thing, and argueth a Candor and Clearness in the Judges, between whom Combination and Conspiracy would be most odious: All that have gone before me, have in one thing agreed; That it is the greatest Cause that ever came in any of our Memories, or Memorial of----

As the Sun arising in the Horizon, shews not the Figure so clear, as when it is beholden in the Meridian; so by mixing many Impertinencies with the Case in Judgment, it hath been appre-

hended to be of a far tenderer consequence than indeed it is; yet tender and weighty it is, if equally weighed, in one Ballance we may put the Regal Power, or rather the Regality it self; in the other, the Priviledges and Liberties of the Subject in his Person and Estate.

To look upon either of these, or both, through the Multiplying-Glass of Affection, is to behold neither of them truly; neither can they be so truly discerned, much less to multiply by the Glass of Phancy; and therefore Justice needs to hold the Beam straight.

I cannot fear my self, when Vulgar Censure hath exercised it self upon every one that hath delivered himself in this Matter; yet I will not say, *Domine posuisti me in lubrico loco*; for we that do sit here, do move in a Sphere, and should be like the *Primum Mobile*, according to whom, all others are to steer their Course: and Judges themselves must move steddily upon their right Poles, as I hope this Court will.

What Judge soever he be that is elevated by popular Applause, or animated by the contrary, to accumulate Honour, is fitter rather to live in *Festo Romuli, quam in Politia Anglie.*

Nor will I lose time in remembering the strict Oath of a Judge, who should expell all By-respects, and speak his Conscience; I hope none of us forget the Duty we owe to God, to the King, and Common wealth, and to our selves. I shall endeavour to satisfy my Conscience in all that I shall say: And they forget their Duty to the first, and Humanity towards us, that say or think the contrary of any one of us. Some of us have Fortunes and Posterities, and therein have given Hostages to the Commonwealth, and have as much Interest in this Case as Mr. Hampden.

Those that want those Blessings, want those Temptations that make them dream of (or hunt for) Honour or Riches, to perpetuate their Name and Families, to them nothing can be more precious than the Balm of Integrity, which will preserve their Names and Memories. It cannot be presumed but that we should speak our Consciences, since we well know shortly (as the Psalmist says) *Corruption shall say I am thy Father, and the Worm I am thy Mother.*

In handling this Case, no man can think I shall do other than right; and herein I am troubled rather for a Method, than Matter; rather how to dispose what I find, than find what to dispose: I shall endeavour shortly and clearly (considering the Time I have to spend, and the weightiness of the Matter about which I am to speak) to deliver my Opinion, with the Reasons of it; and my endeavour shall be rather to contract, than omit.

I have, with the best care I could, taken my Notes of all that hath been said for or against Mr. Hampden, and have, according to the measure of my understanding, weighed and pondered all that hath been spoken, both at the Bar, and by my Brothers, and bestowed many hours in Meditation about them, which the Time of Rest and Repose might have challenged.

Before I enter into the Case, I shall speak of the steps and degrees by which this Cause hath come to Judgment; whereby it will clearly appear, with what Clemency, Wisdom, Justice, and Goodness his Majesty hath proceeded in this Business.

The

1637. The first Writ went out to the Port-Towns and Maritime Parts of the Land the 20th. of October, 10 Regis, upon Advice taken between his Majesty and his Counsel: Before then, of these Writs I can say nothing; for I was commanded at that time to attend another Service about another Employment, the Forest of Dean. But it is well known, the Resolution taken by his Majesty therein, was grounded, and relied upon the Judgment and Learning of Mr. Noy, Attorney General; a Man of great Learning, and one that had great insight into Records, by whom the Matter was first prepared, collected and digested; and afterwards imparted to some of his Majesties Learned Council, and afterwards to some others, eminent persons of the Commonwealth, of no less Judgment and Knowledge of the Laws of this Realm; and upon Consultation with my Lord Chief Baron, and his Majesties Barons of the Exchequer, his Majesty commanded these Writs to be sent forth, against the Legality of which, nothing hath been truly alledged: It is true, they are not in Judgment properly before us; and if Method did not press it, I should not have mentioned them.

Primo Octobris, Anno 10. of his Majesties Reign, his Majesty was pleased to command me to serve in the Place that now I do; and those Records, Writs, Commissions, and other Precedents were brought unto me, as they had been formerly to my Lord Chief Justice, and my Lord Chief Baron; and we three did confer together, and delivered our Opinions in writing under our Hands.

Upon View and diligent Perusal of a multitude of Ancient Records, Writs, and other Precedents of E. 1, E. 2, E. 3. and other Records of other Kings Reigns, delivered our Opinions in these Words:

That the Dominion of the Sea belongeth to the King, and that he is sole Lord and Proprietor of the same; in which respect, his Excellent Majesty these Regalities and Royal Powers is to defend, against all Hostile Actions, Intrusions and Invasions, as well for the Good of his Subjects, as Strangers, importing and exporting their Commodities, and for Defence of the Kingdom; and for the better performing whereof, the Cinque-Ports have been required to prepare such a certain Number of Ships of divers Burdens, and Men of Arms, and at such times, at their own Charges from time to time, as the same Writs, and the present Occasion required: And for the Time and Place, and Residence of their Attendance, his Majesty was the sole Appointer and only Judge: and this was the constant Use in the Reigns of those Kings; and this was agreeable to the Common Law of Kingdoms.

And 15 Novembris 1634. before the next Summer, his Majesty finding the Danger to grow general, and conceiving that there was little reason that those Maritime parts should bear the whole Charge, for that the whole Realm was interested therein, afterwards he required our Opinions, viz. my Lord Chief Justice, my Lord Chief Baron, and my self.

June 1635. After Conference together, we delivered our Opinions; and we upon Consultation, conceiving the Reason of the Precedents before, and the Rule of the Law and Reason, requiring, that when the whole Kingdom was in Danger, the Defence that concerned the whole Kingdom, should be born by all the Subjects of

the Kingdom. This was first Verbally delivered to his Majesty; and afterwards we put it in Writing under our Hands in these Words:

Whereas the Charge of Defending of the Sea had been imposed on the Cinque-Ports; so, where the whole Kingdom is in danger, the whole Charge ought to be maintained by all the Subjects of the Realm.

And amongst other Writs, this to the Sheriff of Buckingham, went forth at the time aforesaid; after which, his Majesty finding some Question made of the Legality of it, he called all his Judges, not singly; nor any one in a Corner; but because he would have every one of them truly informed, required them to Advise together, and every one of them by themselves to give his Opinion; according to which, we severally, and every man by himself, and all of us together, delivered our Opinions under our Hands, in this manner, viz.

That when the Good and Safety of the Kingdom in general is concerned, and the whole Kingdom in danger (of which your Majesty is the Sole Judge) your Majesty may by Writ, under your Great Seal of England, Command all the Subjects of this your Kingdom at their own Charge to provide and furnish such a Number of Ships, with Men, Munition and Victuals, and for such a time as your Majesty shall think fit for the Defence and Safeguard of the Kingdom from such Danger and Peril; and that by the Law your Majesty may compel the doing thereof, in case of Refusal.

In which (the Clause, His Majesty was the sole Judge) was only put in by Ten of us; my Brother Hutton having not seen nor weighed the Precedents, took time to Advise, and gave no Opinion till Conference between us; and my Brother Croke had the same reason, being not acquainted with those Writs; but yet subscribed his Opinion singly by himself, December 1635. viz.

That where the Good and Safety of the Kingdom is in danger, of which his Majesty is the sole Judge, his Majesty may Command all his Subjects, at their Charge, to provide and furnish such Ships at Sea with Men and Munition, as shall be necessary for the Defence thereof; and this I hold to be agreeable to Law and Reason.

Though I perceived nothing of this his Opinion in his Argument, yet he still holdeth it: Wherein I observe,

1. That the King is sole Judge of the Danger, and whether it be imminent.

2. Not only that the King may in such Danger Command his Subjects to defend the Kingdom in case of Necessity, but that the Charge of the Defence ought to be born by all the Realm in general; which Opinion was more independent than the rest; for that our Opinion before it, had relation to the Precedent of Maritime parts; but this was, That the Subject might be Charged absolutely: and this was delivered by him readily and cheerfully, without hesitation; he will not deny it: I speak not of this as of a thing whereby he ought to have been concluded; but that all the world should know, that his Majesties Regal and Legal Power go hand in hand together, and that his Princely Love and Affection to his Subjects is such, that he is willing to prevent all Mistakes: And I speak it also to this end, that when Judges singly deliver their Opinions to the King, not examining the Reasons

Anno 1637. Reasons that moved them unto it, we ought to see very good and pregnant reason to vary from that Opinion, though it be not binding.

This his Majesty required for his own private Satisfaction; and this I dare boldly say was so delivered by us, that no one Judge knew the Opinion of the rest.

When his Majesty found slackness in some of his Subjects, in contributing towards this Charge, and thinking that it proceeded rather from misunderstanding of the Law, than from want of Duty, as desirous of his Princely Love, to avoid all Mistakes, did upon the Second of February 1636. send a Letter to all us his Majesties Judges and Barons of the Exchequer, thereby requiring our several Opinions; about which we all conferred, and the Particulars wherein our Opinions was required, had been long considered of before, or else we were much to blame; for we had time enough to think upon it: And though our Answer was returned the 7th. of the same Month of February, yet we had it in our Considerations from June 1635. fifteen Months before the Answer returned; there was no Surprise, I will spare to name our Opinion then delivered; for it hath been repeated before; when we came to the Debate and Voting of this, we brake the Writ into several Parts and Questions. As,

First, When the Good and Safety of the Kingdom in general is concerned, and the whole Kingdom in Danger, whether it ought not to be defended at the Charge of the whole Kingdom? And agreed it was *una voce, nullo contradicente*, that it ought.

Secondly, Whether the Charge of the Defence might not be commanded by the King? Which was also agreed that it might.

Thirdly, Whether the King was not the sole Judge both of the Danger, and when and how it was to be prevented? wherein my Brothers (*Hutton and Crooke*) did agree it likewise, that he was sole Judge of the Danger: What their Opinions are now, and wherein they differ, I shall, with their good Leave examine, and their Reasons and Differences (though indeed of the Kings being the sole Judge.) In their Arguments, my Brother *Crooke* spake nothing of his Opinion therein, nor my Brother *Hutton* nothing against it; but we delivered not our Opinion upon the (By) nor was it so required by his Majesty. It was then also Declared by all of us, that we delivered not our Opinions, as binding Opinions, nor were they so required by his Majesty of all, which I dare boldly say, his Majesty was truly informed; and this was also soon after Published by his Command, and seconded by my Lord Keeper and Lord Privy Seal; the first of them using many Arguments and sound Collections, delivered it in Charge to his Majesties Judges, to deliver it in their Circuits; which might have satisfied any that respected not their own private Benefit; and Mr. *Hampden*, of all, I think hath the least Cause to complain, being Assessed but 20 s. A contemptible Sum, in respect of his Annual Revenues, to bring this Case to Judgment; yet his Majesties Clemency appears to be great herein, in that he would not debar any to question the Lawfulness of it; though he hath permitted *Arcana Imperii*, nay *Imperium ipsum* (I would to God I could not say, even too licentiously) to be debated at this Barr; yet I speak it not by way of Reprehension, but Admonition to the Council, who are to be commended, in that they have done their Duty faithfully for their

Clients; yet I may say, such a Ravelling and Diving into the Kings Revenue, and secret Estate of Princes, and what succeeding Kings may be, or may do, it doth not well become these present times; it would not have been endured in the best preceding times.

It was not well done to doubt succeeding Posterity, that promise as much as any of their Predecessors have done before, for the Good of the Commonwealth.

It was not well to clogg the Cause with so many Precedents, impossible to be thoroughly observed; but our Example I hope shall be a Barr hereafter; and our Care shall be to prevent it, being a great hinderance to the Expedition of Justice, and Cause of great Expence to the Subjects long attendance about their Causes here, which may prove a greater Charge, than in providing Ships for Defence of the Realm.

I come now to the Case, as it stands in Judgment before us; wherein my Method shall be,

First, To examine what the Case is.

Secondly, I will give my Opinion of the Case, with the Reasons thereof.

Thirdly, I will Answer the Objections made against it.

Fourthly, I will speak to the Form and Quality of the Writ of 4 Augusti, the *Certiorari*, the *Mittimus*, and *Scir. Fac.* out of the Exchequer; and to all these with that Brevity I can: I will speak according to the weight of the Case, where variety of Opinions give just cause to ballance them; the Case must arise out of the Record, and must stand or fall upon that.

First, For the Cause it self; and therein,

1. I will shew what Danger there is, that is the Ground of the Charge.

2. What things there are to maintain it; as for other things they tend unto the destruction of the Case.

First, I am Opinion that the Danger of the whole Kingdom ought to be expressed clearly; for else the Ground-work faileth: for if no danger, no reason for the Charge. I am of opinion, that in the Writ 4 Aug. it ought to be expressed, and not in the *Mittimus*: Though as my Brother *Jones* observed, The *Mittimus* comes time enough to Mr. *Hampden*, to give him notice; yet he was not liable to the Charge, but by the Writ of 4 Augusti

1. It is Objected that the Danger is not clearly expressed; for it is not upon words of Certainty, but by way of Incertainty, *Quod datum est nobis intelligi*.

2. For the Causes of the Writ, that it hath not relation to the Danger of the Kingdom, but to defend the Sea-Coasts against Pyrates, &c. They are not worthy of a Royal Navy, as my Brother *Crooke* also observed.

But I hold, first, That the Danger is sufficiently expressed, *Certum est sicut se res habet, Datum nobis est intelligi*; a thing very ordinary with us, and in all former Writs *ex Relatione*, &c. *quod vulgari opinio est*, &c.

Although my Lord Chief Baron parallell'd this to the Case of Patents, *ex certa scientia*, which is nothing alike; for there, before the King pass away Land, he may be if informed he may do it; but I hold, as this Case is, the Danger will not permit it to be examined, whether there be just Cause of fear; for then it might receive

ceive Delays, which are dangerous, and the Kingdom be lost while we are disputing.

And then for the Phrase it self, *Datum est nobis intelligi*; It is sufficient that the King knows there is a Danger; and therefore if it had been but only *Intelligimus*, none can deny but it had been sufficient. And what difference is there between *Intelligimus*, & *datum est nobis intelligi*? That sets forth the knowledge of the Danger, and this shews the Means whereby he does know it; *ut datum est nobis intelligi*: this goes further than *Ex auditu Rumer est*, &c. Therefore unless the King should go out of the Kingdom to see the Danger, can it be otherwise expressed?

Secondly, I hold that the Danger it self, with the Motives in the Writ, are sufficient also.

The Motives are great Depredations of the Subjects Goods and Lives; but it is not upon this Rest; for this hath relation to Pyrates leading divers Christians into Captivity: These are good Motives, and (as one of my Brothers said well) though these have Relation to Pyrates, yet *Bellum Pirat.* points at as much Terror as *Hannibal ad portas*.

I shall not much relie upon that, that the Enemies of Christendom and of this Nation did prepare, *ad Mercatores nostros ulterius molestand.* Nor *ad Regnum gravandum, nisi citius remedium apponatur*, &c. But this, *Consideratis periculis quae undique his guerrinis temporibus imminetibus, ita quod nobis & subditis nostris defensionem Maris & Regni nostri omni festinatione qua poterimus convenit*, &c. shews otherwise then for the Pirates, this Defence was requisite; therefore the next Clause is, *Nos volentes defensionem Regni, tuitionem Maris, securitatem Subditorum nostrorum*, &c. And therefore that *salva conductione Navium & Merchandiarum, quae ad Regnum nostrum Angliae venerunt, & de eodem Regno ad partes externas transierunt*, &c. take not away the former Words, or limit them.

As for the Clause in the *Mittimus*, I stand not upon it; nor that, *Salus Regni & Populi nostri Angliae periclitabatur*, &c.

3. Admit there had been no Preamble or Expressment of Danger, I hold the Commandment it self is sufficient setting forth of the Danger; which is, that the Ship be with other his Majesties Ships, and the Ships of other his Majesties Subjects, at *Portsmouth*, the first day of *March* next following. The Words of the Record be, *Exinde cum Navibus nostris, & Navibus aliorum fidelium Subditorum nostrorum, pro tuitione Maris, & defensione nostrum & vestror.* &c. And particularly to express the Danger, is not necessary: for the King, the sole Arbitrator both of Peace and War, best knows it: And it was the practice in former times, and so our Wisdom, for the King to express the Danger in particular, when Arms usually go before Heralds; nor is it the Use of Princes to complement, to tell the Enemy, that they will or intend to invade their Lands; and therefore I hold, though it might be more clear; yet *satis est quod sufficit*: I in my own Conscience am satisfied; the Danger is certain enough expressed in the Writ; and so I have done with the first Particular; *The Danger*: which was the Ground of this Writ. As to the Second Particular:

Secondly, What is alledged to be for the preventing of that Danger, my Brother *Hutton* and my Brother *Crooke* would have it to be raising of Money, by reason of the Clause in the Writ; for the Distribution of the Surplusage: But the

Record is *ad assidendum omnes homines, & ad contri- buendum Navem, vel partem, Naves non habentes, &c.* Car. 13. which shews that it cannot be for Money; neither is there any Colour of Money; for it is to find a Ship; and if they have not of their own, they must build, or buy one with their Money: But there is a great deal of difference between payment of Money and finding of a Ship: As if my Brother *Crooke* be required to find a Light Horse, and Arms, he must buy one, or hire with his Money, if he have none; but yet the Charge is not only for Money, but that he find a Light Horse.

Obj. But my Brother *Crooke's* Objection is, If any Surplusage remain, it shall be divided; and so the Sheriff is to detain no part of it, but employ it for the publick Good, and not convert it to his own proper Benefit.

Ans. To this I Answer, That this shews the Equality of the Charge, which is fittest to be by payment of Money.

Obj. My Brother *Crooke* hath further Objected, That an In-land County cannot build a Ship: a great Trouble for the County of *Buckingham*, so far from the Sea, to build a Ship.

Ans. To this I Answer, That those of *Buckinghamshire* may hire a Ship, if they may not build one; and the Words are but (*Parare*) not for the Building, but Preparing a Ship. And it was not meant that they should build it there; but that they should contribute to the Building of a Ship in a most fit and convenient place.

Now in my Opinion, the King Knowing and Declaring the whole Kingdom to be in danger, and necessarily requiring his Subjects to defend, and provide for this Danger at Sea, the King may thereupon command all his Subjects to prepare Ships to joyn with his Navy Royal against the Enemy of the whole Realm, to defend the whole Realm; and it is clear in the Case, and was the Meaning of us all, that the King must joyn in the Charge; it being far from us to excuse the King his Rateable Part.

My Reasons that the King may thus Charge his Subjects to joyn with him in the Defence.

First, The Defence of the Kingdom must be at the Charge of the whole Kingdom in general.

Secondly, The Power of laying this Charge is by the Policy and Fundamental Laws of this Kingdom solely invested in the King.

Thirdly, The Law that hath given this Power to the King to do these things, hath given him Means to put these things in Execution.

In all these I shall ground my self upon Authorities in Law and Precedents in all Ages.

First, That the defence of the Kingdom must be at the charge of all the Kingdom, I shall prove from the Law of Nature, which is, that every thing in Nature ought to defend it self.

Secondly, From the Rule of Reason; for *quod omni tangit ab omnibus supportari debet*.

Thirdly, From the true use of all that we enjoy, which must be abused, if not employed to and for the good also of those that come after us, and necessary it is for our Posterity to have all sure and safe; a good Patient will spare some blood to preserve his own health, and a good Husband

Anno 1637. Husband will spare some piece of his best ground for Ditches and Fences to preserve the rest; and he is an ill Husband that finds not safety in what he doth.

Fourthly, From the Law of Property; as every one hath a particular property in his own goods, so every one hath a property in general in anothers goods for the common good; for the Commonwealth hath a property in every Subjects goods, not only in time of War, but also in time of necessity in Peace; therefore if one take away my goods without my consent, I have my Action, and recover Damages. Doctor and Student says both a Trespass of Lands and Goods is punishable by Indictment and Trespass at the Kings Suit, as well as the Subjects; and this is by reason of the Publick Interest that the King hath in every Subjects goods for the common good. Now the Rule and Maxim before, so clearly and fully put and agreed by all, is, that in case of necessity that is apparent, the Subject ought to defend the Kingdom; and my Brother Crooke agreed, in case of danger, so it be imminent, all men are bound in their Persons and Estates to defend the Land and the Kingdom; and he says they must, then *exponere se & sua*, I think he means a man that takes and goes a Journey may carry his money with him, *se & sua, id est, omnia bona & Catalla sua*; or else means, the King cannot command their money without their consent; of which I will speak in its proper place.

2. I come now to the second part of my Head gerall, which is the power of laying this Charge.

By the Fundamental Laws and Policy of this Kingdom, the Soyl, Interest, and Property of the Sea, &c. is in the King. I will not speak of the Original of this Monarchy; this is fit rather for Civilians, Historians, or the Pen of a Divine, than a Judge at Westminster Hall; nor will I speak of the division of Monarchies, the Poets say, that Saturn was the first Founder of Kingdoms; only this I will say, that for the excellency of the Government of this Kingdom, through Gods blessing, that none are more happy than we: Look and see in other Nations, and tell me if you can find out any place where they can, and do enjoy those mercies of Peace and plenty which we do; so as we may justly say, *O Fortunatissimum, bona si sua norunt Britanni*: Nor will I perplex myself with the Original of this Nation and Monarchy, some Stories are fabulous, and others doubtful; not any so clear, as to set it forth certainly, though they speak truly what is sufficient for us to know; nor is he the poorest man, *qui non potest numerare Pecus*, nor be one of the worst Gentlemen, that cannot shew the Original of his Pedigree; the Excellency of his Monarchy is sufficient that it is a Monarchy; and that is most true which Fortescue saith of the Excellency of our Laws: I agree Fortescue was a Lord Chief Justice in H. 6. time, but not Chancellor of England. Sea and Land make one Kingdom, and the King is *Sponsus Regni*: Magdalen Colledge Case, Sir John Davies Reports, Stat. 24 H. 8. 1 Eliz. & 1 Jac. the soyl of the Sea belongs to the King, who is Lord and sole Proprietor of them; and good reason why it should, as is well maintained by Mr. Selden, that worthy and learned Author; and I hope shall be by his Majesty, and maintained with the Sovereignty of the Sea, without whose Navy this Authority can do little good.

The King holds this Diadem of God only, all others hold their Lands of him, and he of none

but of God: But this is but to light a Candle for others; from hence only I will observe, that none other can share with him in his absolute power.

A Parliament is an Honourable Court, and I confess it an excellent means of charging the Subject, and defending the Kingdom; but yet it is not the only means.

An Honour the last Parliament was pleased to bestow on me, which never any shall with more respect remember than my self, whom they were pleased to chuse for their Speaker.

And as my Brother Hutton said, I conceive it a fit way to charge the Subjects, and I wish that some for their private humour had not sowed the Tares of discontent in that Field of the Commonwealth; then might we have expected and found good fruit; but now the best way to redeem this lost Priviledge (for which we may give those thanks only) is to give all opportune appearance of obedience and dutiffulness unto his Majesties Command.

The two Houses of Parliament, without the King, cannot make a Law, nor without his Royal Consent declare it; he is not bound to call it but when he pleaseth, nor to continue it but at his pleasure: Certainly there was a King before a Parliament; for how could there else be an Assembly of the King, Lords, and Commons? and then what Sovereignty was there in the Kingdom but this? His power then was limited by the positive Law; then it cannot be denied, but Originally the King had the Sovereignty of the whole Kingdom both by Sea and Land, who hath a power of charging the whole Kingdom.

Thirdly, The Law that hath given that power, hath given means to the King by this Authority to put it in execution. It is a very true Rule, the Law commands nothing to be done, but it permits the ways and means how it may be done, else the Law should be imperfect, lame, and unjust: Therefore the Law that hath given the Interest and Sovereignty of defending and governing the Kingdom to the King, doth also give the King power to charge his Subjects for the necessary defence and good thereof.

And as the King is bound to defend, so the Subjects are bound to obey, and to come out of their own Counties, if occasion be, and to provide Horse and Arms in Forreign Wars; and such as are compellable now to find Guns instead of Bows and Arrows; so Munition, as Powder and Shot, &c. Then if the Sea and Land be but one entire Kingdom, and the King Lord of both, the Subject is bound as well for the defence of the Sea, as of the Land; and then all are bound to provide Ships, Men, Victuals, and necessaries for that defence; and for us Islanders, it is most necessary to defend our selves at Sea: Therefore it was the greatest Argument in 88. whether it was best to fight with the Royal and Invincible Navy or Armado of Spain at Sea, or suffer them to Land; and it was resolved clearly, that it was better to fight with them at Sea, though we lost the Battel, and our Ships then to suffer them to Land.

Obj. But then there was Hannibal ad Portas.

Ans. To this I shall answer afterwards, that here the Maritime Towns shall not help the Inland, but each of them bear their own charge, and defend themselves: But of this I shall speak hereafter; yet undoubtedly 'tis reasonable, that both

both should joyn to defend the Kingdom, in case of necessity.

Anno 1637. Now I shall endeavour clearly to prove this by Authority in Law, and Precedents in all Ages. And first, it is a great Authority in Law, that there is no expresse Authority against it, though there have been some Books cited by my Brother *Hutton*, and my Brother *Crooke*, (which I shall answer in their due place, amongst other Objections) yet there is not one Authority or Opinion, much less resolution or judgment in necessary time of danger, that says the King may not charge the Subjects for the defence of the Kingdom.

Secondly, All these Authorities that prove the King is trusted with the defence of the Kingdom, and in divers Cases gives him Aids, Taxes, Subsidies, &c. prove that the Subject is bound in case of danger and necessity to pay them to the King for defence of the Kingdom.

Thirdly, All the Authorities of Murage, Pontage, Saltpeter, &c. shew, that for the good of the Publick the King is interested in the Estates of the Subjects, and may charge them; much more (if for the well-being then) where the being it self of the Commonwealth is at stake, and in danger.

Fourthly, The Authorities of commanding the Person of the Subject to come out of their own Counties proves it; the power of commanding the Person of the Subject into foreign parts is in the King, much more the Estates of men should be at his Command, in Case of necessary defence of the Kingdom.

Fifthly, All the Commissions of arraying men in E. 1. time, E. 3. E. 4. H. 7. and H. 8. time, &c. They are all grounded upon the same reason, and went out for the necessary defence of the Kingdom; these Writs are not to command the person, but a Ship only, *juxta facultates suas*, which are answerable in reason to the Ancient Precedents.

From Authorities I come to Precedents; Precedents though they be not Judgments, yet they shew the practice of the Law; and what better Book have we in the Law, than the Book of Precedents? or what is there of more Authority than that? for we have not the twelve Tables for our Common Law.

The Common Law is but the common usage of the Land; and therefore the Precedents alledged by the Kings Council are of good Authority to prove the Law in this Case; wherein I shall not name the particulars, they have been well remembered by Mr. Attorney, and Mr. Solicitor, but I will mention the substance of them.

The first Precedent was, before the Conquest, in the times of *Edgar*, *Alfred*, *Ethelred*, &c. the use was to defend the Kingdom at the charge of the whole Kingdom, by the Edict of the King.

A strong inference from the Precedent of the grant to the Clergy and Church of divers Privileges, with these Exceptions of *Expediit Pontium*, &c. in the time of *Edgar*, *Alfred*, and *Ethelred*, &c.

The Council of *Enoch* in *Edgars* time, about 606. 621. mentioned by the learned Antiquary *Sir Henry Spelman*, fo. 510. and after those follows, *Ha sunt Constitutiones*, &c. fo. 523. In which are excellent things good for Church and Commonwealth, Cap. 23. *Navales expeditiones*, if it be no Act of Parliament, yet nothing is more like an Act of Parliament: Take the phrase of those times, and certainly it was either an Act of

Parliament, or a proof of the Kings power, that without Parliament he might charge the Subject for the defence of the Kingdom, in case of danger; and the word *Expedition* is used for War, and sometimes for an Army, as *Cassiodorus* giving the reason of the name says: In the third place, it shews the practice of the Kings of *England* to charge their Subjects for the defence of the Kingdom, in case of danger.

Now if this charge of Danegelt be not taken away by any of the Acts of Parliament, it remains still, says my Brother *Hutton*, and so I think it doth, or something in lieu of it, for it is not taken away by the Act of Parliament.

1. In these Precedents, observe first, that they are all upon the same common reason that this is.

Secondly, These Writs are not limited for their number or time; so that they prove the power was in the King to charge his Subjects.

Thirdly, In these Precedents, some were to Inland Counties, as *Huntington*, *Bedford*, *Buckingham*, *Leicester*, *Oxford*, *Berks*, &c. And though they went not generally to all Counties at one time, yet they went to them as occasion was; and if the danger had required, the King might, if he had pleased, have sent to all, as well as to some.

But because there never was any time when all the Munition in the Kingdom was drawn at one time to one place, may it not therefore be done? The commanding sometimes of one, sometimes of another, is an Argument they may all be commanded, as occasion requires.

I do not build my Opinion upon confused Notions, but on matters digested, on Precedents of weight, the chiefest in respect of time, and after the making of *Magna Charta*, 9 H. 3. 13 H. 3. m. 48. 18 H. 3. m. 7. & 13 E. 3. m. 77. 23 E. 3. m. 4. 28 E. 1. m. 23. and many other in E. 1. time; there is proving Contribution towards the maintenance of the Sea Coasts from Inlands, as 25 E. 1. m. 13. Abbot of *Robertsbridge* Case is a full Precedent, notwithstanding all that hath been said against it: So 9 E. 2. pars 1. 20 E. 2. m. 7. 2 E. 3. *Scotch Roll*. 7 E. 3. m. 9. 10 E. 3. n. 16, 17. 11 E. 3. 12 E. 3. 14, 15, 16. 18 E. 3. 46 E. 3. m. 34. 25 E. 3. *Rot. Franc.* m. 9. 29 E. 3. 1 R. 2. 1 H. 4. and yet H. 4. had as much reason to please the people as any King of *England*: So in H. 5. though busied in the glorious Conquest, or rather recovery of *France*, God forbid we should see those times: So in Ed. 4. H. 6. H. 7. H. 8. by way of Offensive War, Writs and Commissions to their Subjects to contribute towards it; so in Queen *Elizabeths* time, Commissions towards the maintenance of the Kingdom, 11 Eliz. 41 Eliz. Commission to the Earl of *Nottingham*, 88. Letters from the Lords of the Council, which Letters had the Queens Writ; but my Brother *Crooke* answered all these with this Rule of Law, *Judicandum est legibus non Exemplis*: To this I answer him, that Examples and Precedents are good Law; they are Authorities out of the Law, and declare what the Law is, and what of more certainty digest of Writs; these are *Instar Oracula Legis*.

Precedents drawn up by Clerks sometimes, though they pass *sub silentio*, yet are they good Authorities in the Law.

The Abbot of *Robertsbridge* Case is a Precedent of great Authority.

Ob. No Precedents goes to Inland Counties.

Ans. I answer, in truth the Precedents are quite

Anno 1637. quite otherways for ordinary defence, they go to Maritime Coasts only, but where the danger is general to Inland Counties, and after another manner: For this I refer you to my Brother Westons Argument, these could not be so frequent; for first this danger was but seldome.

Secondly, Because we had then double hostility, one from France by Sea, and another by Land from Scotland; examine the Precedents therefore.

Ob. Third Objection that my Brother Crooke made is, that we are compellable by our Persons and Arms, but not with any sum of money.

Ans. I answer with my Brother Jones, *Bona Corporis* are above *Bona Fortuna*: But this power of liberties of the persons of his Subjects; he agrees is in the King; then, I say, more reason that their Estates should be in his power, in this Case of necessary defence.

Secondly, The Precedents warrant the quite contrary, and Wages have been paid to Souldiers by the Subject in this Case.

The third thing that I will observe in this Case is, the answering of all those Objections which have been made against it, which were three.

1. That Writ was against the Common Law.
2. That it was against the Statute Law.
3. Many inconveniences grow thereby.

Ob. First, It is against the Common Law, because it is without Precedent; this is the first of this kind since the Conquest, and where there is no Precedent, the Law will not bear it, *Littleton* fo. 32. My Lord Cooks Commentaries upon it, puts divers Cases to the same purpose.

Sol. I answer, there are Precedents for it, and the Law is so, that the King may charge his Subjects towards the defence of the Kingdom in this Case.

Ob. Second Objection is, that it is against the freedom of the Subject, that hath a true property in his Goods, which cannot be taken away without his actual or implied consent, *Lambert* fo. 294. *Fortescue Magna Charta* 17 K. John, *Matth. Paris* fo. 242. *Fortescue* 9. Chap. 13. &c. 13 H. 4. *Chamberlain of Londons Case*, *Regist.* fo. 127. *Fitz. N. B.* &c.

Ans. I answer, that that Authority of *Lambert*, rehearsing the Laws of the Conquerour, is *voluntus & Concedimus ut omnes liberi homines totius Monarchia Regni nostri habeant & teneant terras suas et possessiones suas bene et in pace liberas ab omni exactione injusta et ab omni Tallagio, ita quod nihil exigatur vel capiatur nisi per Commune Concilium*, &c. It cannot be construed that they should not be charged, but that they should be free from all unjust Taxes, the King is not concluded by the subsequent words, *Omne Tallagium*; this cannot be so general, but the King may impose just Charges towards the necessary defence of the whole Kingdom; for this is meant, as plainly by the word *Tallage*, it appears, *Tallagium* is derived from a French word, and is indeed a cutting word, and therefore *injusta exactio*, which shews that for the most part it is taken in the worst sense; and as my Brother Crooke said it, and the manner of expounding it must be from the Law.

Secondly, my Brother Crooke quite left out these words following; (that declare and expound the former) *Videlicet statuimus et firmiter precipimus, ut omnes liberi homines totius Regni predicti sint fratres Conjurati ad Monarchiam nostram et ad Regnum nostrum pro viribus suis et facultatibus contra Inimicos pro posse suo defendendum et viriliter*

servandum, &c. whereby it is apparent, first that the Kingdom is to be defended by the whole Kingdom, *pro facultatibus* with their goods, as well as *viribus* by their persons. Car. 13.

Secondly, It comes after the Chapter of Tenures and Services, by which they are bound to defend, *Terras et honores suos*, &c. which shews that he meant not to free any from the general charge of defending of the Kingdom, in case of necessity.

Ob. This Objection is the Charter of King John, *Nullum Tallagium imponatur nisi per Commune Concilium*.

Ans. I answer, the words are concerning the defence of his own person, and not the King; and therefore it is excepted, *nisi ad redimend. Corpus nostrum*, and in the Original Act these words are left out.

Scutage, Murage, and other Aids there mentioned, shew that only those were meant that were of private benefit, were not to be imposed by the King upon his Subjects without Parliament, but not to bar himself for the publick good.

Ob. The fourth Authority was *Fortescue*, which was most insisted upon by my Brother Crooke.

Before I come to the words themselves, note first the time when he wrote that Book; it was after all the Acts of Parliament that took away the Regal Power, yet it mentioneth not them; so as it must needs relate to the Common Law, it was writ when the Civil Wars were between the two Houses, and himself in Exile, no time was it then to displease the people.

Secondly, It shews the differences between Kingdoms, when a Monarch rules that challengeth all power over his Subjects, and between a Monarch that governs according to positive Laws.

The words that seem to be against this Charge are, 9 Cap. 26. *Rex Anglia politice imperans genti sue, nec Legem ipse sine subditorum assensu mutare poterit, nec subiectum populum renitentem onerare impositionibus peregrinis*, cap. 13. fo. 32. *Rex Caput Corporis politici mutare non potest leges corporis illius, nec ejusdem populi substantias proprias subtrahere reclamantibus eis aut invitis*, et cap. 36. fol. 84. which my Brother Crooke says is the express Authority: *In hoc individuo*; the words are, *Rex Regno Anglia ibidem per se aut Ministros Tallagia, subsidia aut quavis onera alia imponit ligeis suis; aut leges eorum mutat, vel novas condidit sine Concessione vel Assensu totius Regni sui in Parlamento suo expresso*, &c.

Ans. From them all, I take the true meaning of him to be; and I hold, first that the Kingdom ought to be governed by the positive Laws of the Land, and that the King cannot change nor make new Laws without a Parliament.

Secondly, The Subject hath an absolute property in his Goods, Possessions, and Estate, nor to his own use the King cannot take them.

Thirdly, Nor for his own use the King cannot lay any Burthen, Tallage, Tax, or Imposition, without the Subjects consent in Parliament.

Fourthly, For the benefit of Trades, the King may lay sitting Impositions, and may command that which is for necessary defence of the Kingdom, which is no Command of charge, but commanding of imploying.

Fifthly, I answer therefore to the great Objection, that Liberty of the Subject is lost, and the Property is drowned which they have in their Estates.

First,

First, I say all private Property must give way to the Publick; and therefore a trespass to private men, as punished by Indictment, because it is an offence of the Publick Weal; and though every man hath a property in his Goods, yet he must not use them to the detriment of the Common-Wealth; a man may give his Grass or Corn when it grows away, or when it is in his Barn; but if he will cut it unusefully, or burn or destroy his Corn, or if he throw his Goods into the Sea that it may perish, these are Crimes punishable by the Common Law; so transporting of Commodities against the Publick Good; therefore the direction of those Statutes for the restraint hereof are from the Common Law, and the reason of this is, because the Publick Property must take place; and if in petty business it may be, then much more in time of publick, and great necessity and danger; and it is rather an averment of the Subjects Property, that in case of necessity only they may be taken away, than contrary to it.

My Brother *Hutton*, and my Brother *Crooke* agree, that all are bound in case of necessity, *Exponere se et sua totis viribus*, to defend the Kingdom, and may he not command a part with more reason than all?

Ob. In the next place I shall remove a scandal that hath been put upon the King, how that his Majesty hath meant to make a private personal profit by it.

Ans. What he hath done is well known, and I dare confidently say, all hath been spent without any account to himself, and that his Majesty hath been at great charge besides towards the same purpose: And I heard it from his own Royal Mouth, he spake it to me and my Lord *Bramston*, that can testify as much, that he said it never entered into his heart to make such use of it; and therefore said he was bound in Conscience to convert it to that use it was received for, and none other; and that he would sooner eat the Money, than convert it to his own private use: Therefore he that thinks the King makes a Revenue of it, doth highly slander his Majesty: But let Kings be as *David* was, a Man after Gods own Heart, yet they will not want a *Shimei* to rail on them.

Ob. But though, blessed be God, his Majesty is so gracious and loving to his Subjects, and so just, that we need not fear that he will charge them but upon urgent necessity, yet we know not what succeeding Ages may do.

Ans. It is not well to blast succeeding Ages, and if they should hereafter charge unreasonably without cause, yet this Judgment warrants no such thing. Again, it is no Argument to condemn the true use, because it may be abused: And again, the Law implies as great trust in the King as this, the King may pardon all Offences, but if he should, then none could be safe; the King may make Peace and War at his pleasure; but yet should he make Peace, when Peace would ruin us, or War, when War would undo us, it would be worse than this; therefore it cannot be suspected that the King would do any thing against Law, and the publick good of the Kingdom: Therefore the Law says the King can do no wrong, for he is *Sponsus Regni*, as in *Magdalen Colledge Case*.

Ob. *Clarke Case*, the Chamberlain of *Londons* Case, &c.

Ans. These Cases are nothing against this, but rather for it.

Ob. The Record of 14 R. 2. R. 60. *Livers* Case in the *Kings Bench*, in an Action of Tre-
spass, for taking away his goods without his consent, had Judgment to recover in *Durham*; but the Case was this, one *Lever* of the Town of *Durham* brought his Action against another, for entering into his House, and taking away his Goods, and 60 l. of Money; the Defendant pleaded not guilty, and the Jury found upon a Special Verdict, that the Defendant took away his Money but upon this occasion; the *Scots* had invaded the Realm, and were in *Durham*, and would not be gone without a certain sum of Money; whereupon the Inhabitants assembled, and amongst the rest the Plaintiff was one, and they made an Order to abide the Ordinance of the greater part, which was to give the *Scots* the Money desired; and because the Money was to be paid present down, therefore they made another Order to search in all mens houses, and to take away what Money they found, according to which the Defendant searched the Plaintiffs house, and took away 60 l. and because it was without consent, the Plaintiff had Judgment to recover in *Durham*; but upon Special Verdict it was reversed in the *Kings Bench*, because with his consent: Indeed the reasons were, because he had sufficient remedy against the Commonalty.
2. He did it as a servant.

Ans. But I answer first, that though the Ordinance was good by consent, yet it followed not that it was void without consent; the question is there only, whether good by consent?

Secondly, It follows not, but that all men without consent, are bound to contribute towards general charge for necessary defence.

Ob. Another Objection made by my Brother *Crooke* was, 2 R. 2. *pars* 1. where all the Lords and Sages met together after Parliament, and it was agreed by the Lords, that they could not charge without Parliament: This was a Declaration of the Law in Parliament, and an Act of Parliament, &c.

Ans. I answer, that it was no Act, but a Declaration in Parliament of the Law; and indeed no Declaration, but a Relation by the Chancellor.

Secondly, If it had been a Declaration, yet it had not been binding without the King.

Thirdly, It is no Precedent of a good Book, it was when the King was young, and the Parliament had the Regency; Councillors, Treasurers, and all his Officers about his person were chose by Parliament, and therefore no wonder they endeavoured to please the Parliament.

Fourthly, It is a Precedent that they (*id est*) the Lords could not charge the Commons by themselves.

Again, the Case was not for the defence of the Kingdom, but Wars in *France*, *Scotland*, and *Ireland*; these were the many Wars.

Though Subjects may be charged for necessary defence of the Kingdom, yet if Forreign Wars be together with them, it is otherwise; and therefore in the Parliament before they said, such charge belongs not unto them, and therefore they hold they ought not to bear it; and so that Rule of *Gascoigne*, 24 H. 4. fo. 4. that no man shall be charged without Parliament where Bullwarks were built, &c. it proves not, though it implies, that if it had concerned the Kingdom it had been otherwise.

Ob. The next Objection was, the great inconvenience that would hereupon ensue; if such a
g g g g 2 Charge

Anno 1637. Charge may be, then none knows what his Charge will be, for the King may command it as often as he pleases; an example hereof they put of *Danegelt*, that in eleven years grew from 12000 l. to 48000 l. therefore the Law hath provided against that incertainty, and limited it to a Parliament.

Ans. I answer to this, that if danger encrease again, the King may command all persons when necessity, and as often as he pleases he may do it; is not this as great an inconvenience as in this Case, and yet that abates not the Writ? My Brother *Crooke* shewed how Subsidies increased, and yet no inconvenience in that he conceived; and indeed, this shews the provision of charge must be according to the danger.

Secondly, No abuse of any thing must take away the true use thereof.

Thirdly, We cannot suspect that there will be such abuse, *Ubi confidet Deus et Lex, et nos etiam confidemus*; God and the Law hath trusted his Majesty, and we should not distrust him; in time of imminent danger, *tempore Belli*, any thing, and by any man may be done, Murder cannot be punished; yet says my Brother *Crooke*, the King cannot charge his Subjects in no case without Parliament, no not when the Kingdom is invaded actually by the Enemy; but truly, I think, as he was the first, so I think he will be the last of that Opinion, especially having delivered that the King is sole Judge of the danger before, as indeed he is; and that the King is sole Judge of the danger, not any have denied it, and therefore else it should be no danger; but when every one should say, you shall judge that the Kingdom is in danger.

Secondly, There hath and may be as great danger when the Enemy is not discerned, as when in Arms, and on the Land.

In time of War, when the course of Law is stopped, when Judges have no power or place, when the Courts of Justice may send out no Process, in this case the King may charge his Subjects; you grant, mark what you grant, when there is such a confusion as no Law, then the King may do it, when there is no Law to do it; *duo uno absurdo infinita sequuntur*.

2. There may be time of War in one part of the Kingdom, and the Courts of Justice may sit, as in 14. H. 3. R. 2. H. 7. time, War was in some parts of the Land, yet the Judges sat at *Westminster-Hall*.

1. Now whether a danger be to all the Kingdom, or to a part, they are alike perillous, and all ought to be charged.

2. The King may charge the Subjects for the defence of the Land; now the Land and the Sea makes but one entire Kingdom, and there is but one Lord of both, and the King bound to defend both.

3. Expectancy of danger I hold is sufficient ground for the King to charge his Subjects; for if we stay till the danger come, it will then be too late it may be.

4. And his averment of the danger is not traversable, it must be binding, when he perceives, and says there is a danger; as in 88 the Enemy had been upon us, if it had not been foreseen and provided for before it came: But I will not determine the danger now; do we not see our Potent Neighbours, and our Great Enemies heretofore, were they not prepared for War? and was there not another Navy floated upon the Sea? and was not the Dominion of the Sea

threatned to be taken away? as long as this danger remains, I shall bless God for such a King as will provide for the defence of the Kingdom timely, and rejoyce to see such a Navy as other Nations must vail to, and we are not in case without it, and should loose our glory besides.

Ob. The next Objection of my Brother *Crooke* was, that there is a means provided by Parliament which will not withhold Aid for the defence of the Kingdom, and it were a sin to deny it in case of necessity.

And in E. 1. time, E. 2. et 4 E. 3. a Parliament was to be held every year for the defence of the Kingdom, *Et propter ardua Regni*.

Ans. I answer, that might well be; but then in the time of E. 1. E. 2. and E. 3. there was Pleas in Parliament, but those are now laid aside, and that the Subjects ought to give the King Subsidies, I will not say, that inferring that they will not do it, nor am I apt to believe it; but I hold Parliaments are the excellent means for the defence of the Kingdom, and yet they are not the only means, for then the Parliament and not the King should be the sole Judge, and have the defence of the Realm, or else it should give the King a charge of defence without power and means.

The Objection of the Kings Revenues, Tenures and Prerogative, they have been unjustly remembered, they have been fully answered.

The Statute of Tunnage and Poundage given to the King, for and towards the defence of the Seas, and the other Acts of Parliament that restrain the Kings power, so that now he cannot charge the Subject without his consent in Parliament, I shall answer in the next place; and before I come to the particular Acts, I will shew you what in my Opinion they may do.

Acts of Parliament may take away Flowers and Ornaments of the Crown, but not the Crown it self; they cannot bar a Succession, nor can they be Attainted by them, and Acts that bar them of possession are void.

Secondly, No Act of Parliament can bar a King of his Regality, as that no Lands should hold of him, or bar him of the Allegiance of his Subjects, or the Relative on his part, as trust and power to defend his people; therefore Acts of Parliament to take away his Royal Power in the defence of his Kingdoms are void (as my Lord Chief Baron said) they are void, Acts of Parliament to bind the King not to command the Subjects, their persons and goods, and I say their money too, for no Acts of Parliament makes any difference: Now to the particular Statutes objected.

First, 25 E. 1. cap. 5. *Confirmatio Chartar.* The words are these, Aids or Taxes granted to the King shall not be taken for a Custom or Precedent: And cap. 6. Moreover, we have granted for us and our Heirs, that for no business from henceforth we shall take such manner of Aids, Taxes, nor Prizes, due and accustomed; and cap. 7. a Release of Toll upon every Sack of Wooll, and grant that we will not take such things without their common assent and good will, saving to us and our Heirs the Customs granted by the Commons aforesaid.

As to the other Statutes *de Tallagio non concedendo*, cap. 1. *Nullum Tallagium imponetur nisi per commune Concilium Regni nostri*, cap. 2, 3, 4, 5. &c.

First, These words must have relation to the Aids before, and there be divers Aids, as some by

by Talliage, some by way of Prize upon Goods, and Ransom of his Majesties Person, &c. the King thereupon makes this Grant, which hath relation to such Aids as were granted voluntarily. Secondly, Ancient Aids are there reserved, as redeeming the Kings Body, *pur faire fitz Chevalire, & pur Marrier son file Eigne*; and to all other Ancient Aids which are to be understood with an *ad redimendum Corpus*, &c.

And to the Statute *de Tallagio non concedendo*, in some Books it is not in print, but mentioned in *Magna Charta*, *Rastel*, and *Petition of Right*, 3 Car. 1628. to be in 24. or 25. E. 1. And therefore I answer, first it is not in the Parliament Roll, and there is variance about it; and therefore it is but an abstract, and no substantial Statute.

But since it hath passed for a Statute, and it's possible it may be so, I agree with all the rest of my Brothers, that it is a Statute; and then I answer first, that *nullum Tallagium imponetur*, &c. that is, no unlawful Talliage shall be imposed upon the Subject without his consent, or else Aid *pur faire fitz Chevalire et pur Marrier eigne file* should not have been excepted.

Secondly, No Aid shall be imposed but by the Contribution of the King and people, and here the King is taxed as well as they.

Thirdly, An Act of Parliament can by no means take it away, much less by those general words.

Ob. In the 14 E. 3. cap. 1. No man from henceforth shall be chargeable, but by common consent in Parliament.

Ans. That though it be but Temporary in some parts, yet it is binding only *secundum subject. materiam*; and the words are general, as in the other Statute *de Tallagio*, besides the practice in that Kings time and after, best interpret it.

Ob. 25 E. 3. cap. 8. No finding of Men at Arms, unless by consent, much less finding of Ships.

Ans. This takes not away any former Law; and therefore the Precedents following 4 H. 4. shew, that it reacheth not to this Case.

Ob. 2 H. 4. m. 2. Which is absolute in the point, saith my Brother Crooke, where a Commission went forth for the defence of the Sea, whereof complaint was made in Parliament, with desire that it might be repealed, and it was so.

I am of the contrary Opinion, for the Petition was that it might be released, and the Answer was but this, that it should, but the King would treat with his Council about it; and it was but a Repeal of his Commission then only.

Ob. 1 R. 3. cap. 2. Where the King grants that he would not hereafter charge them by Benevolence, or any such Charge, but that they should be dampned by the Law by no such Charge or Imposition; (*id est*) by no such Charge of Money.

Ans. That Statute is only against Benevolences, and made by a King that had reason, as we all know, to please the people for his own ends.

Ob. The Statute of Tunnage and Poundage granted for the defence of the Sea, the words are, that no Talliage or Aid shall be without Act of Parliament: Secondly, that the King hath means to defend the Realm, with a Prote-

station not to draw it into example, 4 H. 4. 13 H. 4. Parl. Roll. n. 10.

Ans. I will not argue whether Tunnage and Poundage was before this Act of Parliament, nor that time out of mind they were granted to the King; but my Answer is, that they are only for the ordinary defence of the Sea; and the Protestation of 4 H. 4. is a Protestation of the Commons only, and this Charge is not taken away thereby, and Tunnage and Poundage is for and towards the defence of the Sea; so all the Acts are, and so I agree, but for extraordinaries, and but solely, in case of danger of the whole Kingdom, that they should not be granted, cannot be collected out of these grants.

Ob. The seventh Objection is the Petition of Right, 3 Car. That no Charge shall be imposed upon the Subject, but by Parliament.

Ans. I was then Speaker of the Lower House, and I have reason to remember what then was made; and I say first, that there is no mention of this Case; secondly, there was no new thing granted, but only the Ancient Liberties confirmed, taking notice of the Protestation of the Commons not to bind the King from his Ancient Right.

Thirdly, Look upon the Prayer what is desired, and the main scope was; first, generally against Loan, and this could not be included in these words; secondly, imprisonment without shewing Cause; thirdly, Billeting of Souldiers; fourthly, Marriners lying within the Land.

I have now done with my third general Head, I come to the fourth and last, touching the form and legality of the Writ.

First, For the legality of the Writ, and the Objections touching the necessity, I have answered before; the main Objection is to the Body of the Writ.

First, The Command to charge the Sheriff to levy and assess Money according to his discretion, which is not legal, for that the Sheriff should make it *per Sacramentum* by the Oath of a Jury, as in the Writs of Partition, distribution *pro rata*, &c.

Ob. The Assessment of the Sheriff is not warranted by the Precedents, they do it not upon their knowledge, but presumption of mens Estates; and from thence they speak against the too vast power given to the Sheriff to inhan-
Per Ch. Baron, & Crooke.

Secondly, The inconvenience is great hereby; for there is by this means a great inequality in the Assessment.

Ans. I answer first to the Assessment *per Sacramentum*, no reason why it should be here, for it is not done in the Commissions to levy Subsidies, much less should it be done here for a matter of great hast; and besides the Sheriff is trusted with more, for he hath the trust of the whole County, and takes an Oath to execute his Office justly, whereof this is one part.

As to that they say there is no Precedent for it; First, I say, That there is no Precedent that it hath been done by Jury, but always by the Sheriff, or such whom the King was pleased to trust; and since one must be trusted, none more fit than he.

Secondly, By example we see he speeds all, and is most ready for it.

Thirdly, I say, the Writ leads not the Assessment, it commands the Ship to be provided; so if that be done there is no necessity of Assessment: And if the Towns and Counties say they will

Car. 1.
Anno 1637. *Obj.* 1 E. 3. m. 14. None compelled to go out of their County without Wages paid. 18 E. 3. m. 6. 7. That none should go out of their Counties; and not only those that had Offices and Patents to serve the King, but all with this proviso, that the King should pay them their Wages.

Ans. 1 E. 3. It is clear, and hath the Exception in case of Necessity, and to be done as in times past.

18 E. 3. It is expressed in the Act when they go to the Kings Wars out of the Kingdom: So 19 H. 7. &c. These are all but declarative to the Common Law, *Corbets Case*; the reason is, because the *Ligance* of the Subject is not natural but local.

But that the King shall give Wages within his Kingdom, there is no Act of Parliament for it: Now it was resolved in the *Exchequer*, that the Sea and Land made but one entire Kingdom, and so no going out of the Kingdom here; and consequently the payment of the Souldiers wages within the Kingdom is not against Law.

Obj. The last Objection is, That the Writ is illegal, because contrary to *Magna Charta*, *Nullus liber homo imprisonetur*.

Ans. As touching the Objection of the Nobility, that they are privileged from Imprisonment, it might well have been spared, and I know not wherefore it was spoken of, unless to make them think they were more interested than the rest of His Majesties Subjects in this Case.

Obj. But yet I say Noblemen may be imprisoned upon contempt, as my Brother *Crooke* knows well; and it was resolved in the *Earl of Lincoln's Case* in the *Star Chamber*: It is true that upon Ordinary Process they are not to be brought to Tryal or Imprisoned.

Ans. Now I answer, There is no Imprisonment in question, but the Assessment only, Why he should not pay the Money assessed, or to shew cause to the contrary.

Secondly, Were the Writ illegal for Form and Circumstance, yet this makes not the Command it self illegal for substance.

The CERTIORARI.

Exceptions to the *Certiorari*, are these.

Obj. 1. The Direction of it to two Sheriffs, one out of his Office, whenas the Sheriff being, ought only to return it.

Ans. Of this there is little doubt, nothing more frequent for the *Certiorari* to issue out of the *Chancery* to two parties, as to the Executors, or the Judge that took the Fine, and is removed: And so upon Commission to take a Fine by *dedimus possessionem*, in this Case the Writ is *inter brevia re-tornabilia*; and this must remain with the Old Sheriff, and are never delivered over by the Jury to the New Sheriff.

In *Hoberts Case* in the *Kings Bench*, being convicted of Heresie before Sir *Julius Cesar* Judge of the Admiralty, Certificate to him after Master of the Rolls, and directed to him; so in Case of my Lord *Paget*.

Obj. The Writ is without return, saith my Lord Chief Baron; and the *Certiorari*, which is a year and an half after, cannot renew it.

Ans. I answer, That shall not be the Determining of it only; for the time limited expiring, shall not deprive one of his just debt.

It is not sufficient, because it appears not that Mr. *Hampden* was Tenant or Terretenant, or that

Stoake Mandevile was within the County of *Buckingham*.

Secondly, It appeareth not that there was any Munition or Ship preparing.

I answer, It doth sufficiently appear that Mr. *Hampden* was Terretenant, for that the *Certiorari* is to the Sheriff, who certifieth that he was Tenant, for it was in pursuance of the Writ; the words are, *Virtute brevis Domini Regis huius Schedulæ annexæ certifico, quod virtute & secundum exigentiam ipsius, &c. Assessam Anglice, have allested super separales homines & terra Tenentes Comitatus Bucks. prædicti quorum nomina subscribuntur, &c.* It relates to the Place there, Tenants in the County of *Buckingham*, and makes Mr. *Hampden* one; and this in the business of Knightwood was done, and in no other manner.

Obj. Secondly, It appears not that the Ship was prepared.

Ans. To this I answer, That the Ship was done according to the Command of the Writ.

2. It was prepared.

3. If none had been prepared, the fault was for that they paid not their Money.

For the Exceptions to the *Mittimus* I say nothing, because I told you the case rests not upon these words, *Ut Salus Regni periclitabatur*, and which is only but to bring it to Issue.

The SCIRE FACIAS.

Obj. Exceptions to the *Scire fac*; As first, That the King is not intituled to bring the *Scire fac*; so there is a *cui oneretur*, to whom he should pay the Money, for whose good or benefit Mr. *Hampden* should satisfy the Money assessed.

Ans. I answer, The King is interested in all Actions of publick good, and shall recover accordingly: As in cases of Highway, Pontage, Murage, &c. much more when it is for the general defence of the Realm. 1. In *Quare impedit*, between two common persons, though the King be neither Plaintiff nor Defendant, yet the King shall recover therein many times: In case of a common Informer the King recovers the one Moyety, though not Party; so it was in the case of Knightwood, though no Sute was depending. Again, all Writs in the Kingdom are the Kings Writs, though no Fine, much more here for the Defence of the Realm. And it is usual for the Kings Attorney to compel men to perform Charitable Uses, and the King may question any one for them, in the Case of *Cam. Regiam* by Process out of the *Exchequer*. Again, where it is said, *Quare ipse de prædicta summa ipsum assesse & non solus in Schedulæ prædictæ specificat onerare & inde satisfaci debeat prout ulterius sibi præceptum, &c.* For though the Writ be in the Kings Name, yet it is but for the performance of the work and charge; and though it appears not who were Collectors or Assessors, yet it appears it was done.

Upon publick Service Process goes forth in the Kings Name, but it is not then so fit it should be expressed in particular for the King, whenas it is for the general Good only.

Was not the Object. made by my Brother *Denham*, though none more constantly or chearfully did subscribe to His Majesties Letter: Neither was this *Scire fac*. without His Advice, being the aptest Course, and better than Trespas: But the Objection that he made was, That the King cannot do any wrong, nor take without Record, as is in Seisure upon Outlary, Attainder, or the like;

like; and in this case there is no Record upon the
Anno VVrit 4 Augusti, no Judgment, &c.

1637.

Ans. I answer, This *Scir' fac'* is not annexed to the Writ, and is a new Action, That Mr. Hampden, *Oncetur & inde satisfacet*; and after that Judgment upon the Writ, and upon his saying nothing why *revocetur*, there shall be a good Record upon which he shall be charged, 3 Queen Elizabeth L. Dyer 156. *Ignoramus* is sufficient Title for the King, and ground for a *Melius inquirendum*.

Obj. No *Scir' fac'* lies upon the Tenor of a Writ, 39 H. 6. fo. 34. 21 Eliz. L. Dy. fo. 205.

Ans. I answer, A *scir. fac.* upon a Recognizance will lie in Chancery, but upon the Record there; yet in a Debt an Action of Debt lies upon the Tenor of a Record, 39 H. 6. the doubt was, because the Party might be subject to a double Execution, one upon the Record there, and another upon the Tenor of the Record in another Court, 33 E. 3. Title Tenure by Transcript, 8 H. 5. F. H. Error *Scir. facias* Register fo. 51. Record was before the Justices of the Kings Bench: The Tenor was out of the Treasury to the Barons of the Exchequer; and it is the usual Order if Recognizance be forfeited to certify the Tenor of the Recognizance, so of a Fine of *Amercement*, &c. to certify the Transcript thereof: So the Transcript was sent from Ireland upon an Act of Parliament; a *Scir' fac'* thereupon went against Hebeon Baron in England; so in Debt upon the Transcript of a Record from Ireland, a *Scir' fac'* here went forth.

Obj. Objected it was in the last place by my Lord Chief Baron, that Judgment in this Case would be fruitless, and none should take benefit by it upon this Record; and he puts divers Cases wherein Judgment in such Cases ought not to pass.

Ans. I answer, My Lord Chief Baron with a Judgment of his own in case of *Knightwood*, resolved here in this Court; the Case was this: The King by Writ 5 Januarii, 1 of the Kings Majesties Reign, commanded the Sheriff of *Berk-shire* that all that had 40 l. per Annum should be in the Chancery 31 January following, to take upon them the Order of *Knightwood*: Sir John Darrel Sheriff of *Berk-shire* made his Return, (as the Sheriff of *Buckingham* here) All that are not *Knights* under the Name of *Illorum*, and sets down their Names; *Mittimus* thereupon went out of the Chancery, reciting the substance of the former Writ, *Vobis Mittimus presentibus*, &c. with a Clause to enquire after such as were not returned, and to Fine them; and upon this Writ of *Distingas* to the Sheriff: My Lord Chief Baron and my Brother *Denham* know what Judgment was given, wherein I observe first not the Record, but the Tenor of the Record was sent into the Exchequer, yet returnable in the Chancery.

2. For the Returning of the Names of the Defaulters done there as here.

3. Upon the *Distingas* thereupon was had Execution, much more then here, upon the *Scir' fac'*

4. There was no more Judgment of Record to warrant it, than here in this.

Now I come to conclude, I have been somewhat too bold in taking more time than is usual, but I did it to satisfy my own Heart, according to which I must give my Judgment: what I have omitted, I refer to the rest of my Brethren that went before me, and to my Lord Chief Justice

that comes after me. The Reasons I shewed you whereupon I conceive by the Common Law, and Fundamental Policies of this Kingdom, That the King may charge His Subjects for the Defence of this Kingdom, and that the King may charge His Subjects to contribute towards the Defence thereof, when it is in danger; and I hold that the King is Sole Judge of the Danger, and ought to direct the Means of Defence: And therefore this Writ of *Scir' Fac'*, and all the Proceedings in this Case, are well grounded according to Law. My Opinion therefore is, that Mr. Hampden shall be charged with the 20 s. Assessed, and that my Lord Chief Baron ought to give Judgment accordingly.

Finis Argumenti Sir John Finch.

The Argument of Sir John Bramston
 Knight, Lord Chief Justice of the
 Kings Bench in the Exchequer,
 4 Junii, 1638.

Quarto Augusti 11 Car. A Writ issued out of the Chancery, being directed to all Counties of the Realm of England, both Inland and Maritime; and amongst the rest it was directed to the Sheriff of *Buckingham-shire*, for the making and building of a Ship of 450 Tun, and to provide a certain number of Men, with Munition and Victual, to be brought to *Portsmouth*, and from thence to be employed in His Majesties Service for Defence of the Realm and of the Sea.

Mr. Hampden in the County of *Buckingham* was Assessed at 20 s. for his Mannor of *Stoake Mandevile*, who refused to pay the same; whereupon a *Certiorari* issued to the Sheriff of *Buckingham* to return the Defaulters, amongst whom Mr. Hampden was returned to make default of payment of the 20 s. assessed upon him; whereupon it was by *Mittimus* sent into the Exchequer: And a *Scir. Fac.* hereupon issued out of the Exchequer against Mr. Hampden, to shew cause why he made default of payment of the said 20 s. Whereupon Mr. Hampden appeared in Person and demanded Oyer of the Writs, and Returns thereof, and Demurred in Law, with whom Mr. Attorney joyned in Demurrer.

Now three Points have been already debated at large in this Matter, viz.

1. Whether the King may command this General Charge of His Subjects by Law, or no? without consent in Parliament.

2. Whether this kind of Assessment is warranted by Law, or not?

3. Whether the *Scire Facias* did well issue, or not?

In all these Matters so much hath been already spoken, that if I should not say what hath already been spoken, I should say little to purpose.

I will not be long, for if I had intended it, my Lord Finch hath prevented me in it, for he hath taken from me very much that I should have said, and insisted upon that which this Case resteth upon in my Opinion: The Vote of the Court hath passed already by the greater number of Voyces, that mine will do nothing which way soever I go; yet being to deliver my Opinion, I shall shew my Reasons, and that I shall do without any other defence concerning the first point, viz.

Whether

Whether His Majesty may impose that General Charge upon His Subjects by Law, or no?

Anno 1637. I am of Opinion, That whensoever the whole Kingdom is in danger, His Majesty may Command all His Subjects to joyn with Him in this Case for the defence of the Kingdom.

My Brother Finch hath justified so fully upon this Matter, that I shall need to say but little, but yet something I must say as well as my Brothers that have spoken before me, to discharge my Conscience.

And for that which I shall say, my intent is, to insist upon some few of the Principal Statutes, which have been already recited.

For this point, in my Opinion, will rest upon the several Statutes and Acts of Parliament that concern this Case; and I take it these Statutes to be merely Declarations in Affirmance of the Common Law. And I shall begin with the Statute of 1 E. 3. cap. 5. and I shall not go far from the Intent of the Statute; I shall scarce make use of any Precedents though many have been used, but only so far as they may seem to expound and declare the true meaning of those Statutes.

Obj. And whereas it is objected from the Statute of 1 E. 3. That no Man shall be compelled to go out of his County wherein he liveth, except in case of Invasion, and necessity requireth, and shall be done as in times past.

Resp. I answer, That this is merely declarative, and spoken in Affirmance of the Common Laws, and this use is declared by this Statute to be the Ancient Law of this Realm: Now what use that was will be a very great Question in this Case; indeed it hath been much insisted upon both by Mr. Hampdens Counsel, and my Brother Crooke, that the Subjects going forth of the Shire, shall be at the Kings Charge, which they have affirmed by divers Statutes; but that which will go far in this Case (as my Brother Berkley well observed) is out of the Precedents of E. 1. E. 2. and H. 3. time; and in them you shall find it to be for Foreign Wars, or else for ordinary Defence, as for pillaging of Borroughs or private Towns by Pirates, when the Subjects have not given their Aids in such Cases: And there is no doubt but the King hath paid the Charge in such a Case for the Defence of the Realm; but the Subjects gave the King Subsidies to do it herewith.

Quest. But the Question in this case is, What the Subjects may in this case *secundum legem Angli* be compelled unto in case of Necessity for defence of the Realm?

Ans. I answer, They may be compelled to this Charge (*sumptibus propriis*) for the Souldiers Wages, but to go out of the Realm or Shire must be at the Kings pay, according to the Common Law of England: But in time of sudden Defence there is no time to stand upon Wages. It appears both in *Fitz Herbert Nat. Brevium* 28. and also in my Lord Cooke in *Calvins Case*. The King may command His Subjects upon their Allegiance to go with the King as well in Wars without the Realm, as in His Wars within, and with him and without him in the Kings Service.

By the Statute of 18 E. 3. 11 E. 3. Men of Arms, as Hoblers, Archers, are to go in the Kings Service as in England, so out of England was the matter of this Law. And my Lord Finch

said, this was the very Common Law of England; so that it is clear these two Statutes are declaratory Laws in affirmance of the Common Law. Car. 13.

In the 7 H. 4. Title Tenure 44 there it is said, A Man is not to go with the King in his Wars out of the Realm without Wages.

And so in the 7 H. 4. Title Tenure 73. The Subjects of England are not to go with the King beyond the Seas without their Wages, but in the Realm they are at his Command, and there is no Wages to be given.

So it is in going out of England when they are at the Kings Charges, but within at their own: And if the going forth of the County be at their own Charge, I know not but that should put an end to the Case; That the Defence of the Realm must be at the Subjects Charge. It is of dangerous consequence for Judges in their Judgment to rely too much upon Precedents, that perhaps went forth to the Necessity of the present times, but that is not our Case here; we are here directed to know what was used in times past in this Case before the making of this Statute: So that in this Case we take the usage not to declare or prove a Law. But that Use is declared by this Statute to be a Law; therefore we must now know what the Use was. Now that the Use was, That the Subjects of this Realm ought to be charged in time of Common Danger appears by multitudes of Precedents, applied rightly to the Statute of E. 3. do declare the Law upon the Statute.

And to shew what the Use was, I shall rely chiefly upon those Precedents that are most Judicial; First, that of 25 E. 1. in *Termino Michaelis Rot.* 72. In the Abbot of *Roberts-bridge Case* in *Banco Regis*, compare that and this together, and I know not what more can be answered, than that this Use for the Subject to maintain their Peace was an Usage Law, and Custom of the Realm.

10 E. 3. m. 2. do. The King by His Writ sent a Command to send to *Portsmouth* one hundred Foot and twenty Horsemen to Guard the Sea: They refused to do that Service, and would not go without Wages. The King sent Answer in these very words, *That no Wages were due, by reason it was a Publick Danger.*

And so in 25 E. 3. cap. 8. it is generally Assented to by Parliament.

But there we have a General Law in the First Statute of 1 E. 3. which was grounded merely on the Common Law; and so was the Statute of 25 E. 3. and the rest to the same purpose, because it was against the Right of the Realm. And this Statute of 25 E. 3. was merely grounded upon the Petition of the Commons; then certainly this finding of Arms was intended by that Statute to be against the Right of the Realm.

Besides all this, to keep our selves to that which is Legal and Authentical; so the Parliament Roll 13 E. 3. n. 9. & 11. It is there apparent that it is not against the Right of the Land to charge the Subject, then how cometh it to be against the Right of the Realm, 25 E. 3. for then there was no Statute.

Now to bring it down to our times; In the 26 E. 3. n. 44. Every Maritime Town was charged to keep

Anno 1637. keep a petty Watch, (there being some eminent danger) therefore they pray (not to be discharged) but that it might be reduced to a lesser Charge, being it was but a Petty Watch to Guard the Seas, much less then is there cause for the Subject to seek to be discharged when the Enemy is approaching.

In 5 E. 4. there was a Commission issued out to distrain every one *secundum potestatem suam* in matters of Array: Here is now the Judgment of the whole House of Parliament, That men according to their Ability are to be charged to joyn in Charge with the King to defend the Realm *sumptibus propriis*.

Thus much for Defence upon the Land; now for Defence upon the Sea.

In the Statute 18 E. 3. cap. 7. That they that serve the King out of the Kingdom, serve for Wages; but in case of Necessity without the Realm in times past, by no Precedents (saith my Brother Crooke) can it be proved that it was done before.

I answer, That the Sea is within the Kingdom, see the 2 E. 3. cap. 10. *protest.* 46. *Bract. lib. 2. fol. 365. n. 3.* There the Sea is made part of the Kingdom, and also in *Dottor and Student, cap. 51.* It is the Ancient Custom of England, That the King is Lord of the Narrow Seas.

But that which I rely most upon, is from the Statute of 1 and 18 E. 3. for they both meet in one, which is according to the Common Law; for all the difference is thereof, the Subject to go out of his own County to defend the Land or the Sea.

Obj. In the Statute of 1 E. 3. it is objected that there is no Precedent for Inland Counties.

Ans. But I answer, If not from Inland Counties, yet there is for Maritime; as in 14 E. 3. *Termino Michaelis*: But I reply not upon Precedents for either, but only upon these Precedents that went out to the Ports and Maritime Towns: For it was well observed by the Kings Council, that they were not grounded upon any Precedents or Charters, but only upon Ancient Customs. But if the Precedents to the Maritime Towns were directed in case of necessity, then I see no reason but that it may be done now, which was indeed intended by the Statute of 1 E. 3. as the Precedents do plainly declare; and they were then more common than Writs of this nature issuing forth in this Case. And the Commons were then bound to Land-service, and the Mariners to Sea-service, and they were compelled unto it at their own Charge, meerly upon their Allegiance, both in Bedford, Bucks, Lincoln, with many other Shires.

If then they may be compelled to go out of their own proper Counties to defend that part of the Realm that they live near unto, why may they not also be compelled to go to defend the Sea Coasts. The Seamen were willing to bear some Charge for the Defence of the Sea, because the Inland Counties did bear their charges for the Land-service, and of the Ports.

And if they may be compelled in the Inland Counties to defend their Inland Counties, and

the Seamen to defend the Sea-Coasts, then I know no reason but that they may be compelled all in general to bear a publick Charge in case of Necessity Cay. 13.

I am yet upon the Statute of 1 E. 3. wherein I find Mr. Selden in his *Mare Clausum fol.* saith, That it was an ancient use to charge the Inland and Maritime Counties in case of Necessity; and therefore in my understanding I hold it to be *Secundum Legem Anglicanam*.

Obj. But here my Brother Crooke objects, That there is no Statute or Precedent to shew that any Inland Counties were charged.

Resp. I answer, That Statutes and Precedents do not extend to our Case, for this was in use many years before the making of Statutes; see the Stat. of 1 E. 3. and 1 E. 1. They cannot cross one another, for then could not the Statute of E. 1. be confirmed by the Statute of E. 3.

Again, Concerning the Statute of finding of Men and Arms; it is true, it is meerly the Common Law of England, and that meerly without common consent in Parliament, as my Brother Barkley saith. That the Statute 9 H. 3. and 25 E. 3. cap. 11. are the great Charters rather than Statute: And in King John's Time it was not taken for a Statute, but only for a Declaration: and so likewise it was taken in the Time of H. 1.

But now, If concerning the Charging of the County, the said Statutes were nothing but only according to the Common Law of England, I cannot see how they should cross one another now; for there is no difference, but only in such things as are given, as a Benevolence to the King; as in 1 E. 3. cap. 5, & 6.

As for the Statute *De Tallagio non Concedendo*, we deny it not; but the Difference is in the Occasion of the Statute of 15 E. 3. There was a pretty Case put by Mr. Holborn, about the Office of *Aulnage*, where there was but a Fee to be paid out of it, and held a Talliage; but there is great difference between the Talliage, and this Service, which every Subject is bound to do by his Allegiance to his Sovereign Lord.

Fitz. 103. The King may impose this Charge upon the Subject in this Case of Necessity, *pro Bono publico*; and it is nothing but what every Subject owes to a Commonwealth in a time of Common Danger.

And from K. Edw. the Confessor, it was ordered by several Statutes, Let every one have their own Goods and Lands *de Tallagio*, and let nothing be taken from them.

But in this Case of Necessity in common Danger, is another thing; the King may then compell his Subjects to this Charge: And I may add the Reasons strongly insisted upon by the King's Council. My L. Crooke said, it could never be the Meaning of the Great Charter of the Liberty of the Subjects by this Stat. to take away the Power of the Kings Prerogative, and so to exempt themselves from this Charge of Defence; for there is the Kings Prerogative, and so to exempt themselves from this Charge of Defence; for there is

a difference between a Tallage upon the People, and a Service in case of Necessity, which they may be compelled unto.

My Brother Jones cited a most excellent Case, & *far*. upon the Opinion of Cooke and Popham; That the Tallage-Statute taketh not away; and shall it take away this Royal Power of the King, so inherent in the Crown, the Protection and Preservation of his Kingdom?

From this Statute of 1 E. 6. Mr. St. John produceth this Objection: Here is seven Months from the Date of the Writ unto the time that the Ship was to be brought to *Portsmouth*, in which time there might have been a Parliament; therefore it ought to have been done in a Parliamentary way.

But this will not admit the Calling of a Parliament; but if the Danger be not sudden, you must have it by a Parliamentary way.

My Lord Finch gave a full Answer to this; There must be a Preparation before the Enemy come, else the Defence is too late; there is a necessity to prevent a Necessity; and who shall give warning in such a Case, but the King? (saith Littleton) who gives warning? not the Tenant by Castleguard, but the Lord: and so consequently in this Case, our Sovereign Lord the King: And therefore in such a Case, the Subject is bound by his Allegiance to the King, to assist in case of publick Danger.

My Lord Cooke tells us the reason of the Warning, he saith, there must in that Case be a preparation beforehand, lest your Defence come too late. Enemies are more easily kept out, than overcome when they are got in.

By the Statute of 8 E. 4. There Bulwarks may be made in another Mans Ground, but this Preparation not without warning; and none can give the warning but the King; and the Subjects are to be at his Command, and none other; for there must be a preparation of the Subject in the Realm, to meet the Enemy before they enter the Land.

No Subjects can take upon them to build Bulwarks, &c. It is an assuming of the Royal Power; for it must be done *juxta Præceptum Domini Regis*.

Now I come to the Second Part; Whether this Assessement be warranted by Law or not?

The Writ was Dated 4 Augusti, to prepare a Ship against *Marr*. 1. therefore we see it is not against the great Laws concerning the Subjects Liberty, because it is no Tallage, but a Service: for howsoever it must be granted, it must be a general Danger that causeth a general Defence; and there must be Matter in the Body of the Record to satisfy therein: There must be I say a publick danger, and then it is *secundum Legem & Consuetudinem Regni Angl.* as appears 20 E. 3. c. 21. and also in *Doctor* and *Student*, cited before, That when Necessity doth require, the King may compel his Subjects to this publick Charge, though the King be the sole Judge, and his Certificate is not traversable, and cannot be denied; yet there must be Matter Appar. within the Record, to satisfy the Conscience of the Court, or else we cannot be Judges of the Case at all. If the Danger be general, the Defence must be general; but if ordinary Danger, as Robbing of Merchants by Pyrates, &c. it must be at the Kings Charge; and we do see by the Petition of the Commons in many Parliaments, that they never

conceived themselves subject to the Charge of ordinary Defence.

Now upon all that which hath been observed by my Brothers, there is enough in the Record to satisfy them fully (as if the King were not sole Judge) that it was a publick Danger, being *pro Defensione Regni, Tutitione Maris*, &c. it did issue to all the Kings Subjects as a general Charge, and not to the County of *Buckingham* alone; therefore I may conclude, when the whole Kingdom is in danger, the King may compel his Subjects to Assist in such publick Danger.

Then for the Assessement, many Exceptions taken unto it, and to the Record and *Scire fac.* I had provided my self to have given a full Answer thereunto; but my Lord Finch hath prevented me, and hath cited the very Authorities which I my self did reply upon.

Obj. But for the Assessement it self to the Sheriff, I do not say that I do find he hath like power in any other Case of Law, Commission of *Sewers* may be directed to the Sheriff, but not to give power to Asses Mens Goods.

Resp. I Answer, That this is in case of Necessity; for the very main Case is but a Case of Necessity; the ordinary and usual way is *per Sacramentum*.

My Lord Finch gave an excellent Answer to that, and warranted it by Law, That the Sheriff hath no such unlimited power granted him, he is not made Judge of the Estates of Men, but only to pursue the Direction of the Writ, to Asses them as he is commanded, and not *secundum discretionem suam*, but as my Lord Crooke, 5 Rep. 99. he must do it *secundum Legem, & secundum Arbitrium*: That is to say, according to Law and Reason; but it is impossible in such a Case of Necessity, to put it into such an Equality, to make it without exception: but in as much as in him lieth, he ought to order it proportionably; his Power is not unlimited; for by his Discretion he is to discern Right and Wrong, between Substance and Shadow; and he must do within the Bonds of Law and Right.

In the Chamberlain of *London's* Case, They might Rule and Asses in *Bono publico*; as in making of a High-way, to a Church, or the like, wherein the Subject is brought to no Distress or Inconvenience; so as the greater part in such a Case as this, shall ever bind the lesser part; being it is *pro Bono publico*; yet this Assessement cannot make a Law a Debt or a Duty, but is only a Means to bring this Duty to a Certainty, and so make it a Duty, so that he be Rated in an equal proportion.

Hath *M.* the Sheriff Rated *Mr. Hampden* disproportionably according to his Estate and Degree? If he have let him tell: If the Sheriff have followed his own Will, and done corruptly, then he hath done contrary to the Intent of the Writ; it turneth upon the Sheriff himself; and a great Offence it is for a publick Minister of Justice to abuse himself in such a place of Justice.

The Sheriff returns, he hath Assessed 20 s. which is no great Sum; and also confesseth upon the Record, that it is an equal Assessement.

When

When Mr. Hampden appeared upon the *Scire Fac.* he demanded *Oyer* of the Writs, and so Demurred in Law, which is upon the Matter (being a general Demurrer) a Confession.

And as for the *Scire Fac.* my Lord Finch hath handled it fully, and hath cited the same Books and Authorities that I intended to have cited; and so hath prevented me in that; and also in *Bodman's Case* in *Cornwal*, and upon the Exceptions *super Tenorem Recordi* in 9 H. 6. fol. 23.

And the Reason why he should not have Execution *super Tenorem Recordi*, is, because otherwise the Subject might be Charged double, and divers Cases were put upon suing forth Execution upon the Tenor of the Record, and yet no Execution can go out of the *Chancery* at the first, because it is not returnable by the Sheriff; but it is sent out of the *Chancery* by *Mittimus* into the *Exchequer*, 24 H. 6. 4 H. 6.

But it is true, That it doth concern every one to be satisfied in the Truth of the Case; for if the Sheriff should not Assess *per Sacramentum*, it might be made another way.

And as for the *Certiorari*, my Lord Finch hath also cited the said Books and Authorities which I also intended; therefore I forbear to insist upon that.

There is another Exception to the Record, *quod oneretur*, and not know to whom it should be; nor Money demanded to the King by the first Writ, no nor by the second Writ, therefore can give no Judgment, *quod satisfaceret Domino Regi*: Then if Judgment shall not be given for the King, then for whom? *Non constat*; it doth not appear to whom it is due, for any thing I can see in this Record.

Truly for my own part, of all the Exceptions that I have heard, none sticketh with me, but this Exception; for I do not know any Precedent, that a Judgment was given, and not say to whom: This Scruple (I confess) still remaineth with me: I must needs say, That in my Opinion, I do rather incline (as far as I am well satisfied) that this is a good Exception, according, and upon those Reasons that my Lord Chief Baron gave; and yet I am not so far satisfied that it is Law.

I must rather incline as my Opinion inclines; that against the Inclination of my own Opinion, as I have gone through all the rest with the War-rant of my own Conscience, I cannot go upon any string in the Thing of the least weight, but I must deliver my Opinion as it inclines: and therefore upon these Reasons that I have heard,

and upon consideration taken with my self, I do rather incline to the Opinion of my Lord Chief Baron, and upon his Reasons, which I think was in that, with the lesser Number; but for my Opinion in all other Points, I agree with the General Vote of the Court.

F I N I S.

Upon the 12th. of June, 14 Caroli, Mr. Attorney moved the Court of Exchequer for Judgment against M. Hampden, and after he had opened the Record, he said,

Your Lordship and the Court, in respect of the Greatness of the Cause, did Adjourn it into the *Exchequer-Chamber*; That your Lordship and the Court might receive Advice of all the Judges; whose Advice and Opinion your Lordship hath already received; and the Plurality of their Voyces is, That Judgment should be given against Mr. Hampden, and accordingly I do pray Judgment.

To which my Lord Chief Baron Answered;

It is very true; It was Referred from hence to the *Exchequer-Chamber*, to receive the Advice of all the Judges of the Land; VVe do not take them to assist only by way of Advice; but for a Judicial Direction. For admitting we four were of one Opinion, and the rest of the Judges of another (though the Cause properly depend in this Court) yet we must apply our selves to their Resolution, and our four voyces are involved in theirs; and therefore accordingly *secundum Legem*, &c. *Oneretur* Johannes Hampden.

The

Anno 1637. Concerning the Original of the *Scotch* Com-motions, which began the 23 of *July*, 1637. and continued encreasing by fits, as the Archbishop of *Canterbury* hath observed; and that they held correspondents with the *Presbyterians* here in *England*, no wise man can ever doubt of; especially, when he considers the Answer of one of the Com-mons in Parliament in the year 1640. who openly said, *There were no such fears from the Scots* (who were then in the Bishoprick of *Durham*, ready to enter the County of *York*) as from Arbitrary Government, &c. at home; I say, about the Original of these troubles, take what follows, being the Observations of a Person then conversant in the Court, and very knowing of those times.

King *James* had a design not once, but alwaies after his coming into *England*, to Reform the deformity of the Kirk of *Scotland* into as decent a Discipline as in the Church of *England*, which received opposition and intermissions, till the year 1616. when at *Aberdine*, their general Assembly of Clergy made an Act, Authorizing some of their Bishops to compile a form of Liturgy or Book of Common-Prayer; First, for the King to approve, which was so considerately there revised and returned, for that Kingdom to practise; which same Service-Book was now sent for by the King, and committed to some Bishops here of their own to review; and finding the difference not much from the *English*, he gave command in *Scotland*, to be read twice a day in the King's Chapel at *Holy-rood House* at *Edenburgh*; that Communion should be administred in that form, and taking it on their knees once a Month, the Bishop to wear his Rocket, the Minister his Surplice, and so to enure the People by President of his own Chapel there first; and afterward in all parts for the Publick, the *Scottish* Bishops liked it reasonably well for the matter, but the manner of imposing it from hence upon them, was conceived somewhat too much dependance of theirs on our *English* Church, and therefore excepting against the *Psalms*, *Epistles*, and *Gospels*, and other Sentences of Scriptures in the *English* Book, being of a different Translation from that of King *James*, they desired a Liturgy of their own, and to alter the *English* answerable to that, and so peculiar to the Church of *Scotland*, which indeed was more liker that of King *Edward* the Sixth, which the Papists better approved, and so was the rather permitted by the King, as to win them better to our Church; and so had it been accustomed to the *Scottish* several Churches for some years, without any great regret, and now particularly Proclaimed to be used in all Churches, and to begin at *Easter-Sunday*, which was respited to Sunday the three and twentieth of *July*, being then to be countenanced at *Edenburgh* by the Lords of Session then sitting, as it had been before commended in publick Sermons to the People by divers Ministers; by *Rollock* the Covenanter afterwards, and others of the same; and accordingly in *St. Giles's Church*, the chief of *Edenburgh*, the Dean in presence of the Council, Bishops, Lords, and Magistrates, beginning to Read, the women first and meaner men, began the Mutiny, Clapping their hands, and Curling with their Tongues, raising such a Hubbub that none could be heard but themselves; the Bishop designed for the Sermon, stepped into the Pulpit, to interpose in this their madness, and minding them of their irreverence and horrible prophanation of the Sacred place, which incensed them into fury, flinging

what came to hand, Stones, Seats, Stools, and Cudgels, almost to his murder; then the Archbishop of *St. Andrews*, Lord Chancellor, and others, offering to a peace, were no better handled until the Provost, Bailiffs, and Civil Magistrates, were forced to shut the Multitude out of the Church: and so the Service-Book was read throughout, though with the rage of the People, hollowing, knocking, and battering of the Windows without, with Staves and Stones; and watching for the Preacher the Bishop, he was incompassed with the Commonalty of the baser sort, and hardly escaped their intent to smother him to death. And so in sundry other Churches in the City, with the like clamour and disorder: Which moved the Council further to Assemble at the Chancellors, and there to command the Lord *Revall*, and Officers, to order the People into a more quiet behaviour, for the afternoon, which was done with some moderation in the Churches; but after Sermon endangering the Earl of *Roxborough*, Lord Privy-Seal, to be the first Martyr *St. Stephen*; for but having the Bishop of *Edenburgh* put in the Coach with him; and in outward shew, the Magistrates dissembled their resentment of those disorders, and pronounced an Order of the Council amongst themselves, to advise upon an obligatory Act of Security to the Ministers persons that did, or hereafter should undertake to read the Book, and maintenance also for them; and afterwards (in shew) some of the most unruly were slightly punished, as being therefore encouraged to do so again; for which at first, had they been Hanged, the Example might have discourag'd all others from falling into the like folly; the King then having force enough at Sea to have blocked up their Haven, he might soon have brought the *Edenburghers* to obedience, and after them the whole Nation; but by his suffering of them then, and of such like following after, he was come to that misery (as one saies well) *Cum vel excedenda sit natura vel imminuenda dignitas*, either to out-go his own nature, or fore-goe his own Authority, and the Scots were so well assured of the King's lenity, as that with a couple of Letters from them to the Archbishop of *Canterbury* to palliate the practice, and to promise their pains to the compleat effecting of his Majesties desire in the Service-Book, and so signed by all the Bailiffs, these proved afterwards the only Actors in the like Mutiny; the Stage indeed became afterwards better hanged, and the Schemes better set out their intended Tragedy with a specious title of Piety and Religion.

And a further Confirmation of the irregularity and Seditious practices, whereby the Scots were then carried in that their Rebellion (for so it was, neither better nor worse) and for the satisfaction of all his true-hearted and loyal Subjects, his Majesty did cause an unquestionable Narrative to be made thereof by way of Historical deduction, wherein the true passages of all that business were set down, that the World might see (as his Majesty saith) under one view and aspect his gracious and clement comportment towards them, and the depraved and froward deportment of those Scots to his Majesty their Liege and Sovereign, these Three Points were placed beyond contradiction.

First, That the first contrivers, and since pursuers of their late wicked Covenant, or pretended holy League (a name which all good men did abhor in them of *France*) though following the

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Anno 1637. pattern of all other Seditions, they did and do pretend Religion, yet nothing was or is less intended by them, but that they having received from Us full satisfaction to all their desires, expressed in any of their Petitions, Remonstrances, or Declarations, yet their persisting in their Tumultuous and Rebellious courses, doth demonstrate to the World their weariness of being governed by Us and Our Laws, by our Council and other Officers put in Authority by and under Us, and an itching humour of having that Our Kingdom governed by a Table of their own devising, consisting of Persons of their own chusing: A Plot of which they are very fond, being an Abortion of their own brain, but which indeed is such a monstrous birth, as the like hath not yet been born or bred in any Kingdom Jewish, Christian, or Pagan.

Secondly, That our promises expressed in Our several Proclamations and Declarations to Our People, were not (as the wicked contrivers of that Covenant have ever gone about to make Our Subjects believe) only verbal, but sincere and real, and such as We do profess to the whole World in the word of a just and true Prince, We do resolve to make good to all Our Subjects of that our Kingdom: As holding it beneath the greatness and goodness of a just King, that the unjust actions of his Subjects should occasion in their Sovereign the least suspicion of breach of promises made by him to them, especially when the performance of them shall conduce to the settling of Religion and Peace.

Thirdly, That these men who give themselves out to be the only Reformers of Religion, have taken such a course to undermine and blow up the Religion Reformed, by the scandal of Rebellion and Disobedience, which, so far as in them lieth, they have gone about to cast upon it, that if the Conclave of *Rome*, the several Colledges or Congregations perpetually sitting at *Rome* for contriving and effecting the means of reducing to the *Roman* obedience all those Kingdoms and Provinces which have justly departed from them, nay, and if with both these, all the Jesuites and others, the most especially combined and sworn Enemies to Our Profession, were all assembled in one place, and had all their wits and devices concentrated into one conclusion and resolution; they could hardly have fallen upon such a way, as these pretended Reformers have fallen upon, for turning all men out of the paths of the Reformed Religion, or have settled upon such courses, which can bespeak no other event, but the undoubted overthrow of it, at least in that Kingdom, unless God himself from Heaven (which we hope) shall have all their Cobweb contextures in derision: For by their particular proceedings, truly set down in this Our Narration, it will plainly appear, that their Maxims are the same with the Jesuites, their Preachers Sermons have been delivered in the very phrase and stile of *Becanus*, *Scippus*, and *Eudemon Johannes*, their poor Arguments, which they have delivered in their Seditious Pamphlets, Printed or Written, are taken almost *verbatim* out of *Bellarmino* and *Suarez*, as appeareth to Us by Our Royal Letter his Monitory Preface to all Christian Kings and Princes, and his Apology for the Oath of Allegiance, and in the Books writ by others in defence of them both; in all which these Arguments are fully answered: And that the means which they have used to induce a credit of their conclusions with their Profelytes, are purely and meerly Jesuitical Fables, false Reports, false

Prophecies, pretended Inspirations and Divinations of the weaker Sex; as if now *Herod* and *Pilate* were once again reconciled for the ruin of Christ, and his true Religion and Worship.

Which particulars (saith his Majesty) if any unprejudiced Reader, either of his own Subjects, or Forreigner do grant, it will most necessarily follow,

First, That these proceedings of some of Our Subjects (whom, though they would be accounted the purest Protestants, yet by their wicked Protestations, you will find to be the most froward and perverse Protesters that ever did contest with their Sovereign and his Laws) may not induce an undeserved scandal upon that Religion which We profess: For since their conclusions are quite contrary to the Confessions of the several Reformed Churches, in their particular Articles both of the Church and of the Civil Magistrate, as appeareth by the *Helvetian*, *French*, *Belgick*, *Polonian*, *Argentine*, *Palatine*, *Genevian*, Our *English* and *Irish*; nay, and their own *Scottish* positive Confession, Printed amongst the Acts of Parliament of that Our Kingdom; and besides, the *Augustane* and all other particular Protestant Confessions of the *Lutherans*: And all the weapons wherewith they now fight against these Protestant conclusions, are stolen or borrowed, not only out of the *Roman* (for many of the *Romanists* fight with Us against them) but out of the most rigid Jesuites Magazines, why should they not in this Quarrel be accounted not as our Friends, but as Our Foes; not Protestants, but the most rigid of Papists, Jesuites? And so being without in this point, not bring any scandal upon Us who are within; especially considering that though these men have gone about to wound the Reformed Religion through Our sides, and by opposing Us whom God hath honoured with this special favour (for no less We account it) of being the chief Prince whom he hath made choice of for the Protector and Defender of it: Though, We say, these men have done what they can to weaken this Our Religion, by striking at the Authority of the principal prop and stay of it upon earth under God; yet We, by the grace of God, are fully resolved to wipe away that aspersions, and remove that scandal from Our Profession and Religion, by Our Constant not only adherence to it, but maintenance and defence of it, with the uttermost of that power which God hath put in Our hands, notwithstanding all those scandals which these men by their wicked practices and worse positions have laid upon it.

Secondly, We hope that all men will do Us so much right, as to believe, that whatsoever course We shall hereafter take for the Asserting of the Reformed Religion, and repressing the insolencies of such of Our Subjects as do oppose it and Us in the just and undoubted right of Our Regality, while they pretend Religion, shall not be thought to be by way of a War, but by way of a Prince, the Father of his Country, his chastising his unruly Children, which is never in anger, but in love, and for their good. And if by their stubbornness they shall force Us to a severity displeasing to Us, and unwelcome to them, We call Him by whom We Reign to witness, and heaven and earth and all the World to record, that they with their own hands do unsheath Our just sword, which We cannot but use as the Minister of God, unless We will betray that trust which the King of Kings hath reposed in Us for the maintenance of Religion and Justice amongst all His people whom He hath committed to Our Charge: And if God will have it so, that

for their resisting Him and Us, His Anointed servant and their Sovereign, He will have some of their bad blood shed, We shall ever make account that that blood is let out of Our own veins; nor shall We draw any drop of it in any other case, than a faithful Physician will and must do for the preservation of the whole body.

His Majesties Narrative of the Scotch Tumults.

THAT Religion is only pretended and used by them as a cloak to palliate their intended Rebellion, is demonstrative by this, That the seeds of this Sedition were sown by the plotters of their Covenant, made under the pretence of Religion, long before any of the grievances or pretended innovations in Religion complained of by them, were ever heard of amongst them.

For the truth is, that some years after Our coming to the Crown, by the advice both of some of Our principal Counsellors and Officers of State there, as also by the advice of Our learnedest Advocates and Counsellors at Law, according to the example of many of Our Royal Progenitors of happy memory, Kings and Queens of that Our Kingdom, We did make a legal revocation of such things as had been passed away in prejudice of the Crown, especially by some of Our late Royal Progenitors in their minorities; a course warranted by the Laws and many years practice of that Our Kingdom: With this course, some of the principal Contrivers of this their present Covenant found themselves much aggrieved, and much of their Estates brought within the compass and danger of Our Laws, which made them presently begin to grumble and repine, and privately, as much as they durst, and as in them lay, to work underhand in Our Subjects minds a distaste of Our Government: Which We made account We had quickly rectified, by shewing to all Our Subjects interested in that Revocation, Our gracious clemency in waving all the advantages which Our Laws gave Us in many of their Estates: So that after We had made it apparent to our Subjects, how obnoxious many of them and their Estates were unto Us & Our Laws, We likewise did make as apparent unto them, Our singular grace and goodness by remitting not only the rigour, but even the equity of our Laws; insomuch that none of all Our Subjects could then, or can now say that they were damnified in their Persons or Estates by that Our Revocation, or any thing which ensued upon it: Yet for all this, the principal present Malecontents did then begin to perswade with such as they thought they might be boldest with, a disaffection to Our Government: And not seeing how they could easily obtrude upon them, the old and usual pretence of discontent, viz. Religion, by a strained and far-fetched inference they did not stick to lay the envy of the procuring that harmless Revocation, by which no man suffered, upon the present Prelates, who in this were as innocent as the thing it self was: Only because they hoped that the very name of Church-men, or Religious persons, should in the point of Faction have that operation with their followers, which they conceived the Church or Religion it self might have had, if they could have seen how to have persuaded them, that by this Revocation either of them had been endangered.

A second Symptom of their discontent appeared not long after this, upon this occasion: We

having daily heard the grievous complaints of many of Our Subjects of that Kingdom of all sorts, especially of the Gentry and their Farmers, who paid their Tithes to the Nobility, or such others whom they in that Kingdom call Lords of the Erection, or Laick Patrons, here in England we call Impropiators, how that in the leading or gathering of their Tithes, these Lords and Laick Patrons did use and practise the uttermost of that severity which the Law alloweth them, how they would not gather their Tithes when the owners of the Corn desired them, but when it pleased themselves; by which means the owners, by the unseasonableness of the weather, were many times damnified to the loss of their whole stock, or most part of it (the Law of that Kingdom being in that point so strict, as no owner may carry away his nine parts, or any part of them, until the proprietary of the Tithes have set out his tenth part:) As likewise understanding at the same time, the deplorable estate of the Ministers of that Our Kingdom in the point of maintenance, how that they received no Tithes in their Parishes, but some poor pittance, either by way of a stipendiary benevolence, or else some mean allowance from these Lords of Erections or Laick Patrons, unworthy of the Ministers of the Gospel, and which exposed them to all manner of contempt, and a base dependance upon their Patrons: We, at the instance and humble Petition not of a few, but of the whole Clergy, and with them, of the whole payers of Tithes of that Kingdom, begun to take three things into our serious consideration.

First, The wretched estate of the Clergy for want of maintenance: Next, The hard usage and great oppression of all the Laity that paid Tithes, from the owners of them. Thirdly, A very important point of State, viz. That it was not fit, that such a considerable part of Our Subjects, as all the Ministers who have power over the consciences of the rest, and all the Payers of Tithes, who are the far greatest part of the Kingdom, should have their dependance upon the Nobility, or other Laick Patrons, the one for their livelihood and maintenance, the other not only for fear of having their Corns lost or endangered, for not carrying them in due season, which was by the Law in the power of these owners of the Tithes, which power they were sure they would exercise upon them if they should at any time displease them, or not adhere to them upon all occasions good or bad; But likewise because these Lords, owners of the Tithes, and also of Abbey-lands, were likewise, for the most part, Superiours to those who paid them, but were so altogether to those who held the Abbey-lands of them by way of Vassalage, and so by their very Tenures were to perform all service and attendance to these Lords, their Superiors, whenever they should require it of them.

Which important considerations moved Us, by the advice of the Learnedest Lawyers there, to grant out a Commission under Our Great Seal for that Kingdom, not to a few, but to divers hundreds, and those of the prime of all Estates and Degrees, (out of which number the Lords of the Erections and Laick Patrons were not omitted) for relieving, if they should see cause, both the Ministers and Owners of Corn, as also for taking into their consideration the point of Superiority and dependance. These Commissioners, after their sitting in great frequency some years, and after full hearing of all parties interested, and mature deliberation, did set a rate of the value of the Tithes, ordered that the owners of the Grounds

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With the conclusions and determinations of this Commission, called the Commission of Surrenders of Superiorities and Tithes, the owners of Lands, and the Ministers, were indeed so really satisfied, that the former with all thankfulness acknowledged Us for their deliverer from an intolerable bondage, under which they and their Ancestors ever since the Reformation of Religion had grievously groaned; The latter with infinite expressions of joy and gratitude did celebrate Us as the very Father and Founder of their several Churches: We gave Our Royal assent to all agreed upon in that Commission, being glad that Our Subjects were relieved, the maintenance of Our Clergy improved, and both our Clergy and Laity freed from a dangerous dependance upon Subjects; and for that freedom obliged to a thankful, hearty, and loyal dependance upon Us, to whom alone by all Laws of God and men it is due. The Nobility and other Lay Patrons seemed herewith likewise fully to rest satisfied; and so indeed they were in point of profit, for, according to the rates of purchasing in that Our Kingdom, for their Tithes they were satisfied to the uttermost farthing: but they fretted privately amongst themselves, for being robbed, as they conceived, of the clientele and dependance of the Clergy and Laity, and of that Power, Command, and Superiority over them, which by that tie of Tithes they had enjoyed: Yet, not being able to make Religion it self a fair pretence for this their discontent (for who could imagine that every man his gathering of his own Tithes, or the augmentation of Ministers maintenance, could be an affronting or weakening of Religion?) they had recourse to their former fetch, and not without bewraying much heart-burning, gave it out, that this Commission (which indeed was obtained by the humble importunity both of Clergy and Laity) was procured only by the Bishops, who meant no good to Religion; and so from an unnecessary jealousy of their persons and power, they begun to pretend and suborn a necessary jealousy of Religion it self.

A third bewraying of their factious humour, appeared clearly at Our last being in that Our Kingdom, and immediately after Our departure from thence: For some six years ago, having a great desire to visit that Our native Kingdom, and being willing to cheer and comfort Our Subjects there with Our presence, and honour them with Our personal Coronation, all which they did most humbly and heartily sollicite Us for by their earnest and affectionate supplications; We undertook a Journey to them, and according to Our expectation were most joyfully received by them: But immediately before, and at the sitting down of Our Parliament there, We quickly found that the very same persons who since were the Contrivers of, and still continue the sticklers for their now pretended Covenant, begun to have secret Meetings, and in their private Consultations did vent their dislike of Our innocent Revocation, and Our most beneficial Commission of Surrenders: But knowing that these two could gain them no party,

then they begun to suggest great fears, that many and dangerous innovations of Religion were to be attempted in this Parliament: Not that they themselves thought so, but because they knew that either that, or nothing would soyl with suspicious jealousy, or interrupt and relax the present joy and contentment which did overflow in Our Subjects hearts, and appeared in their hearty expressions for Our presence amongst them.

But We readily confuted all these suspicious surmises; for, except an Act which gave Us power to appoint such Vestures for Church-men which We should hold to be most decent, nothing concerning Religion was either propounded or passed in that Parliament, but that which every King doth usually in that, and all other Christian Kingdoms, pass at their first Parliament, viz. An Act of Ratification of all other Acts heretofore made, and then standing in force concerning the Religion presently professed and established, and concerning the Church her Liberties and Privileges: Which Act being an Act of course, though it passed by most voices, yet was it disaffected from, to Our great admiration, by the voices of many of those who are now the principal pillars of their Covenant; which made all men then begin to suspect, that sure there was some great distemper of heat at the heart, when it boyled so over at their lips, by their unnecessary and unprofitable denying of assent to the Laws, concerning the Religion and Church, already established; This first Act passing more for form and the honour of Religion, than for any use or necessity of it, all the former Laws still standing in force and vigour without the need of any new Ratification.

At this time many of Our Subjects of greatest Quality were suitors to Us for new Titles of Honour, Gentlemen to be Lords, Lords to be Earls: Impossible it was for Us to satisfy all suitors in that kind, without the prostitution of Honour to a just and open contempt, and therefore being put upon a choice and selection, We held it fitter in the point both of Honour and Justice, to pass by such as both privately in their secret Meetings, and openly in the Parliament House, had shewed their disrespect to Us and Our just proceedings, than those who had carried themselves not only loyally and dutifully, but affectionately and heartily to Us and Our service. Upon this occasion many of those who were then passed by, and are now principal Covenanters, seeing others advanced to degrees of Honour above themselves, begun then presently to mutter, but not to mutiny until We were gone from thence.

But scarcely were We well returned into England, when the discontent of these men resolved it self into a plain Sedition: For then they had the impudence to give it out, that voices were bought and packed in the late Parliament; nay, that the voices were not truly numbred, but that some Acts were past without Plurality of suffrages: A calumny so foul and black, as that they themselves did know it to be most false: For had there been the least suspicion of truth in it, they might have made tryal thereof, by surveying their own Papers, and the Papers of many hundreds present, who took notes of the number of voices which were given, either by assenting to, or disaffenting from the several Acts read and proposed; by which Papers if they had found but the weakest ground for this their strong, but false Report, We have no reason to think that either their mercy or modesty was such, that they would have forbore the calling of the Clerk

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1637. Clerk of Our Register in question for it; it being as our Chancellors Office to ask the voices, so Our Clerk of Registers Office to take them and Record them, and according to his own and his Clerks notes who assist him, to pronounce the Act passed or stop: In which it is impossible he should deal but with sincerity, for else the Notes taken by most of the Auditors, being a present and powerful conviction of his false dealing, must presently transmit him to highest Censure and Punishment.

But knowing that in a Publick and Judieial way they must needs fail in their proof of this Calumny, they betook themselves to the secret and seditious way of Malecontents: For first they used clanculary Surmises, then they sent about from hand to hand a clandestine infamous Libel, and by it they imployed the hearts of many of Our good Subjects with a suspicion of obliquity in Our proceedings at the late Parliament. This infamous Libel coming to the knowledge of Our Privy Council there, first they of themselves, then afterwards, having made Us acquainted with it, by Our commandment entred into an inquiry both of the Authors and Abettors of that Seditious Libel; Who found that the Author upon whom it was shifted and fathered, was one *Hagge*, then, and still fugitive, but that the Abettors, Countenancers, and Dispersers of it were many, and some of them of greatest Quality, and now principal Covenanters: We, out of Our innate and usual Clemency, were graciously pleased (that the fear and example might reach to all, but the punishment only to one of them) to pass by many, who undoubtedly had been concluded and involved by Our Laws in the same Sentence, if We had proceeded against them, and to single out one of that Rank, who was most obliged to Us and Our Crown, and therefore both for his Ingratitude and Crime, had no reason to expect any thing from Us but the Justice of Our Laws.

This one was the Lord *Balmerino*, his Father was Principal Secretary of State for that Our Kingdom, to our Father of happy memory, to whom he was beholden both for the honour of his Barony, and for his whole Fortune and Estate which he got in his Service: But he was since Our Royal Father his coming to the Crown of *England*, Arraigned for, and Attainted of High Treason in *Scotland*, found guilty of it by his Peers, and accordingly received Sentence to be hanged, drawn, and quartered, his Blood tainted, his whole Estate forfeited to the Crown: Yet such was the gracious Clemency of Our Royal Father, that He, only for a little time, continued this condemned and forfeited Lord in Prison, afterward confined him, but to a large Circuit, and then restored not only the Blood of himself and his Children, but also their Honour and whole Estate: Now this present Lord *Balmerino*, being so extraordinarily obliged to Our Royal Father and Our Crown, for the life of his Father, his own Honour and whole Fortunes, and so being one from whom We, the Son of that Royal and Gracious Father to him and his whole Family, had no reason to expect perfidiousness and ingratitude, he could not have the least shew of reason to expect any favour from Us, but the favour of a fair and legal Trial, which We granted him: At that Trial and Arraignment, he was by his Peers found guilty of abetting and dispersing that infamous Libel made against Us, and accordingly was to receive Sentence of Death for it; which our Chief Justice respited only until Our pleasure might be known. Then indeed

they who afterwards proved the Contrivers of the late Covenant, and their Adherents, begun to complain of the hard measure which was offered to this Lord, and to lay false and wicked aspersions upon his Peers who found him guilty; but finding that all the proceedings were usual and legal, they could not but have acquit the Judge if he should have condemned him, nor could they have found the least blemish in Our Justice, if We should have given Warrant both for his Sentence and Execution, whose Life was now legally devolved into Our hands; and therefore this convicted Lord betook himself only to Our Mercy, which We shewed to him in that height as We are confident it is hardly to be pattern'd by any President.

For notwithstanding the Head of this Family, which was first raised by Our Father, and then being fallen, yet raised by Him again, and now relapsed, was once again brought under Our Axe, as it had been before brought under the Axe of Our Royal Father: We, desirous to shew Our self the true Heir of none of Our blessed Fathers Vertues, more than of his Mercy and Clemency, were contented, upon his deep Protestations of Loyalty for the time to come, to grant him under Our Great Seal for that Our Kingdom, not only a Pardon of that Crime of which he stood convicted, but also his full Liberty and Enlargement: Which gracious Pardon of Ours, when it was delivered to him by Our Council, who sent for him, being then Prisoner in the Castle of *Edinburgh*, he did before that Table receive on his Knees, with the highest magnifying of Our Mercy, with the humblest acknowledgments of those infinite Obligations by which he and his Family stood for ever engaged in the Service of Us and Our Crown, with the deepest Protestations of all loyal, quiet, and peaceable deportment of himself ever hereafter, and of bending all his endeavours to attend upon all Our Royal courses and commandments, so that Our Council remonstrated unto Us, that We had bestowed Our Mercy and Grace upon a man, of whom there could not be the least suspicion of his averiness from Our Service at any time hereafter, but of whom they might safely promise all forwardness and alacrity in all Our just courses, whensoever it should please Us to use him: And now this same pardoned Lord *Balmerino*, being one of the chief Contrivers, and most malicious Prosecutors of this wicked Covenant made against Us and Our Authority, how he can be able to answer it to God, Us, and Our Crown, his own Conscience, or to the World, even in the point of Honour and Reputation, it must be left to the World to judge.

By this now which hath been said, We suppose it is plain that before either the Service-Book, or Book of Canons, so tragically now exclaimed against, were thought on, the Seeds of Sedition and Discontent were sown by the Contrivers of the late Covenant, first upon the occasion of our Revocation, next upon occasion of Our Commission of Surrenders, and lastly, upon the occasion of Our denying Honours to some of them at Our last being in that Kingdom, which caused first their traducing of Our proceedings in our last Parliament held there, and then produced that infamous Libel.

And now by this time Sedition was grown so ripe, and ready to Seed, that it wanted nothing to thrust it out, and make it shoot forth into an open Rebellion, but some fair and specious pretence: They could not yet compass the Cloak of Religion, whereby to siele the eyes, and muffle the face

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face of the Multitude, for by none of all the three former occasions could they so much as pretend that Religion was endangered or impeached: But so soon as they got but the least hint of any thing, which they thought might admit a mis-construction that way, they lost no time, but took Occasion by the forelock, knowing that either that, or nothing would first facilitate, and then perfect their designs. Now the occasion they took of fetching Religion within the reach of their pretences, was this:

Our Father of blessed memory immediately after his coming into *England*, comparing the decency and uniformity of Gods Worship here, especially in the Liturgy of the Church, with that diversitie, nay, deformity which was used in *Scotland*, where no Set or Publick Form of Prayer was used, but Preachers, or Readers, and ignorant Schoolmasters, prayed in the Church, sometimes so ignorantly as it was a shame to all Religion to have the Majesty of God so barbarously spoken unto; sometimes so seditiously, that their Prayers were plain Libels, girding at Sovereignty and Authority; or Lyes, being stuffed with all the false Reports in the Kingdom: He did immediately, as became a Religious Prince, bethink himself seriously how His first Reformation in that Kingdom might begin at the Publick Worship of God, which He most truly conceived could never be happily effected, until such time as there should be an unity and uniformity in the Publick Prayers, Liturgy, and Service of the Church, established throughout the whole Kingdom. Concerning this His Royal and Religious Design, divers Consultations, for many years, were had with the Bishops and others of the Clergy of most eminent note in that Kingdom.

But these Deliberations (as it happeneth many times in business of so pious and ponderous importance) received some opposition, and many intermissions, until the Year 1616. in a General Assembly (which is answerable to the Convocation of the Clergy here in *England*) held at *Aberdeen* in *August*, Our Royal Father by His Letters, and the vehement instance of His Commissioners then and there present, easily made apparent to that whole Assembly, not only the convenience, but indeed the necessity of a Publick Liturgy to be settled throughout the whole Land: Which moved that Assembly to pass an Act, whereby they authorised some of the present Bishops, and divers others, to compile and frame a Publick Form of Liturgy, or Book of Common Prayer, which should first be presented to Our Royal Father, and after His approbation should be universally received throughout the Kingdom. This Book in pursuance of that Act of Assembly, being by those who were deputed for that purpose framed, was by the Lord Archbishop of Saint *Andrews* that now liveth, sent up to Our Royal Father, who not only carefully and punctually perused every particular passage of it himself, but had it also considerably advised with, and revised by some of that Kingdom here in *England*, in whose Judgment he reposed singular trust and confidence; and after all His own and their Observations, Additions, Expunctions, Mutations, Accommodations, He sent it back to those from whom He had received it, to be commended to that whole Church, being a Service-Book in substance, frame, and composition, much about one with this very Service-Book which We of late commended to them, and which undoubtedly then had been received in that Church, if it had not pleased Al-

mighty God, that while these things were in doing, and before they could receive their much wished and desired period and consummation, to the invaluable loss, as of the whole Church of God, so particularly of that Church of *Scotland*, to translate Our blessed Father from his Temporal Kingdoms to that which is Eternal.

We, by the Grace of God, succeeding to Our Royal Father, were desirous to make it known to the World, that We did not hold it a greater Honour to succeed Him in His Crowns, than to be His Successour in his Princely Vertues, and especially in that in which He was most eminent, His singular Piety and religious care of the Publick Service of God; which finding here in this Kingdom of *England*, by His singular wisdom and vigilancy, settled even to the admiration, if not envy, of all other Churches, We resolved by the Grace of God to pursue that His Pious and Princely Design, for settling a Publick Liturgy in that Our Kingdom of *Scotland*, it having been so happily achieved, facilitated, and almost perfected by Him: To which purpose We caused the same Service-Book, transmitted by Him to that Church, to be remitted and sent back to Us, that after Our perusal and alterations, if any should be found, either necessary, or convenient, it might likewise receive Our Royal Authority and Approbation: We having received that Book, and after many serious Consultations had with divers of Our Bishops and Clergy of that Kingdom then here present with Us, and after Our advices by Our Letters and Instructions to the rest at home, and after many humble Advertisements and Remonstrances made from them to Us of the Reasons of some Alterations, which they did conceive would remove divers difficulties, which otherwise they feared this Book would encounter with; We were contented that the Service-Book should come out as now it is printed, being fully liked by them, and signed with their hands, and perused, approved, and published by Our Royal Command and Authority.

In the perusal and approbation whereof, We took special care, that the small Alterations of it in which it differeth from the English Service-Book, should be such, as We had reason to think would best comply with the minds and dispositions of Our Subjects of that Kingdom: For we supposing that they might have taken some offence, if We should have tendered them the English Service-Book *veridem verbi*; and that some factious Spirits would have endeavoured to have mis-construed it as a Badge of Dependence of that Church upon this of *England*, which We had put upon them to the prejudice of their Laws and Liberties; We held it fitter that a new Book should be composed by their own Bishops, in Substance not differing from this of *England*, that so the Roman Party might not upbraid Us with any weighty or material differences in Our Liturgies; and yet in some few insensible Alterations differing from it, that it might truly and justly be reputed a Book of that Churches own composing, and established by Our Royal Authority, as King of *Scotland*. And thus conceiving We had discharged the Duty of a religious King towards God, and of a gracious Prince in accommodating this Book so, that Our Subjects of that Kingdom should have no cause to have the least suspicion of any intended dependancy of that Church upon this, We sent home the Book to the Lords of Our Privy Council: After their receipt and consideration of it, We, by their advice, and they, by Our Authority,

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Disobedience to this Our Proclamation We had little reason to expect, because this Service-Book was no new thing unto them: For it not differing from the English Service-Book in any material Point, and We supposing that the English Liturgy neither was nor could be displeasing to them, did likewise conceive that this Book should be as little disliked by them: Now the reasons inducing Us to a belief of their not misliking the English Liturgy, were these.

First, Many of Our Subjects of that Kingdom of all sorts daily resorting to Our Court and the City of *London*, did much frequent our Chapel, many other Churches in or about the City, and many Churches, during their stay here at the several places of our Residence, and many other Churches within this Kingdom upon their way, both hither and homeward; in all which Churches they did behave themselves, during the time of Divine Service, with that reverence as others of Our Subjects of this Kingdom did, without any dislike of it, or quarrelling against it. Now these who resorted hither, being for quantity and number very considerable, and for quality (for the most part) of the very best, gave Us more than a probable assurance, that at home they would never accompt that absolutely in it self unlawful and Antichristian (as many of them have since professed,) unto which they had here of their own accord by their practice yielded obedience: For neither municipal Law, nor variation of time or place, nor any other circumstance, can allow Us to practise that which we hold in it self to be simply unlawful, Antichristian, and against the Word of God.

Secondly, In Our own Chapel at *Holy-rude-house*, ever since the Year of Our Lord 1617. the English Liturgy hath been read, and according to it Divine Service sung and said, as it is here said and sung in Our Chapels in *England*, not only without dislike, but with frequent Assemblies of Our Council, Nobility, Bishops, and other Clergy of all sorts, Judges, Gentry, Burgesses, Women of all Ranks. The Bishops, or some of them, never gave Orders (which they did frequently) but they used the English Service-Book, and in some Cathedral Churches of that Kingdom, as also in the new Colledge of the University of *St. Andrews*, for some years of late it was publickly read without any distaste, much less disturbance; for divers years it was used in many Families, and at Our last being in that Kingdom it was read publickly in all Churches to which We resorted, in which great numbers of all sorts of People were present. All which gave us good reason to conceive, that the commanding of this Book by our Authority, could not in any true sense be called or accounted an Innovation, all sorts of people, and very many of those of all Ranks, who now inveigh most bitterly against it, having been so accustomed to it, and acquainted with it, and that without any dislike of it, or complaint against it.

Thirdly, We confess that one of the chiefest reasons moving Us to believe, That that Service-Book (being in Substance all one with this of *England*) could not be held by them to contain any thing tending to Idolatry, Popery, or Superstition (as since they have pretended) was this;

We did foresee that all Objections bending that way must needs strike at the English Service-Book, as well as at that, (and indeed all of them which they have preached or published against that Book, do so;) but We did then, and do still take it as granted, that no man, who hath his wits about him, can charge the least suspicion of these things objected, upon the English Service-Book: For since it is well known to the whole Christian world, that the Composers and Framers of the English Service-Book, were those very famous Bishops and others, who in Queen *Mary* her days delivered up their living Bodies to the Fire, or escaping the Fire endured Banishment, and only because they would not yield to Popery and Superstition: How these men now, whom in their own judgment they hold to be ranked amongst the most glorious Martyrs of the Church, for resisting even to Blood, Idolatry, Popery, and Superstition, can with any conscience or honesty be charged by these men with compiling of a Book stuffed full with Idolatry, Popery, and Superstition, it requireth more than an ordinary understanding to apprehend. And besides, it will be made good, that more of the Bishops and learned Clergy of *England*, both for number and weight, have opposed Superstition and Popery, than can be found in all the Reformed Churches besides, who all of them have lived in the practice of the English Liturgy, and defended the same; which they would never have done if they had supposed it to contain Idolatry or Superstition.

These now were the Grounds which inclined Us to conceive that the Service-Book, authorized by Us for that Kingdom, was not like to receive any publick or considerable opposition, though We did never expect it should misse to meet with that misfortune which attendeth all other Books of this kind, and which hath waited upon the English Service-Book here, viz. to be disliked and defamed by some, whose Judgments either being weak, are not capable of satisfaction, or being distempered with the humours of singularity, are resolved never to receive, or at least never to seem to receive any satisfaction.

And yet, even those men too, especially they of the first sort, men of weaker judgment, before, and at the time of the publishing of this Book, were not cast without the compass of Our care and clemency: For We did with that Book send home certain Instructions and Directions to our Bishops of that Kingdom, signed with Our own hand, amongst which this was one: That notwithstanding We had now established this Book by Our Authority, yet they should proceed with all moderation, and dispense with such for the practice of some things contained in the Book, as they should find either not well perswaded of them, or willing to be informed concerning them, or did hope that time and reason might gain to a better belief of them: Nay yet more, to foresee what probable opposition this Book might be like to receive, We caused Our Council by Proclamation to publish a set day for the reading of it in all Churches, which was the *Easter day* following, 1637. All which time, though no symptoms of any considerable opposition did appear, yet upon good considerations, and for the further trial of mens minds, the first reading of it was delayed until the Three and twentieth of *July* next ensuing, to the end that the Lords of the Session, and others who had any Law-business, might see the success of it before the rising of the Session, which always endeth on the first of *August*.

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August, and that so upon their return to their several Countries, they might report the receiving of this Book at *Edinburgh*; it being ordered, that on that Sunday the Book should be read only in the Churches of *Edinburgh*, and those which were next adjacent: And because it should not be read that day neither unexpectedly, warning was first printed, and then published in all these several Pulpits the Sunday immediately before, that the next Sunday the new Service-Book was to be read. After all which premonitions made only to try how the People stood affected, and no fear of tumult appearing: Nay, the Service-Book, which was to be read, having been in publick Sermons commended by many Preachers, without any apparent disgust of the Book, or disgrace offered to the Preachers persons: Nay, having been commended in Sermons by some of their now principal Covenanting Ministers, who since have been the greatest Railers against it, by none more than one *Rollock* a Minister of *Edinburgh*, who, both in a Sermon preached by him at a Synod held at *Edinburgh* before the Bishop of that Diocese, and in his Sermon on the Sunday of intimation of the reading of the Service-Book the next Sunday, did highly magnifie the said Book: And so the tending of this Book being thus prepared and sweetened with these gracious considerations of time, and expectation of the discovery of mens affections, which, for any thing appeared to the contrary, were very calm and composed, who could have imagined that the first reading of it should have been attended with such a barbarous Tumult and Insurrection, as was raised in the Churches and Streets of *Edinburgh* the Sunday following? The true Relation of which Tumult, as it was sent up to Us, doth here follow.

On the Twenty third day of July, 1637. being Sunday, according to the publick warning given the Sunday before, the Service-Book was begun to be read in *Edinburgh* in *St. Giles's* Church, commonly called the Great Church; where were present (as usually they are) many of Our Council, both the Archbishops and divers other Bishops, the Lords of the Session, the Magistrates of *Edinburgh*, and a very great Auditory of all sorts of People. Amongst this great Multitude there appeared no sign of trouble: But, no sooner was the Book opened by the Dean of *Edinburgh*, but a number of the meaner sort, who used to keep places for the better sort, most of them Women, with clapping of their hands, cursings, and outcries, raised such a barbarous hubbub in that sacred place, that not any one could either hear or be heard. The Bishop of *Edinburgh*, who was to preach, stepped into the Pulpit, which is immediately above the place where the Dean was to read, intending to appease the Tumult, by putting them in mind that the place, in which they then were, was holy ground, and by intreating them to desist from that fearful and horrible profanation of it: But he was entertained with as much irreverence as the Dean, and with more violence; in so much, that if a Stool, aimed to be thrown at him, had not by the Providence of God been diverted by the hand of one present, the life of that Reverend Bishop, in that holy place, and in the Pulpit, had been endangered, if not lost. The Archbishop of *St. Andrews*, Lord Chancellor, and divers others offering to appease the Multitude, were entertained with such bitter Curfes and Imprecations, as they not being able to prevail with the People, the Provost, Bailiffs, and divers others of the Council of that City, were forced to come

down from the Gallery in which they do usually sit, and with much ado, in a very great Tumult and Confusion, thrust out of the Church these disorderly People, making fast the Church doors. After all which, the Dean devoutly read Service, assisted by Our Chancellors, Bishops, and many other Persons of Quality there present: Yet the out-cries, rapping at the Church doors, throwing of Stones at the Church-windows by the tumultuous Multitude without, was so great as the Bailiffs of the City were once more put to forsake their places, and use their best indeavours for the appeasing the rage and fury of those who were without. Service being ended, the Bishop preached, after which the Congregation was dismissed: The Bishop of *Edinburgh* retiring himself to a Lodging distant not many paces from the Church, was so invironed with a multitude of the meaner sort of People, cursing and crowding him, that he was near being trode to death; and in all probability had been so, if he had not recovered the Stairs of his Lodging, which he no sooner began to go up, but he was so pulled by the sleeve of his Gown by some of that rude Rout, that he had like to have tumbled backward down the Stairs, to the indangering of his Life, yet with much ado getting up the Stairs he found the Door, at which he should have entred, shut against him, and so being put to a stand, he had certainly been oppressed with the press and violence of that Rabble, if the Earl of *Weems* from his next Lodging, seeing the Bishop's life in danger, had not sent his Servants to rescue him, who got the Bishop almost breathless into his Lodging. The same Morning the Service-Book was read in the next Church to *St. Giles's* Church, not without noise and tumult, yet the fury was not so great as in the other Church. In the *Gray Friars* Church the Elect Bishop of *Argyle* (being Colleague to Master *Ramsay*, who refused to read it) began to read the Book, but he was so cursed and exclaimed against, and threatened to be pulled down, that after the reading of the Confession and Absolution, he was forced to give over. In the Colledge Church, *Rollock*, one of the Preachers there, who the Sunday before, at the intimation of the reading of it, had so much commended the Book, and had undertaken this day to read it, though he had the Book ready to be carried to the Church with him, yet, very wisely, resolved to halt a little, until he might know how it was entertained at *St. Giles's* Church, that so his Conscience might comply with the carriage of the multitude, whose rudeness being reported to him, he (notwithstanding his commendations of the Book, and his faithful promise to read it) thought it the safer course to leave himself to the censure of all men for his levity and breach of promise, than offend the Multitude, whose favour is the only Air in which he taketh delight to breathe and live: And thus that Morning passed.

Between the two Sermons, such of Our Council as were in the Town, assembled at the Lord Chancellour his Lodging, where the Lord Provost and Bailiffs of *Edinburgh* being called, undertook to do their uttermost endeavours for the quiet and peaceable reading of the Service-Book in the Afternoon, which accordingly they did, and so the Service-Book in *St. Giles's* and some other Churches, that Afternoon was read, without any such Tumult or Insurrection as it encountered with in the Morning; yet the furious Multitude, who stayed in the Streets, and little regarded the Service of God in the Churches, intermitted nothing of their

their madness: For the Lord Privy Seal, Earl of *Roxborough*, returning home to his Lodging, and having with him in his Coach the Bishop of *Edenburgh*, was near suffering the death of the first Martyr *St. Stephen*, his Coach and Coach-man, for having the Bishop in it, being so pelted with stones, and hooted at with execrations, and pressed upon by the eager and mad Multitude, that if the Lord Privy Seal his Foot-men had not with their Swords kept them off, they in the Coach had been brought in danger of their lives, having after long and continual bickerings much ado to recover their Lodgings.

And now We desire all men to consider what blessing and success from Heaven may be expected upon this grand and important Reformation of Religion, as they call it, the begetter and beginner whereof was the horrible profanation of the Lords own Day, and that in the Lord's own Houses and Temples, and all this attended with the contempt and treading under foot the Sacred Authority and Laws of Us the Lord's Anointed, as also with the violation of the Persons of the Lord's Priests and Prophets, his Bishops and Ministers, and all these practised by a base Multitude, disavowed and disclaimed at that time by all Magistrates and Persons put in Authority, and all others of any Rank or Quality, who branded that Multitude with the Names of the Scum and Froth of the People, and offered themselves, to the uttermost of their diligence & assistance, for the finding of them out, and bringing them to highest and condign Punishment, as shall presently appear by the Demeanour of the Magistrates when they were called before our Council for that purpose.

For the next day, being the 24th of *July*, 1637. Our Council assembled, and sent forth a Proclamation in detestation of the Uproar and Tumult the day before, and discharged all concourses of People and tumultuous Meetings in *Edenburgh* under pain of death; at which time the Magistrates of *Edenburgh* being then present at Our Council Table, professed their utter abhorring and detesting of the last Tumult, and apprehended some suspected to be most forward in it, and thereupon were commanded and ordered by an Act of Our Council of the 26th of *July*, to assemble the Council of the City next Morning by eight of the Clock, and then and there to resolve what course they thought fittest to be held for the finding out of the Movers of, and chief Actors in the late seditious Uproar, and immediately after to report their diligence and resolutions herein: Which report they accordingly made to Our Council, not only with a detestation of that Tumult, and promises of their best diligence for finding out the Authors and Abettors of it, but also with large proffers of their best Assistance for the quiet and peaceable establishing and reading of the Service-Book in all their Churches.

But the Ministers of that City being loath to undertake the reading of it, without some security given for the safety of their Persons, the Lords of Our Council by their Act of the 28th of *July*, 1637. ordered the Provost, Bailiffs, and Council of *Edenburgh* to advise amongst themselves concerning some obligatory Act to be made by them, for a real performance of what they had undertaken, and should further undertake for the peaceable exercise of the Service-Book, which they accorded unto, and promised, that since the former Readers in their several Churches, had refused to read the Book, if in the mean time the Ministers themselves would read it, they would take order

for their safety, and when new Readers should be provided, they would take order both for their security and settled Maintenance and Allowance: In pursuance whereof, an obligatory Act was drawn up by Our Advocate, and read before Our Council to the Magistrates of *Edenburgh* the sixth of *August* 1637. to which they humbly consented, and on the Tenth of the same Month, the said Act of Indemnity being exhibited before Our Council, was allowed by them, and accordingly passed and entered in Our Council-Book as an Act of Council. And so now this late Tumult in all appearance being settled, and not only fathered upon the Scum and Dregs of the People, but cried down by all men either of place or quality, and by none more than by the Magistrates and Ministers of *Edenburgh*. Our Council not fearing any new Outrage, proceeded to these two things.

First, To the exemplary punishing of such of the Heads of the late Tumult as they should discover: And next, to the settling of the practice of the Service-Book, and appointing a new day for renewing the exercise of it; to which the Bishops, Magistrates and Ministers of *Edenburgh* agreed: And this their forwardness the Magistrates of that City were not only contented to express before Our Council, both by their verbal Promises and Protestations, as also their obligatory Act remaining upon record, and registred in Our Books of Council, but likewise by two particular Letters sent by them into *England* unto the Lord Archbishop of *Camberbury*, in which they desired him to recommend unto Us, their care of, and fidelity to Our Service, and to undertake for them to Us their zeal and forwardness, for settling the peaceable practice of the Service-Book: Which Letters We here have caused to be inserted, that the Reader may see what names of simplicity and ignorance they bestow upon that Multitude, which made the first opposition, and withal take notice of the Names of the Magistrates subscribers to these Letters; for some of them (which hardly could be expected from reasonable men) will be found to be very forward, if not Leaders in the next succeeding Sedition, and so of the rest which have followed since. The Letters are these:

Most Reverend Father in God, and our very good Lord,

WE regret from our hearts that Tumult which did fall out in our Churches that day of the bringing of the Service-Book, wherein now these of his Majesties Council, who have laboured the trial thereof, will give testimony of our Innocency: Since that time and the rising of his Majesties Council in this serial time, we have daily concurred with our Ordinary, and our Ministry for settling of that Service-Book, as the Right Honourable the Earl of *Traquair* Lord Treasurer, with the Bishops of *Galloway* and *Dunblane* will bear witness; who have spared neither pains nor attendance to bring that purpose to a good conclusion: And although the poverty of this City be great, being almost exhausted with publick and common Works, yet we have not been lacking to offer good means, above our Power, to such as should undertake that Service; and in all things wherein we have been required, we have ever been ready really to approve our selves obedient and loyal Subjects to his Majesty, in all his Royal Commandments, which we have vowed ever to second to our lives end. And we being infinitely obliged to your Grace's favours, we now presumed by these lines to give your Grace that assurance of obedience upon our part, in this purpose and in all other purposes wherein

Anno 1637. we may contribute to the advancement of his Majesties Service, or can be expected of good Subjects: Whereof if his Majesty by your Grace shall be pleased to rest assured, whatsoever any other shall suggest, we will accept it from you as a great accumulation of favour; for all which your Grace shall ever find us most thankful Remembrancers, and most ready really to express our thankfulness, whenever we shall be made so happy as that your Grace shall have occasion to use our Service. Thus from our hearts wishing you all happiness, we kiss your Graces hands.

Edinburgh,
August 19.
1637.

Your Graces most affectionate
and humble Servants the
Bailiffs of Edinburgh.

J. Cochrane, Bailly.
An. Ainslie, Bailly.
J. Smith, Bailly.
H. Hamilton, Bailly.

The Second Letter.

Most Reverend Father in God, and our very good Lord;

WE did receive your Graces kind Letter, and from our hearts we do render your Grace most hearty thanks; and as we have hitherto found your special favour in this matter, concerning the lately imprinted Service-Book, whereanent we did write to your Grace formerly, shewing our dutiful and obedient resolution, not only in our selves, but in the greatest and best part of our Inhabitants, of whom from time to time we had most confident assurance; so now we must again become new Suiters at your Graces hands to receive from us a true information of the difference of the present time, and of that when we did presume to write the occasions thereof, which is, that since our last there hath been such an innumerable confluence of People from all the corners of this Kingdom, both of Clergy and Laity, and of all degrees by occasion of two Council-days, and such things suggested to our poor ignorant People, that they have razed, what we by great and continual pains had imprinted in their minds, and have diverted them altogether from their former resolutions, so that now when we were inged by our selves alone, we could not adventure, but were forced to supplicate the Lords of Council to continue us in the state they had done the rest of this Kingdom; having hitherto forbore either to combine with them, or to countenance them in their supplications, yet we will not forbear to do our Masters service to our power, but shall study to imprint in their minds what hath been taken away, in the interim we will humbly beg your Graces favour and intercession with his Majesty, that we may be kept still in his favour, which we do esteem our greatest earthly felicity, and that what course shall be taken with the rest of this Kingdom in that matter, who have presented many Supplications, and with whom we have in no ways combined, that the same and no other way may be taken with us, wherein we are confident to prevail as much as any other within the Kingdom, and in all things shall endeavour nothing more, than that we may approve our selves most dutiful and obedient Subjects. Thus relying upon your Graces favour, as our most assured Refuge, we kiss your Grace's hands, and rests,

Edinburgh
Sept. 26.
1637.

Your Graces most affectionate
and humble Servants, the
Bailiffs of Edinburgh.

J. Cochrane, Bailly.
J. Smith, Bailly.
C. Hamilton, Bailly.
James Ruchaid.

These indeed were fair words, and specious promises, but nothing more; for these very men, the Subscribers of these Letters, did underhand abett the Tumults, and did afterwards (as we shall find by the sequel of this story) become prime Covenanters themselves; and his Majesties Remark hereupon is very remarkable, That this first Tumult was owned by none, condemned and cried down by all, the Authors of it, and Actors in it, called by all sorts by no better names than Rogues, and the base Multitude. What will you then think, if that within very few days you shall see the very same liberal bestowers of these names entring upon the same Stage, repeating and acting over again the parts of that mad Multitude; Only the Stage you shall see a little better hanged, and the Scenes better set out, and the Play having a more specious Name of Piety and Religion? For soon after, these base and unruly People, who were so much out in their first Act of Rebellion, (as Actors at the first are not commonly perfect) were in the Pulpits, even for that their first and foul Act, so much of late hissed at and decried, afterwards magnified for the most Heroical Sparks that ever God inspired and raised up in this last Age of the World; and though they were but Asses, yet they were cried up for having their mouths opened immediately by God, as the mouth of Balaam's Ass was, to the upbraiding of all the rest of the Land, who held their peace when they should have cried and braied as they did: Their happy mouths and hands, which God was pleased to honour that day with the beginning of their new blessed Reformation, and occasioning their Celestial Covenant (as they called it) were so highly extolled by their Preachers, that they assured their Auditors that their Memorials should be eternal, whom before they had called the Scum of the People, and the base Multitude, and that all succeeding Generations should call them blessed. These high flown speeches, and many others of the like extravagant strain, both in the Pulpits and out of them, immediately after the first Tumult, and ever since, have been bestowed, and that not sparingly, upon that Multitude, which not long before they called base and rascal: But no wonder, for many of the better sort having succeeded that Multitude in the same madness, they must needs now give them new, high, and Heroical Titles, such as they would have given to themselves now acting their parts; for now their own Actions come next upon the Stage to be viewed and judged.

The Harvest approaching, calls the Rabble and Gentry too into the Country, and in the interval the Bailiffs of Edinburgh Petition the Council, That the Service-Book (notwithstanding their former Undertakings to the Archbishop of Canterbury) might not be preist upon them; but no sooner was Harvest over, but the Conflux of the disaffected were so great at Edinburgh, that a present Rebellion was much feared: Hereupon the Council emit three several Proclamations following.

Apud

Anno 1637. Apud Edinburgh 17. Octob. 1637.

FOrasmuch as it hath pleased the King's Majesty, upon divers good respects and considerations, to give warrant and direction to the Lords of his Majesties Privy Council, for dissolving the meeting of this Council-day, in so far as concerneth matters of the Church: And that every one that hath come to attend this business, repair to their own dwellings, except such persons as shall make known to the said Lords of Council just cause of stay for their particular affairs; Therefore the said Lords, according to his Majesties special warrant and direction sent unto them, have dissolved, and by the tenour hereof do dissolve the meeting of this Council-day, in so far as concerns the business above written; And ordains a Maissar of Council to pass to the Mercate Cross of Edinburgh, and to make publication hereof; And to command every one that hath come hither to attend this business, to repair home to their own dwellings within 24 hours after the publication hereof, except such persons as shall make known to the said Lords just cause of their further particular affairs in manner aforesaid, under the pain of Rebellion, and putting them off to the Horn; with certification to them, that if they fail they shall be denounced Rebels, and put to the Horn, and all their moveable Goods escheat to his Majesties use.

Apud Edinburgh 17. Octob. 1637.

FOrasmuch as it hath pleased the King's Majesty upon divers great and good considerations known to his Majesty, to remove his Council and Session from the City of Edinburgh to the Burgh of Dundie: And whereas it is inconvenient at this time to remove it so far, his Majesty is graciously pleased that this next Session shall be holden at the Burgh of Linlithgow, and the next after the ordinary vacants at the Burgh of Dundie, and there to remain during his Majesties pleasure: And therefore the said Lords, according to his Majesties special direction, ordains Maissars or Officers of Arms to pass and make publication hereof to all his Majesties good Subjects by open Proclamation at all places needful, whereby they can pretend no ignorance thereof, but may prepare themselves to attend at Linlithgow and Dundie accordingly.

Apud Edinburgh Octob. 17. 1637.

FOrasmuch as the Kings Majesty is credibly informed, that there is a certain Book, intituled, A Dispute against the English Popish Ceremonies, obtruded upon the Kirk of Scotland, and hath been sent abroad and dispersed in this Kingdom, purposely to stir the hearts and affections of the Subjects from their due obedience and allegiance: And therefore it hath pleased his Majesty to give order and direction to his Council, that diligent inquiry and search be made for the said Book; And for this effect the said Lords ordains Letters to be directed to make intimation and publication to all his Majesties Subjects, that such of them as have any of the said Books, bring in the same to the Lords of his Majesties Privy Council betwixt the date of this Proclamation and the day of And the said Books being brought in, that the same be publicly burnt, certifying all his Majesties Subjects, if any of these Books shall be found or known to have been with any of them after the time aforesaid, that they shall incur the like censure and punishment as the Author may be found to deserve for any thing contained in that Book.

But what effect had these Edicts? Truly no other than an open Insurrection, which happened the day after the date of the last Proclamation, which was in this manner as we see.

On the eighteenth of October 1637. the Bishop of Galloway, and Sir William Elphinston, Lord Chief Justice of that our Kingdom, being appointed by the Lords of our Council to examine Witnesses in a Cause depending before them, between Francis Stuart, Son to the late Earl of Bothwell, and divers others, the Bishop was peaceably passing along the Street towards the Council-house where the Examinations were to be taken: But suddenly an enraged Multitude surrounded him, and followed him with fearful curlings and exclamations close to the Council-house door, where he was again encountered afresh with a new troop, who watched, and lay in wait for his coming thither, and whose fury exceeded words; for in all probability the Bishop had been pulled in pieces by them, if by Divine Providence he had not been defended by the said Francis Stuart, who with much ado got the Bishop within the doors of the Council-house, where our Lord Chief Justice stayed for him: But when he was there, that place of highest Reverence within that our Kingdom, was no Sanctuary for him; for they continued demanding his person, and threatening him with death. The report hereof, and the danger of their Lords life, was brought by some of the Bishop's Servants presently to the Earl of Traquair, our Lord Treasurer, and the Earl of Wigton, one of the Lords of our Council, who were then at a Lodging not far from thence: They came presently with their followers to the relief of the Bishop, but very hardly, for the croud of the Mutineers, could approach the Council-house where he was; at last, when with much ado they got entrance, they found themselves in no better case than the Bishop was, for the Peoples fury meeting with no proportionable resistance, increased the more. The Lords thus beset in our Council-house, sent privately to the Lord Provost, Bailiffs, and Council of Edinburgh, who were then assembled in their own Council-house, requiring them to come to their rescue, and to take some present order for their safety: They, by one Sir Thomas Thompson, who indeed was an Eye-witness of the truth of it, returned this answer; That they were in the same, if not a worse case themselves, if the Lords without did not presently pacifie the enraged Multitude; that the whole Streets were pestred with disorderly People; that their Council-house was beset without, and thronged within, with their own threatening Citizens, who had vowed to kill all within their House, unless they did presently subscribe to a Paper presented to them, which for fear of their lives they were forced to do: Which Paper contained these three particulars; First, That they should joyn with them in opposition to the Service-Book, and in petitioning Us for that purpose. Secondly, That by their Authority they should presently restore unto their Pulpits and Places Master Ramsay and Rollock, their two silenced Ministers. Thirdly, That they should restore unto his place one Henderson a silenced Reader: No doubt three most important grounds for such a fearful Sedition. No better answer being returned, the Lord Treasurer and the Earl of Wigton, with their Followers, resolved to go up to the Town Council-house, and to use the uttermost of their Authority, or (if that found no respect) their best perswasions for settling the present Sedition: When they came thither, they

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found the Magistrates were much discomposed, and greatly perplexed, as much doubting whether they should ever escape from the place with their lives; yet they presently entred into Consultation with them about what was fittest to be done in such an exigent; and finding now that the publick divulging of that Paper which the Magistrates and Council of the City had subscribed, and that the open Proclamation of it throughout all their turbulent Troops, and at the Cross, had a little aswaged their furious rage, the Lords begun to advise with the Magistrates what was best to be done for the safety of the Bishop of *Galloway*, whom they had left besieged in the Council-house: It was thought fit by all, that the Lords should return to Our Council-house, and contain themselves therein, till the Magistrates might try what they could do for calming the Commotion in the Streets: But no sooner had the Lords presented themselves to the Streets, but they were received with such violence as they were forced to retire, until such time as two of the Bailiffs, with their Serjeants and Officers, and such others as they got to attend them, accompanying the Lords, and repeating to the Multitude what had been yielded to in the Paper exhibited to them, a little way was made at first; But presently when they entred upon the great Street, the barbarous Multitude run most enragedly upon them: Their out-cries were horrible and confused, but were (as much as in such a confusion could be distinguished,) *God defend all those who will defend God's Cause, and God confound the Service-Book, and all the Maintainers of it.* The Lords being in present and imminent danger, assured the People that they would represent their Grievances to Us; And when they perceived that the People refused to obey any Commandment which was laid upon them in Our Name, and that they slighted their requiring of them to retire unto their own Houses, and to behave themselves as quiet and good Subjects, under pain of Our highest displeasure, they were glad then to betake themselves to intreaties and plausible persuasions; but all in vain: For the People still increased their fury, and that to such a height, as that the L. Treasurer was thrown down, his Hat, Cloak, & white Staff pulled from him, so that if by the strength of some about him, he had not been presently pulled up again upon his feet, he had undoubtedly been trode to death, and in that posture, without Hat or Cloak, like a notorious Malefactor, was he carried by the Croud to our Council-house door, where the Bishop of *Galloway* and others of our Council were imprisoned, in great fear, and expecting the Lords return for their relief. Not long after the Provost and Bailiffs came thither to them, told them they had used their uttermost power and persuasions with the best, ablest, and of the prime esteem of all their Citizens, for the appeasing of the present Tumult, and securing their Lordships persons, but could find no concurrence nor obedience: Whereupon the Lords resolved to send for some of the Noblemen, and Gentry, and others who were now frequently assembled for assisting the Petition against the Service-Book, to try what help they would or could contribute for quieting the enraged People, and what assistance they might expect from them in freeing them from the present danger: They, being sent for, came to the Lords and declared unto them how much they were unsatisfied with the present Mutiny, offered their Persons and Power for securing them from all violence; which the Lords in our Council-house accepting of, with much ado (being guarded by

them whom the People would not offend) the Lord Treasurer got to our Palace at *Haly-rud-house*, and the Bishop of *Galloway* to his Lodging: But the Lord Provost was again set upon as he was entering his own House, and was so pressed upon by the Multitude, that they crouded with him into his own Yard, railing upon him, and throwing Stones at his Windows, until some of his Servants discharging a Peece which had nothing but Powder in it, they retired for fear. In this Tumult none were more forward and inexorable, than two who were Bailiffs the Year before, and who had subscribed the two Letters to the Archbishop of *Canterbury*.

The Tumult being a little appeased, the Council met at *Haly-rud-house*, and command the Proclamation following to be made at the Market-Cross of *Edinburgh*, in hæc verba.

At *Haly-rud-house* the 18 of Oct. 1637.

Forasmuch as a number of the Lords of his Majesties Privy Council, as likewise the Town Council of *Edinburgh*, being this day convened in their several Judicatories for his Majesties special Affairs and Service, they were most rudely interrupted in the course of their proceedings, by a tumultuous gathering of the promiscuous and vulgar multitude, by whom his Majesties Council and Servants in an open way was shamefully environed: Which being a matter very disgraceful to his Majesties Authority and lawful Government, and which in the consequence thereof, may produce dangerous effects, if the like be not prevented in the time to come; Therefore the Lords of secret Council, according to the duty of their place and charge incumbent unto them, Ordains a Maiflar of Council to the Mercate Cross of *Edinburgh*, and there by open Proclamation to discharge all publick Gatherings and Convocations of his Majesties Subjects within the City of *Edinburgh*, and upon the Streets thereof; as likewise all private Meetings tending to faction and tumult: And in his Majesties Name and Authority, to command and charge all his Majesties lieges and inhabitants within the said City, to contain themselves in peace and quietness; and for that effect to keep their Houses, except when their lawful business doth otherwise call them, Under all highest pain and charge that by rigour of Law can be inflicted upon the Contraveners of the Premises in manner above expressed.

The Proclamation prevailed not at all on those of *Edinburgh*, yea rather, notwithstanding the insolencies already committed, the next Council day they had the impudence to send their Commissioners to the Council, requiring that their own Ministers and Readers might be restored to them, and Security be given for what their Magistrates had promised them at their last Tumults, and before the pacification thereof. And from these relations it will easily appear, whether (as his late Majesty said) this their intended glorious Reformation, which, according to their religious Intentions and ardent Prayers, they say, God, even to a Miracle, hath so graciously prospered in their hands, be like to proceed from God, the first act whereof was begun in the Church, with contempt of God and profanation of the House where his Honour dwelleth, and the violation of those persons who serve at his Altar; and the second Act whereof, was presented on the Streets of the capital City of the Kingdom, with the contempt of the highest Authority under God, viz. Us and Our Laws, and offering violence to the persons of our Counsellors and chief Officers of State, not forbearing the

Anno 1637. the very Houses and Places where our Council for that Kingdom, and Our Magistrates of that City do usually sit, and were then sitting; which places have alwaies been accounted Sacred, and have duely challenged all respect and reverence.

So that it is observable by what degrees this Rebellion hath risen, as if it had been before-hand well studied and contrived, every rank entering upon the Stage in their due turns, in which they served and answered one another: The first Tumult was begun by the basest sort of that City, whom the Authors of this second Insurrection did then, even for that first Tumult, condemn by the name of Rascals and Scum of the People. The second Uproar, far more Seditious and dangerous than the former, was made by the best sort of Citizens, excepting only the Magistrates, and some few others, yet disavowed and disliked (at least in shew) by the Nobility, Gentry, and the Magistrates of the City; but these last Mutiners were not so cried down by them as the former, nor did they put such vile names of Rebels and Rascals upon them, nor did they shew any signification of their desire to have them questioned or punished for that Tumult, because now the quality of these last Mutiners persons gave some good countenance to the designs which they themselves had in hand: For these Noble-men, Gentry, and Magistrates being themselves to perform the third Act of that Tragedy, at the first whereof they had hissed, and seemed to dislike the second, held it not fit to be too severe in condemning of that which it seems they meant shortly after to act themselves, and in a more dangerous way: For first, their Protestation against Our Proclamation, and then their Covenant against Us and Our Authority, were next to come upon the Stage; which though they were of the same Plot and piece with the two other former Insurrections; yet because they were to be better acted, and the Actors, men of greater eminency, they hoped their parts should not find such foul names as the former had found: As if the things being the same, the names of Protestation or Covenant could alter the nature of Insurrection and Rebellion; like those of that Bloody League in France, who hoped that the very name of the HOLY LEAGUE would cause in the World a mistake of their meaning, and palliate their most wicked and unnatural Treasons, for rooting out their lawful Sovereign and true Religion. And now this highest and worst part cometh next to be related.

Presently after these Tumults, they present to the Chancellor two Petitions; the first against the Service-Book, in the name of all the Men, Women, and Children, and Servants of the City of Edinburgh; the other was from the Nobility, Gentry, Ministers, and Burgesses against both the Service-Book and Canons. The Tenor of the First was as followeth:

My Lord Chancellor,

† Observe that the Children as well as the rest considered this. Unto your Lordship humbly shews, we Men, Women, and Children, and Servants, In-dwellers within the Burgh of Edinburgh: That whereas we being urged with this Book of Service, and having considered the same, We find many things therein so far different from the form of God's Publick Worship Universally received and professed within this Kingdom. And we Burgesses, being at our entry and admission deeply sworn for the maintenance thereof, that now makes our Hearts to tremble, and our weak Con-

sciences will not suffer us to embrace and practise this urged Service. We have this long time past, winked at some former alterations, being put in hope that no further Novations should follow. But now we being oppressed, with our just fears to see our selves deprived of that liberty in serving God which ever hath been approved by Church and Kingdom: In place whereof we are now like to be constrained to embrace another, which hath neither been agitated nor received either by general Assembly or Parliament: In such extremity we are most humbly to supplicate your Lordship to consider our present estate, and that this business is a matter of so great weight and consequence, as should not appear to be a needless noise of simple Women, but it is the absolute desire of all our Hearts for preservation of true Religion amongst us, which is dearer to us than either Estate or Life: And therefore we do humbly crave, that as the rest of the Kingdom, so we may have a time to advise, and that your Lordship may find out some way whereby we may be delivered from the fear of this and all other Innovations of this kind, and have the happiness to enjoy the true Religion, as it hath been by the great mercy of God reformed in this Land, and authorized by his Majesty, who may long and prosperously Reign over us: And your Lordships answer.

The Tenour of the Second was as followeth:

My Lords of Secret Council,

Unto your Lordships humbly shews; We Noble-men, Barons, Ministers, Burgesses, and Commons; That whereas we were in humble and quiet manner attending a gracious answer of our former supplications against the Service-Book imposed upon us, and ready to shew the great inconveniences which upon the Introduction thereof must ensue, we are, without any known desert, far by our expectation, surprized and charged by publick Proclamation to depart out of the Town within twenty four hours thereafter, under pain of Rebellion; by which peremptory and unusual charge, our fears of a more severe and strict course of proceeding are augmented, and course of our supplication interrupted: wherefore we are constrained, out of the deep grief of our hearts, humbly to remonstrate, that whereas the Archbishops and Bishops of this Realm, being intrusted by his Majesty with the Government of the Affairs of the Church of Scotland, have drawn up and set forth, and caused to be drawn up and set forth, and enjoined upon the Subjects two Books; In the one whereof, called the Book of Common-Prayer, not only a sown the seeds of divers Superstitions, Idolatry, and false Doctrine, contrary to the true Religion established within this Realm, by divers Acts of Parliament; But also the Service-Book of England is abused, especially in the matter of Communion, by additions, subtractions, interchanging of words and sentences, falsifying of Titles, and misplacing of Collects, to the disadvantage of Reformation, as the Romish Mass is, in the more substantial points, made up therein, as we offer to instruct in time and place convenient, quite contrary unto and for reversing the gracious intention of the blessed Reformers of Religion in England. In the other Book called Canons and Constitutions for the government of the Church of Scotland, they have ordained, That whosoever shall affirm that the form of Worship imposed in the Book of Common-Prayer and Administration of the Sacraments, whereof heretofore and now we most justly complain, doth

† And yet these blessed Reformers of Religion in England were the very same men who compiled the English Service-Book, which the Covenanters have Printed and Preached to be stuffed full of Idolatry, Superstition, and Popery.

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Anno 1637. contain any thing repugnant to the Scriptures, or are corrupt, superstitious, or unlawful in the Service and Worship of God, shall be Excommunicated, and not be restored but by the Bishop of the place, or Archbishop of the Province, after his repentance and publick revocation of this his wicked error, and to the overthrow of our Church Discipline established by Acts of Parliament, opening a door for what further invention of Religion they please to make, and stopping the way which Law before did allow unto us for suppressing of error and superstition; And ordaining, That where in any of the Canons there is no Penalty expressly set down, the punishment shall be Arbitrary as the Bishop shall think fittest: All which Canons were never seen nor allowed in any General Assembly, but are imposed contrary to order of Law, appointed in this Realm for establishing Constitutions Ecclesiastical; unto which two Books, the foresaid Prelates have under trust procured his Majesties Royal hand and Letters Patents, for pressing the same upon his Loyal Subjects, and are the Contrivers and Devisers of the same, as doth clearly appear by the Frontispiece of the Book of Common-Prayer, and have begun to urge the acceptance of the same, not only by injunctions given in Provincial Assemblies, but also by open Proclamation and charge of Homing, whereby we are driven in such straits as we must either by Process of Excommunication and Homing suffer the ruin of our Estates and Fortunes, or else by breach of our Covenant with God, and forsaking the way of true Religion, fall under the wrath of God, which unto us is more grievous than death. Wherefore we being perswaded that these their proceedings are contrary to our gracious Sovereign his pious intention, who out of his zeal and Princely care of the preservation of true Religion established in this his ancient Kingdom, hath ratified the same in his Highness Parliament, 1633. And so his Majesty to be highly wronged by the said Prelates, who have so far abused their credit with so good a King, as thus to insnare his Subjects, rend our Church, undermine Religion in Doctrine, Sacraments, and Discipline, move discontent between the King and his Subjects, and discord between Subject and Subject, contrary to several Acts of Parliament: We out of bound duty to God, our King and native Country, complain of the foresaid Prelates, humbly craving, that this matter may be put to trial, and these our parties taken order with according to the Laws of the Realm; And that they be not suffered to sit any more as Judges, until the cause be tried and decided according to Justice. And if this shall seem to be to you a matter of higher importance than you will condescend unto, before his Majesty be acquainted therewith, Then we humbly supplicate, that this our grievance and complaint may be fully represented to his Majesty, That from the influence of his Gracious Sovereignty and Justice these wrongs may be redressed, and we have the happiness to enjoy the Religion, as it hath been reformed in this Land.

A more exact account of these Petitions, and of the Exorbitancy of the Scots in this their Rebellion, we cannot better give you, than from his Majesties larger Declaration, where they are in their proper and fit colours shewn to the World. The King's words are these:

IN this Petition, saith his Majesty, it may be worthy the observing, That they complain of the mangling of the English Service-Book, and of the abuses offered unto it, and the wronging of the intentions of the blessed Reformers of Religion here in this Kingdom, whereas in their Sermons and ordinary discourse, they do usually inveigh against the Service-Book here, for being

stuffed with Superstition and Popery, and that the first Reformers of this Church never departed fully from Rome: And in this last Petition they begin to make their Grievances swell, adding their dislike of the Book of Canons to their former distaste of the Service-Book; the occasion of Our Authorizing of which Book of Canons, was this.

As We were desirous to settle one uniform Form of Publick Prayer and Divine Service throughout that Our Kingdom, and for that purpose authorized the Service-Book, so We conceived that it was not only expedient, but necessary that there should be one uniform Form of Church Government throughout the same; and because there was no Book extant containing any Rules of such Government, so that neither the Clergy nor Laity had any certain rule either of the ones power, or of the others practice and obedience, and considering that the Acts of their general Assemblies were but written, and not Printed, and so large and voluminous, as it is impossible that so many Copies of them should be transcribed, as that they may come to the use and knowledge of many, and so Apocryphal, as that few or none of themselves can tell which of them are authentical, and so unsafely and uncertainly kept, that they do not know whether to address themselves for finding of them; We could not imagine but that it should have been acknowledged, and received with all thankfulness, that We had reduced their numerous Acts, and those not known to them, to such a paucity of Canons, and those published, that none could be insnared through ignorance, nor complain that they were over-charged with the multiplicity of them: For it may be averred with unquestionable certainty, that not one in that Our Kingdom did either live under the obedience of the Acts of the general Assemblies, or did know what they were, or where certainly to have them: And yet these men have interpreted Our furthering their knowledge and facilitating and conveniencing their obedience for one of the most grievous burthens was ever laid upon them: But no wonder it is, if, when mens minds are once out of taste with Government, nothing tending to order relisheth well with them.

Their Petition was sent up to Us by Our Council: But We seeing no sign of Repentance for, or disavowing of their late Tumults, until some order might be taken for the finding out and punishment of the Authors of them, resolved to delay the answering of their Petition, but in the mean time commanded Our Council to signify to all our good Subjects Our averfeness from Popery, and detestation of Superstition, the contrary suggestions whereof We found the Heads of this Rebellion had used for abusing of Our loyal Subjects, and so accordingly Our Council caused a Proclamation to be made at *Lithgow*, which was this:

Apud Linlithgow septimo Decemb. 1637.

FOr as much as the King's Majesty, having seen the Petition presented to the Lords of his Majesties Privy Council, and by them sent up to his Majesty concerning the Service-Book, determined to have taken the same into his Royal consideration, and so have given his Gracious Answer thereanent with all conveniency: Like as his Majesty by his Letters to his Council of the date of the Ninth of October last, did signify his gracious resolution to the effect aforesaid.

But

Anno 1637. But since that time, his Majesty finding (far contrary to his expectation) that such disorderly, tumultuous and barbarous insolences have been committed within the City of Edinburgh upon the eighteenth of October last, to the great contempt of his Majesties Royal Authority, by abusing his Majesties Councillors and Officers of State, with others bearing charge and authority under his Majesty within the said City: His Majesty in a just resentment of that foul indignity, (wherein his Majesties Honour did so much suffer) hath been moved to delay the signification of his Majesties gracious intention, in giving to his Subjects such satisfactory answers to their Petitions as in equity might have been expected from so just and religious a Prince; But yet his Majesty being unwilling that his Loyal and faithful Subjects should be possessed with groundless and unnecessary doubts and fears, His Majesty is pleased out of his goodness to declare, like as by these presents he declareth, That as he abhorreth all Superstition of Popery, so he will be most careful that nothing be allowed within his Majesties Dominions, but that which shall tend to the advancement of the true Religion, as it is presently professed within his most ancient Kingdom of Scotland: And that nothing is or was intended to be done therein against the laudable Laws of this his Majesties native Kingdom. And ordaineth publication to be made hereof in form as aforesaid.

At this time We sent into Scotland the Earl of Roxburgh Lord Privy Seal, with certain instructions to Our Council for ordering these disordered affairs; according to which they appointed the Council to sit at Dalkeith, being not above four miles from Edinburgh, that so they might the more easily know what passed in that place, now become the seat of the Rebellion; and they removed the Session or Term from Lishgow to Sterling, a place of twenty four miles distance from Edinburgh, that so the huge disorderly Multitudes there assembled, might be dispersed, by the necessity of the attendance of such as had any Law-busines: At the same time the Earl of Traquair, Lord Treasurer of that Kingdom, whom We had sent for hither, was returned back with directions from Us: He, with Our Lord Privy Seal, and other principal Counsellours, repaired to Sterling, where by Our Commandment they caused a Proclamation to be made for the dispersing of the huge and dangerous Multitudes there assembled, and the assuring of Our Subjects of Our sincerity towards the Religion established in that our Kingdom. And there, first, the Nobility, Gentry, Ministers, and Burgessees did the same thing which they themselves called the Up-roar of Rascals at the first reading of the Service-Book in the Churches of Edinburgh, and which they condemned, but in milder terms, by the name of an unjustifiable act, in that great Sedition at Edinburgh on the eighteenth of October, 1637. For by them, first at Sterling, then at Lishgow, and last at Edinburgh, was made the first avowed affront to Us, our Authority and Laws: For at Sterling, our Proclamation being made, the Earl of Hume, and the Lord Lindsey, assisted with many others of all ranks, made a Protestation against the same; which Protestation was afterward repeated at Lishgow, and last at Edinburgh, where, when upon the Cross, our Proclamation was made by our Officers with sound of Trumpets, and assisted with our Heralds, with our Coats of Arms upon their backs, it was received, while it was in reading, with jeering and laughing, and after it was ended with a Protestation against it, made

by many Earls Lords, Ministers, and Burgessees, and the conflux of all other sorts of people, who were all of them so malapert as not to suffer our Heralds and Officers to come off the Cross, but forced them to stay and hear their Protestation against our Proclamation, as if both had been made by the same Authority. And if this now were not a higher act of Rebellion than either the first Tumult raised in the Churches, against which they so much declaimed; or the second Insurrection at Edinburgh, which they so much disclaimed, we leave it to the World to judge. The Copies both of our Proclamation and their Protestation We have here inserted, that themselves, as well as others, may see that We wrong not the truth.

CHARLES by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, &c. To our Lovets, &c.

Our Sheriffs in that part conjunctly and severally, specially constituted, greeting. For as much as We, out of Our Princely care of maintenance of the true Religion already professed, and for beating down of all Superstition, having ordained a Book of Common-Prayer to be compiled for the general use and edification of Our Subjects within Our ancient Kingdom of Scotland, the same was accordingly done. In the performing whereof, We took great care and pains; So as nothing past therein but what was seen and approved by Us, before the same was either divulged or Printed, assuring all our loving Subjects, that not only Our intention is, but even the very Book will be a ready means to maintain the true Religion already professed, and beat out all Superstition; Of which We in Our own time do not doubt but in a fair course to satisfy Our good Subjects. But having seen and considered some Petitions and Declarations given in to Our Council against the said Book and late Canons of the Church, We find Our Royal Authority much injured thereby, both in the matter and in the carriage thereof; whereby we conceive these of Our Nobility, Gentry, Burroughs, Ministers and others, who kept and assisted these Meetings and Convocations for contriving and forming the said Petitions, or who have subscribed the same, to deserve and be liable to Our high censure, both in their persons and fortunes, as having convened themselves without either Our consent or authority; Yet because We believe that what they have done herein is out of a preposterous zeal, and not out of any disloyalty or disaffection to Sovereignty, We are graciously pleased in so far as concerns these Meetings for consulting or subscribing of these Petitions, or presenting the same to any Judge or Judges in Our said Kingdom, to dispense therewith, and with what may be their fault or error therein, to all such as upon signification or declaration of Our pleasure shall retire themselves as becometh good and dutiful Subjects: To which purpose Our will is, and We charge you straightly, and command, that incontinent these Letters seen, you pass, and in Our name and authority make intimation hereof, to all Our Lieges and Subjects, by open Proclamation at all places needful, wherethrough none pretend ignorance thereof; And therewith also, That you in Our name and authority discharge all such Convocations and Meeting in time coming, under the pain of Treason: And also that you command, and charge, and inhibit all Our Lieges and Subjects, that none of them presume nor take in hand to resort nor repair to Our Burgh of Sterling, nor to no other Burgh, where Our Council and Session sit, till first they declare their cause of coming to Our Council, and procure their Warrant to that effect.

And

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And further, that you command and charge all and sundry Provosts, Bailiffs, and Magistrates within Burgh, That they and every one of them have a special care and regard to see this Our Royal will and pleasure really and dutifully obeyed in all points; And that no violation thereof be suffered within their bounds, under all highest pain, crime, and offence that they may commit against Us in that behalf: As also that you command and charge all and sundry Noble-men, Barons, Ministers and Burroughs, who are not actual In-dwellers within this Our Burgh, and are not of the number of the Lords of our Privy Council and Session, and members thereof, and are already within this Our Burgh, that they, and every one of them, remove themselves, and depart and pass forth of our said Burgh, and return not again, without the Warrant aforesaid, within six hours after the publication hereof, under the said pain of Treason. And as concerning any Petitions that hereafter shall be given unto Us, upon this or any other Subject, We are likewise pleased to declare, that We will not shut Our ears therefrom; so that neither the matter nor form be prejudicial to our Regal Authority. The which to do We commit to you, conjunctly and severally, our full power by these our Letters, delivering the same by you duly execute and indorsed again to the bearer. Given under our Signet at Sterling the nineteenth day of February: And of our Reign the thirteenth year, 1638.

Per auctum Secreti Concilii.

Here followeth their Protestation.

For God and the King.

WE Noble-men, Barons, Ministers, Burroughs, appointed to attend his Majesties Answer to our humble Petition and complaint, and to prefer new Grievances, and to do what else may lawfully conduce to our humble desires; That whereupon the 23 of September last, we presented a Supplication to your Lordships, and another upon the 18 of October last, and also a new Bill relative to the former upon the 19 of December last, and did therein humbly remonstrate our just exceptions against the Service-Book, and Book of Canons; and also against the Archbishops and Bishops of this Kingdom, as the Contrivers, Maintainers, and wagers thereof, and against their sitting as our Judges until the cause be decided; earnestly supplicating withal to be freed and delivered from these and all other innovations of that kind, introduced against the laudable Laws of this Kingdom; as that of the High Commission, and other evils particularly mentioned, and generally contained in our aforesaid Supplications and Complaints, and that this our party delinquent against our Religion and Laws may be taken order with, and these pressing grievances may be taken order with and redressed according to the Laws of this Kingdom, as by our said Supplications and Complaints more largely doth appear: With the which on the 19 of December last, we gave in a Declinator against the Archbishops and Bishops as our Parties, who by consequence could not be our Judges; whereupon your Lordships declared by your Act at Dalkeith the said 19 of December, that you would present our Petitions to his Majesties Royal consideration, and that without prejudice of the Declinator given in by us the said Supplicants; whereupon we should be heard at place and time convenient. And in the mean time should receive no prejudice, as the said Act in it self beareth. And whereas we your Lordships Supplicants with a great deal of patience, and hope also, grounded

on sundry promises, were expecting an answer to these our humble desires, and having learned that upon some directions of his Majesties anent our Supplications and Complaint unto your Lordships of the Secret Council, your Lordships admits to the consulting and judging anent our Supplications, and His Majesties Answer thereunto, the Archbishops and Bishops our direct Parties, contrary to our Declinator first propounded at Dalkeith, and now renewed at Sterling; and contrary to your Lordships Act aforesaid at Dalkeith, and contrary to our Religion, and Laws, and humble Supplications. Therefore, lest our silence be prejudicial to this so important a cause, as concerns God's Glory and Worship, our Religion, Salvation, the Laws and Liberties of this Kingdom, or derogatory to the former Supplications and Complaints, or unanswerable to the trust of our Commission; out of our bound Duty to our God, our King and native Country, we are forced to take instruments in Notaries hands, of your Lordships refusal to admit our Declinator, or remove these our Parties, and to protest in manner following: First, That we may have our immediate recourse to our Sacred Sovereign, to present our grievances, and in a legal way to prosecute the same before the ordinary competent Judges, Civil or Ecclesiastical, without any offence offered by us, or taken by your Lordships. Secondly, We protest that the said Archbishops and Bishops, our Parties complained upon, cannot be reputed or esteemed lawful Judges to sit in any Judicatory in this Kingdom, Civil or Ecclesiastical, upon any of the Supplicants, until after lawful trial judicially they purge themselves of such crimes as we have already laid to their charge, offering to prove the same whensoever his sacred Majesty shall please to give us audience. Thirdly, We protest that no Act nor Proclamation to follow thereupon, past, or to be past in Council or out of Council, in presence of the Archbishops and Bishops, whom we have already declined to be our Judges, shall anywaies be prejudicial to us the Supplicants, our persons, estates, lawful meetings, proceedings, or pursuits. Fourthly, We protest that neither we nor any whose heart the Lord moveth to join with us in these our Supplications, against the aforesaid Innovations, shall incur any danger in Life, Lands, or any Political or Ecclesiastical pains, for not observing such Acts, Books, Canons, Rites, Judicatories, Proclamations, introduced without or against the Acts of General Assemblies, or Acts of Parliament, the Statutes of this Kingdom; But that it shall be lawful to us or them to use our selves in matters of Religion of the external Worship of God and Policy of the Church, according to the Word of God, and laudable Constitutions of this Church and Kingdom, conform to His Majesties Declaration the ninth of December last. Fifthly, seeing by the legal and submissive way of our former Supplications, all who takes these Innovations to heart, have been kept calm and carried themselves in a quiet manner, in hope of redress; We protest that if any inconvenience shall happen to fall out (which we pray the Lord to prevent) upon the pressing of any of the foresaid Innovations or evils, especially or generally contained in our former Supplications and Complaints, and upon your Lordships refusal to take order thereanent, the same be not imputed to us, who most humbly seeks all things to be reformed by an Order. Sixthly, we protest that these our requests, proceeding from Conscience and a due respect to his Majesties Honour, do tend to no other end, but to the preservation of the true reformed Religion, the Laws and Liberties of this His Majesties most ancient Kingdom, and satisfaction of our most humble desires contained in our Supplication and Complaint, according to his Majesties accustomed Goodness and Justice, from which we do certainly expect that His Sacred Majesty will provide and grant such remedy to our

Car. 13.

† It is not so: for the Council never promised that the Bishops should be removed from the Table, but only that they would make us acquainted with their Petition.

just Petitions and Complaints, as may be expected from so gracious a King toward most loyal and dutiful Subjects, calling for redress of so pressing grievances, and praying to God that his Majesty may long and prosperously Reign over us.

Against which Protestation We shall now say nothing, because it is contained and repeated in another larger Protestation of theirs, which shall be inserted hereafter, and there it shall receive a full answer: Only We desire the Reader to observe these two things in it; *First*, the iniquity and injustice of their demanding some of our Bishops to be removed from our Council; nay, and (which we think never was heard before) their protesting against all Acts to be done and passed in our Council at which any of them shall be present, alledging that this their Protestation against them, and Declinator of them, maketh them to be Parties, and so they cannot be Judges; and withal they require them first to be removed, and then promise they will make proof of such crimes against them as shall declare the justice of their removal; which is all one as to intreat them first to condemn a man, and then to try him: And if a Protestation against their sitting in Council, and a Declinator of our Councils authority (neither of them admitted by our Council) shall make some Councillors to be Parties, and invalidate all Acts of Council so long as these Councillors, whom they have fancied to be Parties, sit there; how their last pretended general Assembly, against which there were so many Protestations made both by the Bishops and others, and which by all these Protesters was declined as Judge, because the members of it had all made themselves Parties, can be counted a lawful general Assembly, or the members of it lawful Judges, We leave it to themselves to reconcile: And if they should say, that these Protestations and Declinators against the Assembly were repelled by the Assembly, who was the sole Judge of them, let them remember, that their Protestation against the Bishops, and their Declinator against our Councils authority, if they should not eject them, were both of them likewise repelled and rejected by Our Council, who was the only true Judge of them, their last pretended Assembly being no true but only a pretended Judge of the others, after the Assembly was dissolved by our Authority. *And Secondly*, We shall desire the Reader to observe, that their demands in this Protestation are very far short of those which are made by them in their succeeding Protestations, which swell with far more bold and insolent demands than this doth, although this be bold and insolent enough:

But it is an usual course with the Heads of all Rebellions, to draw in that Party, by whose power they intend to make good their wicked plots, with small things at the first, concealing from them the depth of their intentions, until they have engaged them so far, as they can make them believe that there is no safety in retreating, when their crimes are past hope of Pardon.

And now after this their first Protestation, began the most unnatural, causeless, and horrible Rebellion that this or perhaps any other Age in the World hath been acquainted with: For now these Protesters begin to invest themselves with the supreme Ensigns and Marks of Majesty and Sovereignty, by erecting publick Tables of advice and Council, for ordering the Affairs of the Kingdom, without our authority, and in contempt of us and our Council established by us there, and by entering into a Covenant and most wicked Band & combination against all that shall oppose them, not excepting our own Person, directly against the Law of God, the Law of Nations, and the municipal Laws of that our Kingdom: So that after this their Protestation, they perfected that which they had before begun confusedly, and as it were in a ruder draught: For then, contrary to our express commandment and authority expressed in our last Proclamations, and repeated unto them by our Council, they did erect a great number of Tables (as they called them) in *Edenburgh*: Four principal, One of the Nobility, another of the Gentry, a third of the Burroughs, a fourth of Ministers; and the Gentry had many subordinate Tables, according to their several Shires: These several Tables did consult of what they thought fit to be propounded at the general Table, which consisteth of several Commissioners chosen from the other four Tables; and what they of the general Table resolved on, was to be put in practice with a blind and Jesuitical obedience: A rare and unheard form of Government in a Kingdom whose Government ever was Monarchical, and which they themselves still say continueth to be so: Sure these Meetings by wise men have been accounted rather Stables of unruly Horses, broken loose and pulling down all they can reach, than Tables for the consultations of wise and rational men. Now the first dung which from these Stables was thrown upon the face of Authority and Government, was that lewd Covenant, and Seditious Band annexed unto it, which We here subjoin, because We are confident that by the very recital and perusal of it, every religious and wise man may run and read that sentence of condemnation which it carrieth in its own front.

Anno
1638.

THE
Confession of Faith
OF THE
KIRK of SCOTLAND,
SUBSCRIBED

By the King's Majesty and his Household in the year of God, 1580. With a Designation of such Acts of Parliament as are expedient for justifying the Union after mentioned; And Subscribed by the Nobles, Barons, Gentlemen, Burgeses, Ministers, and Commons, in the year of God, 1638.

So Joshua made a Covenant with the people the same day, and gave them an Ordinance and Law in Sichem, Josh. xxiv. 25.

And Jehoiada made a Covenant between the Lord and the King, and the People, that they should be the Lord's People; likewise between the King and the People, 2 King. xi. 17.

One shall say, I am the Lord: another shall be called by the name of Jacob: and another shall subscribe with his hand unto the Lord, &c. Isa. xlv. 5.

The King's Majesties Charge, to all Commissioners and Ministers within this Realm, in the year of God, 1580.

Seeing that We and Our Household have Subscribed and given this publick Confession of Our Faith, to the good example of Our Subjects, We command and charge all Commissioners and Ministers, to crave the same Confession of their Parochianars, and proceed against the refusers, according to Our Laws and Order of the Kirk, delivering their names and lawful process to the Ministers of Our House, with all haste and diligence, under the pain of forty pounds to be taken from their stipend, that We, with the advice of Our Council, may take order with such proud contemners of God and Our Laws.

Subscribed with Our Hand, at *Haly-rud-house*, 1580. the 2 day of March, the 14 year of our Reign.

The Confession of Faith, subscribed at first by the King's Majesty and his Household, in the year of God, 1580. Thereafter, by Persons of all Ranks, in the year 1581. by Ordinance of the Lords of the Secret Council, and Acts of the General Assembly. Subscribed again by all sorts of Persons in the year 1590. by a new Ordinance of Council, at the desire of the General Assembly: With a general Band for maintenance of the true Religion and the King's Person. And now subscribed in the year 1638. by us, Noble-men, Barons, Gentlemen, Burgeses, Ministers, and Commons under subscribing: Together with our resolution and promises, for the causes after specified; To maintain the said true Religion, and the King's Majesty, according to the Confession aforesaid, and Acts of Parliament. The Tenor wherof here followeth:

WE All, and every one of us underwritten, Protest, That after long and due examination of our own Consciences, in matters of true and false Religion, are now thoroughly resolved of the Truth, by the Word and Spirit of God, and therefore we believe with our hearts, confess with our mouths, subscribe with our hands, and constantly affirm before God and the whole World;

that this only is the true Christian Faith and Religion, pleasing God, and bringing Salvation to man, which now is by the mercy of God revealed to the World, by the Preaching of the blessed Evangel.

And received, believed, and defended, by many and sundry notable Kirks and Realms, but chiefly by the Kirk of Scotland, the King's Majesty, and three Estates of this Realm, as God's Eternal Truth, and
only

only ground of our Salvation: as more particularly is expressed in the Confession of our Faith, established, and publickly confirmed by sundry Acts of Parliament, and now of a long time hath been openly professed by the King's Majesty, and whole Body of this Realm, both in Burgh and Land. To the which Confession and form of Religion, we willingly agree in our Consciences in all points, as unto God's undoubted Truth and Verity, grounded only upon his written Word. And therefore, We abhor and detest all contrary Religion, and Doctrine: But chiefly, all kind of Papistry, in general and particular heads, even as they are now damned and confuted by the Word of God, and Kirk of Scotland: but in special we detest and refuse the usurped authority of that Roman Antichrist, upon the Scriptures of God, upon the Kirk, the Civil Magistrate, and Consciences of men. All his tyrannous Laws made upon indifferent things against our Christian Liberty. His erroneous Doctrine, against the sufficiency of the written Word, the perfection of the Law, the office of Christ and his blessed Evangel. His corrupted Doctrine concerning original sin, our natural inability and Rebellion to God's Law, our justification by Faith only, our imperfect sanctification and obedience to the Law, the nature, number, and use of the holy Sacraments. His five bastard Sacraments, with all his Rites, Ceremonies, and false Doctrine, added to the Ministration of the true Sacraments without the Word of God. His cruel judgment against Infants, departing without the Sacrament: his absolute necessity of Baptism: his blasphemous opinion of Transubstantiation, or real presence of Christ's Body in the Elements, and receiving of the same by the wicked, or bodies of men. His dispensations with solemn Oaths, Perjuries, and degrees of Marriage forbidden in the Word: his cruelty against the innocent divorced: his devilish Mass: his blasphemous Priesthood: his profane Sacrifice for the sins of the dead and the quick: his Canonization of men, calling upon Angels or Saints departed, worshipping of Imagery, Relicks, and Crosses, dedicating of Kirks, Altars, Daies, Vows to creatures; his Purgatory, prayers for the dead, praying or speaking in a strange Language, with his Processions and blasphemous Letany, and multitude of Advocates or Mediators: his manifold Orders, Auricular Confession: his desperate and uncertain repentance; his general and doubtful faith; his satisfactions of men for their sins: his justification by works, opus operatum, works of supererogation, Merits, Pardons, Peregrinations, and Stations: his holy Water, baptising of Bells, conjuring of Spirits, crossing, anointing, conjuring, hallowing of God's good creatures, with the superstitious opinion joined therewith: his worldly Monarchy, and wicked Hierarchy: his three solemn vows, with all his shavelings of sundry sorts, his erroneous and bloody Decrees made at Trent, with all the subscribers and approvers of that cruel and bloody Band, conjured against the Kirk of God: and finally, we detest all his vain Allegories, Rites, Signs, and Traditions, brought in the Kirk, without or against the Word of God, and Doctrine of this true reformed Kirk; to the which we join our selves willingly, in Doctrine, Faith, Religion, Discipline, and use of the holy Sacraments, as lively members of the same, in Christ our Head: promising, and swearing by the Great Name of the Lord our God, that we shall continue in the obedience of the Doctrine and Discipline of this Kirk, and shall defend the same according to our vocation and power, all the daies of our lives, under the pains contained in the Law, and danger both of body and soul in the day of God's fearful Judgment: and seeing that many are stirred up by Satan and that Roman Antichrist to promise, swear, subscribe, and for a time use the Holy Sacraments in the Kirk deceitfully, against their own Consciences, minding thereby, first, under the external cloak of Religion, to corrupt and subvert secretly God's

true Religion within the Kirk, and afterward, when time may serve, to become open enemies and persecutors of the same, under vain hope of the Popes dispensation, devised against the Word of God, to his greater confusion, and their double condemnation in the day of the Lord Jesus.

We therefore, willing to take away all suspicion of hypocrisy, and of such double dealing with God and his Kirk, Protest, and call The searcher of all hearts for witness, that our minds and hearts do fully agree with this our Confession, Promise, Oath and Subscription; so that we are not moved for any worldly respect, but are persuaded only in our Consciences through the knowledge and love of God's true Religion, printed in our hearts by the holy Spirit, as we shall answer to Him in the day when the secrets of all hearts shall be disclosed. And because we perceive that the quietness and stability of our Religion and Kirk doth depend upon the safety and good behaviour of the King's Majesty, as upon a comfortable instrument of God's mercy granted to this Country for the maintaining of His Kirk, and ministration of Justice amongst us, we protest and promise with our hearts under the same Oath, Hand-writ, and pains, that we shall defend His Person and Authority, with our Goods, Bodies, and Lives, in the defence of Christ his Evangel, liberties of our Country, ministration of Justice, and punishment of iniquity, against all enemies within this Realm, or without, as we desire our God to be a strong and merciful Defender to us in the day of our death, and coming of our Lord Jesus Christ: To whom, with the Father, and the Holy Spirit, be all honour and glory eternally.

Like as many Acts of Parliament not only in general do abrogate, annul, and rescind all Laws, Statutes, Acts, Constitutions, Canons Civil or Municipal, with all other Ordinances and practick penalties whatsoever, made in prejudice of the true Religion and Professours thereof: Or, of the true Kirk Discipline, Jurisdiction and freedom thereof: Or, in favours of Idolatry and Superstition: Or, of the Papistical Kirk: As, Act. 3. Act. 31. Parl. 1. Act. 23. Parl. 11. Act. 114. Parl. 12. of King James the sixth, That Papistry and Superstition may be utterly suppressed, according to the intention of the Acts of Parliament reported in Act. 5. Parl. 20. K. James 6: And to that end they ordain all Papists and Priests to be punished by manifold Civil and Ecclesiastical pains, as Adversaries to God's true Religion, Preached and by Law established within this Realm, Act. 24. Parl. 11. K. James 6. as common enemies to all Christian Government, Act. 18. Parl. 16. K. James 6. as Rebels and Gainstanders of our Sovereign Lords authority, Act. 47. Parl. 3. K. James 6. and as Idolaters, Act. 104. Parl. 7. K. James 6. but also in particular (by and attour the Confession of Faith) do abolish and condemn the Popes Authority and Jurisdiction out of this Land, and ordains the maintainers thereof to be punished, Act. 2. Parl. 1. Act. 51. Parl. 3. Act. 106. Parl. 7. Act. 114. Parl. 12. K. James 6. do condemn the Pope's erroneous Doctrine, or any other erroneous Doctrine repugnant to any of the Articles of the true and Christian Religion publicly Preached, and by Law established in this Realm: And ordains the spreaders and makers of Books or Libels, or Letters, or Writs of that nature to be punished, Act. 46. Parl. 3. Act. 106. Parl. 7. Act. 24. Parl. 11. K. James 6. do condemn all Baptism conform to the Pope's Kirk and the Idolatry of the Mass, and ordains all sayers, wilful hearers, and concealers of the Mass, the maintainers and referrers of the Priests, Jesuites, trafficking Papists, to be punished without any exception or restriction, Act. 5. Parl. 1. Act. 120. Parl. 12. Act. 164. Parl. 13. Act. 193. Parl. 14. Act.

Act. 1. Parl. 19. Act. 5. Parl. 20. K. James 6. Anno 1638. do condemn all erroneous Books and Writs containing erroneous Doctrine against the Religion presently professed, or containing superstitious Rites and Ceremonies Papistical, whereby the people are greatly abused, and ordains the home-bringers of them to be punished, Act. 23. Parl. 11. K. James 6. do condemn the monuments and dregs of by-gone Idolatry, as, going to Crosses, observing the Festival daies of Saints, and such other superstitions and Papistical Rites, to the dishonour of God, contempt of true Religion, and fostering of great error among the people, and ordains the users of them to be punished for the second fault as Idolaters, Act. 104. Parl. 7. King James 6.

Like as many Acts of Parliament are conceived for maintenance of God's true and Christian Religion, and the purity thereof in Doctrine and Sacraments of the true Church of God, the liberty and freedom there, of, in her National, Synodal Assemblies, Presbyteries, Sessions, Policy, Discipline and Jurisdiction thereof, as that purity of Religion and liberty of the Church was used, professed, exercised, Preached, and confessed according to the Reformation of Religion in this Realm. As for instance, Act. 99. Parl. 7. Act. 23. Parl. 11. Act. 114. Parl. 12. Act. 160. Parl. 13. K. James 6. ratified by Act. 4. K. Charles. So that Act. 6. Parl. 1. and Act. 68. Parl. 6. of K. James 6. in the year of God 1579. declares the Ministers of the blessed Evangel, whom God of his mercy had raised up, or hereafter should raise, agreeing with them that then lived in Doctrine and Administration of the Sacraments, and the people that professed Christ, as he was then offered in the Evangel, and doth communicate with the holy Sacraments (as in the reformed Kirkes of this Realm they were presently administrate) according to the Confession of Faith, to be the true and holy Kirk of Christ Jesus within this Realm, and decerns and declares all and sundry, who either Gain-saies the Word of the Evangel, received and approved as the Heads of the Confession of Faith, professed in Parliament, in the year of God, 1560. specified also in the first Parliament of King James 6. and ratified in this present Parliament, more particularly do specify; or that refuses the Administration of the holy Sacraments, as they were then ministrated, to be no members of the said Kirk within this Realm, and true Religion presently professed, so long as they keep themselves so divided from the Society of Christ's body: And the subsequent Act. 69. Parl. 6. K. James 6. declares, That there is no other face of Kirk, nor other face of Religion, than was presently at that time, by the favour of God, established within this Realm, which therefore is ever stiled God's true Religion, Christ's true Religion, the true and Christian Religion, and a perfect Religion. Which, by manifold Acts of Parliament, all within this Realm, are bound to profess to subscribe the Articles thereof, the Confession of Faith, to recant all Doctrine and errors repugnant to any of the said Articles, Act. 4. and 9. Parl. 1. Act. 45, 46, 47. Parl. 3. Act. 71. Parl. 6. Act. 106. Parl. 7. Act. 24. Parl. 11. Act. 123. Parl. 12. Act. 194. and 197. Parl. 14. of K. James 6. And all Magistrates, Sheriffs, &c. on the one part, are ordained to search, apprehend, and punish all contraveners: for instance, Act. 5. Parl. 1. Act. 104. Parl. 7. Act. 25. Parl. 11. King James 6. And that, notwithstanding of the King's Majesties Licences on the contrary, which are discharged and declared to be of no force, in so far as they tend in any waies to the prejudice and hinder of the execution of the Acts of Parliament against Papists, and Adversaries of true Religion, Act. 106. Parl. 7. King James 6. on the other part, in the 47. Act. Parl.

3. King James 6. it is declared and ordained, seeing the cause of God's true Religion and his Majesty's Authority are so joyned, as the hurt of the one is common to both; and that none shall be reputed as Loyal and Faithful Subjects to our Sovereign Lord, or his Authority, but be punishable as Rebels and Gain-standers of the same, who shall not give their Confession, and make their profession of the said true Religion; and that they who after defection shall give the Confession of their Faith of new, they shall promise to continue therein in time coming, to maintain our Sovereign Lord's Authority, and at the uttermost of their power to fortifie, assist, and maintain the true Preachers and Professours of Christ's Religion, against whatsoever Enemies and Gain-standers of the same: and Namely, against all such of whatsoever Nation, Estate, or Degree they be of, that have joined and bound themselves, or have assisted or assisted, to set forward and execute the cruel Decrees of Trent, contrary to the Preachers and true Professours of the Word of God, which is repeated word by word in the Articles of Pacification at Pearth the twenty third of February 1572. approved by Parliament the last of April 1573. ratified in Parliament 1578. And related, Act. 123. Parl. 12. of King James 6. with this addition, That they are bound to resist all Treasonable Uproars and Hostilities raised against the true Religion, the King's Majesty, and the true Professours.

Like as all Lieges are bound to maintain the King's Majesties Royal Person and Authority, the Authority of Parliaments, without the which neither any Laws or lawful Judicatories can be established, Act. 130. Act. 131. Parl. 8. King James 6. and the Subjects Liberties, who ought only to live and be Governed by the Kings Laws, the Common Laws of this Realm allannerly, Act. 48. Parl. 3. K. James 1. Act. 79. Parl. 6. King James 4. repeated in Act. 131. Parl. 8. King James 6. Which if they be innovated or prejudged, the Commission against the union of the two Kingdoms of Scotland and England, which is the sole Act of the 17. Parl. of King James 6. declares, such confusion would ensue, as this Realm could be no more a free Monarchy, because by the fundamental Laws, ancient Privileges, Offices and Liberties of this Kingdom, not only the Princely Authority of his Majesties Royal descent hath been these many Ages maintained, but also the Peoples security of their Lands, Livings, Rights, Offices, Liberties and Dignities preserved; and therefore for the Preservation of the said true Religion, Laws, and Liberties of this Kingdom, it is Statute by Act. 8. Parl. 1. repeated in Act. 99. Parl. 7. ratified in Act. 23. Parl. 11. and 114. Act. of King James 6. and 4. Act. of King Charles, That all King's and Princes at their Coronation and reception of their Princely Authority, shall make their faithful promise by their solemn Oath in the presence of the Eternal God, that enduring the whole time of their Lives, they shall serve the same Eternal God, to the uttermost of their power, according as he hath required in his most Holy Word, contained in the Old and New Testaments. And according to the same Word, shall maintain the true Religion of Christ Jesus, the Preaching of his holy Word, the due and right ministrations of the Sacraments, now received and Preached within this Realm (according to the Confession of Faith immediately preceding) and shall abolish and Gain-stand all false Religion, contrary to the same, and shall rule the people committed to their charge, according to the will and command of God revealed in his foresaid Word, and according to the lawable Laws and

Anno 1638. and considerations received in this Realm, no ways repugnant to the said will of the eternal God, and shall procure, to the uttermost of their power, to the Kirk of God, and whole Christian people, true and perfect peace in all time coming; and that they shall be careful to root out of their Empire all Hereticks, and enemies to the true worship of God, who shall be convicted by the true Kirk of God of the foresaid Crimes; which was also observed by his Majesty at his Coronation in Edinburgh 1633. as may be seen in the order of the Coronation.

In obedience to the commandment of God, conform to the practice of the godly in former times, and according to the laudable example of our worthy and religious Progenitors, and of many yet living amongst us, which was warranted also by Act of Council, commanding a general Band to be made and subscribed by his Majesties Subjects of all ranks, for two causes: One was, for defending the true Religion, as it was then reformed, and is expressed in the Confession of Faith above written, and a former large Confession established by sundry Acts of lawful General Assemblies, and of Parliament, unto which it hath relation, set down in publick Catechisms, and which had been for many years with a blessing from Heaven, preached, and professed in this Kirk and Kingdom, as God's undoubted truth, grounded only upon his written Word: The other cause was, for maintaining the Kings Majesty, his Person and Estate; the true Worship of God, and the King's Authority being so straightly joyned, as that they had the same Friends and common Enemies, and did stand and fall together. And finally, being convinced in our minds, and confessing with our mouths, that the present and succeeding Generations in this Land, are bound to keep the foresaid national Oath and subscription inviolable, We Noblemen, Barons, Gentlemen, Burgeses, Ministers, and Commons under subscribing, considering divers times before, and especially at this time, the danger of the true Reformed Religion, of the King's honour, and of the publick Peace of the Kingdom, by the manifold innovations and evils generally contained and particularly mentioned in our late supplications, complaints, and protestations, do hereby profess, and before God, his Angels, and the World solemnly declare, That, with our whole hearts we agree and resolve all the daies of our life constantly to adhere unto, and to defend the foresaid true Religion, and forbearing the practice of all novations, already introduced in the matters of the worship of God, or approbation of the corruptions of the publick Government of the Kirk, or civil places and power of Kirk-men, till they be tried and allowed in free Assemblies, and in Parliaments, to labour by all means lawful to recover the purity and liberty of the Gospel, as it was established and professed before the foresaid novations, And because, after due examination, we plainly perceive, and undoubtedly believe, that the innovations and evils contained in our Supplications, Complaints, and Protestations have no warrant of the Word of God, are contrary to the Articles of the foresaid Confessions, to the intention and meaning of the blessed Reformers of Religion in this Land, to the above written Acts of Parliament, and do sensibly tend to the re-establishing of the Popish Religion and Tyranny, and to the subversion and ruin of the true Reformed Religion, and of our Liberties, Laws, and Estates. We also declare, that the foresaid Confessions are to be interpreted, and ought to be understood of the foresaid novations and evils, no less than if every one of them had been expressed in the foresaid Confessions; and that we are obliged to detest and abhor them, amongst other particular heads of Papistry abjured therein. And therefore from the knowledge and conscience of our duty to God, to our King and Countrey, without any worldly respect or inducement, so far as humane infirmity will suffer, wis-

ing a further measure of the Grace of God for this effect, We promise and swear by the Great Name of the Lord our God, to continue in the Profession and Obedience of the foresaid Religion: That we shall defend the same, and resist all these contrary errors and corruptions, according to our vocation, and to the uttermost of that power that God hath put in our hands, all the days of our life: And in like manner, with the same heart, we declare before God and Men, That we have no intention nor desire to attempt any thing that may turn to the dishonour of God, or to the diminution of the Kings Greatness and Authority: But on the contrary, we promise and swear, that we shall, to the uttermost of our power, with our means and lives, stand to the defence of our dread Sovereign, the King's Majesty, his Person and Authority, in the defence and preservation of the foresaid true Religion, Liberties, and Laws of the Kingdom; As also to the mutual defence and assistance, every one of us of another in the same cause of maintaining the true Religion, and his Majesties Authority, with our best counsel, our bodies, means, and whole power, against all sorts of persons whatsoever. So that, whatsoever shall be done to the least of us for that cause, shall be taken as done to us all in general, and to every one of us in particular. And that we shall neither directly nor indirectly suffer our selves to be divided or withdrawn by whatsoever suggestion, combination, allurement, or terror, from this blessed and loyal Conjunction, nor shall cast in any let or impediment, that may stay or hinder any such resolution, as by common consent shall be found to conduce for so good ends. But on the contrary, shall by all lawful means labour to further and promote the same: And if any such dangerous and divisive motion be made to us by Word or Writ, we, and every one of us, shall either suppress it, or, if need be, shall incontinent make the same known, that it may be timely obviated; neither do we fear the foul aspersions of Rebellion, Combination, or what else our adversaries from their craft and malice would put upon us, seeing what we do is so well warranted, and ariseth from an unfeigned desire to maintain the true worship of God, the Majesty of our King, and the peace of the Kingdom, for the common happiness of our selves, and the posterity. And because we cannot look for a blessing from God upon our proceedings, except with our Profession and Subscription we joyn such a life and conversation, as becometh Christians, who have renewed their Covenant with God; We therefore faithfully promise, for our selves, our followers, and all others under us, both in publick, in our particular families and personal carriage, to endeavour to keep our selves within the bounds of Christian liberty, and to be good examples to others of all Godliness, Soberness, and Righteousness, and of every duty we owe to God and Man. And that this our Union and Conjunction may be observed without violation, We call the living God, the Searcher of our Hearts, to witness, who knoweth this to be our sincere Desire, and unfeigned Resolution, as we shall answer to JESUS CHRIST in the great day, and under the pain of God's everlasting wrath, and of infamy, and of loss of all honour and respect in this world: Most humbly beseeching the LORD, to strengthen us by his Holy Spirit for this end, and to bless our desires and proceedings with a happy success, that Religion and Righteousness may flourish in the Land, to the glory of God, the honour of our King, and peace and comfort of us all. In witness whereof we have subscribed with our hands all the premises, &c.

Anno
1638.

His Majesties Answer to the foregoing Covenant.

TO dispute against this Covenant Scholastically, or otherwise than by vindicating Our Royal Authority, and the Monarchical Government of that Our ancient Kingdom, is far beneath Us; and therefore We would only know, how they can possibly answer these four Questions to the World.

First, By what Authority they entered into this Covenant, and how they durst presume to exact an Oath from any of Our Subjects to it, or any thing else; it being an irrefragable proposition, That no publick Oath can be administred but by a Magistrate, or by one sufficiently deputed by Authority to administer it: For it is a Badge annexed to Magistracy and Authority, to have power of giving and taking an Oath; and therefore they cannot satisfie the world by what Authority or deputation from Authority they did give this Oath to, and receive it from Our Subjects. They do answer, That though they have no Law for it, yet they have President; For this Confession of Faith (say they in the Title of their Covenant) was subscribed by Our Father of happy memory, and his household, in the year 1580. thereafter by persons of all ranks in the year 1581. and that by the Ordinance of the Lords of the Secret Council, and Acts of the General Assembly: Subscribed again, by all sorts of persons in the year 1590. by a new Ordinance of Council at the desire of the General Assembly, with a general band for maintenance of true Religion and the King's person. Now, was this their Confession of Faith, and Covenant annexed, commanded to be sworn and subscribed by Us, by any order from Our Council, or by any Act of General Assembly? But they will say, that it being once commanded, that Commandment is still in force and vigour. That is indeed a good ground or president for Us and Our Council, to command this same Oath to be renewed when We shall see cause; but the repetition of it must still be by the same Authority by which it was at the first enjoined: Now the first injunction of this Subscription was made by Our Royal Father, in the year 1580. the first renewing of it in 1581. was (as they say themselves) by an Ordinance of the Lords of the Secret Council; the second renewing of it 1590. was by a new Ordinance of Council at the desire of the General Assembly. By which it is plain, that the Judgment of the General Assembly, (which in those days was at the highest, and was not wont to derogate from their own power) was, that this Oath could not be renewed, nor any Band, but by Authority from Our Royal Father and his Council. Again, have they not printed in the Frontispiece of this their Covenant Our Royal Father's charge to certain Commissioners, and all Ministers within that Realm, for requiring this Oath, with a command to return to the Ministers of his House, the Names and Processes of all such as should refuse to take the said Oath? Now, did any of all these precede their Covenant? Was Our Authority, or the Authority of Our Council so much as asked, much less obtained? Were there any Commissioners by Us, or Our Council appointed to receive this Oath in the several Shires? Nay, as shall appear afterward in due place, when We, with the advice of Our Council, by Proclamation did command the renewing of that Oath, and designed Commissioners throughout the several Shires of

the Kingdom for administering of it, did not those, who call themselves of the Table, refuse to swear it themselves, and command that none of the Kingdom should swear it by any Authority from Us? And is no this pulling down of Our Authority, and setting themselves in Our place? So that if the Reader look upon the Title and Inscription of their Covenant, he shall find (as We said) that it carrieth the overthrow of it in its own Front.

Secondly, Say they had power to command the new taking of this Oath, (as they had not,) yet what power can be pretended for their Interpretation of it? It being a received Maxim, That no less Authority can interpret a Law or Rescript, than that which made it, or those, whom they who made it, have constituted Judges to give Judgment and Sentence according to the true meaning of it. This Oath then being first framed and urged by our Royal Father, with the advice of his Council, can it be interpreted by any but by Us, and His and Our Successours? And have either We or Our Council given any such interpretation? Nay, can any man, though in Authority, indued with Religion or Reason, with any conscience or honesty, give not only so false, but so ridiculous and absurd an interpretation of that Confession of Faith; as those of the Table have given? For they have declared, *That this Confession is to be interpreted, and ought to be understood of all the pretended Novations, no less than if every one of them had been expressed in the said Confession.* Had they said that they themselves did prohibit these pretended Novations, as other Points of Popery in that Confession abjured, the words had then carried some sense, as intimating that they themselves did now think that they did tend to Popery: But that they should force any man to swear that the Framers of that Confession at the first did so, they being all dead, and so never were asked, nor can be asked the Question; or that they should make men living swear what was the mind of the dead, concerning the five Articles of *Pearth*, the Service-Book, the Book of Canons, the high Commission, things of which in their lives they never heard, nor perhaps did ever imagine the introduction of them, (they in that Confession abjuring only those Romish corruptions, which in their time had infested the Church,) is such a profane and foolish interpretation, that one would wonder how any one that either hath the knowledge, or maketh conscience of an Oath, can either himself take, or desire others to take an Oath so false and foolish as this: And therefore, with more Wit than Honesty, where they met with no scrupulous people, they suffered them to swallow down that wicked gloss which corrupteth the very Text of the Confession: But where multitudes, especially of the Ministers, (who at their admissions had sworn obedience to and practice of these points which they call Innovations,) quarrelled at this their interpretation, they assured them, that it would breed a great division if they should desire but the least alteration of the words in which their Covenant was conceived, but yet that they might very well swear all, with a reservation of not abjuring Episcopacy, the five Articles of *Pearth*, or any thing established by Acts of Parliament and General Assembly: With which Protestation and Reservation, and not otherwise, many, especially of the Ministers, did swear their Covenant, as they themselves do well know: which was such a notable piece of

of Jesuitical Equivocation on their parts, who exacted this Oath, and contrary to the very Letter and Grammatical sense of the Oath it self, especially in that part of it which containeth their interpretation of the Confession, as the like hath scarcely been heard.

Thirdly, Where was it ever heard that men, pretending for a ground of their Proceedings, the President of a former Confession and Band annexed, did dare to add any thing to the Text of that Confession and Band upon which they meant to build their Actions? But these men have taken upon them, not only without Authority to make an interpretation of that Confession, but flatly against Authority, to add to the very Text of the Band of Maintenance: For whereas the Band annexed to the former Confession was made in defence of Us, Our Authority and Person, with their Fortunes, Bodies and Lives, in defence of the Gospel of Christ, and Liberties of that our Kingdom, &c. they have added a mutual defence of one another: So that the Band, which was at the first made against those Subjects who went about to correspond with Forreigners for the subversion of our Religion and Kingdom, is now made against all Persons whatsoever, who shall oppose them in their Courses. That Band which was made in defence of Our Person and Authority, against all Treason at home and Invasion from abroad, is now principally made against Us, if We shall oppose their Courses; and next, against all such of Our Loyal Subjects as shall adhere to Us in defence of Our Person and Authority: For these words, against all Persons whatsoever, not excepting Us, shews their bad meaning too well. Now, whether Our Royal Father in the first Band, by defence of his Person and Authority, meant maintenance against Us his Successor, our Person and Authority (for they urge the intention of the first Confession and Band as a Warrant for this new one of theirs,) Or whether the words of the Emperour, or any Monarch, or any other Law-giver, in any of their Laws or Rescripts, can be taken in any tolerable construction against the Crown and Dignity of themselves and Successors; Or how these new Covenanters can with the same breath blow both hot and cold, with the same hand both strike and stroak Us, in one Sentence swearing to defend Our Person and Authority, and yet in the next swearing to defend one another against all Persons whatsoever, not excepting Us, if not principally intending Us, We leave it to the world to consider.

Fourthly, What show of defence can these men make, to save themselves from being punished with all rigour, as movers of Sedition, and disturbers of the Publick peace and quietness of the Kingdom, since the Act of the Tenth Parliament of James the Sixth, Act 12. and the 75th Act of the Ninth Parliament of Queen Mary, to which the Act last mentioned relateth, have declared all Leagues of Subjects amongst themselves, without the privity and approbation of the King, to be Seditious, and the Authors and Abettors of them to be punished as movers of Sedition?

The Tenth Parliament of James the Sixth, Act 12.

INASMUCH as there was an Act made in the Regnum of Mary, late Queen Dowager and Regent of this Realm, Our Sovereign Lords Grandmother, of worthy memory, concerning Leagues and Bands, as being thought against all Law and Obedience of Sub-

jects towards their Princes; The not observation of which Act since the making, hath given occasion of many troubles which have occurred since: Wherefore Our Sovereign Lord, with the advice of his Three Estates, convened in this present Parliament, ratifieth, approveth, and for His Successors perpetually confirmeth the said Act of Parliament, and ordaineth the same to have full effect and execution in all time to come: And also of new, with the advice of His said Three Estates, dischargeth and annulleth all Leagues and Bands made between his Lieges and Subjects at any time by-past preceeding the date hereof: And stateth and ordaineth, That in time to come no Leagues nor Bands be made amongst His Subjects, of any degree, upon whatsoever colour or pretence, without His Highness or his Successors privity and consent had and obtained thereunto, under the pain of being held and executed as movers of sedition and unquietness, to the breach and trouble of the Publick peace of the Realm, and so to be cited and pursued therefore with all rigour to the example of others.

The Ninth Parliament of Queen Mary, Act 75.

IT is Statuted and ordained by the Queens Majesty, and Three Estates in Parliament, That no manner of person or persons, of whatsoever quality, estate, condition, or degree, Lieges of this Realm, attempt to do or raise any Bands of men of War, on Horse or Foot, with Culverings, Pistols, Pikes, Spears, Jacks, Splents, Steel-bonnets, white Harnis, or other War-like Munition whatsoever, for daily, weekly, or monthly Wages in any time to come, without special Licence in Writing had and obtained of Our Sovereign Lady and her Successors, under the pain of death, to be executed upon the Raisors of the said Bands, as also upon them that do convene and rise in Bands.

Now Our consent to their Covenant was not only never granted, but never so much as once asked.

When they have satisfied these important Questions and Considerations, which are obvious to all men who are acquainted with Laws and Government, then let them bethink themselves how they will answer, not only to all Divines abroad who are not Jesuited, but even to their own Universities at home in that Our Kingdom, in the case of Conscience, how any Oath, much less such an unlawful Oath as this, can be administered to any Prince his Subjects, without his Consent or Authority. There are but two Universities in Scotland which confer all Degrees, S. Andrews and Aberdeen; both these, upon the first coming abroad of this their Covenant and Oath, did oppose it, and severally set forth, sent abroad and dispersed in writing, those excellent and unanswerable Reasons against it, which We have seen and have, but which the Covenanters did never answer. Besides, the Divines of Aberdeen set out in print their Queries to the three Ministers, sent thither from their Table to perswade their Covenant, which how poorly and pitifully they answered, and so again, how they answered the same mens Duplies, as miserably as their former Queries, We leave to the judgment of Scholars, to whom these three Ministers weakness in their Answers hath made them sufficiently ridiculous. There is likewise an University in Glasgow, which because it hath but one Colledge, and hath not of late conferred any Degree above that of Master of Arts, is called the Colledge of Glasgow. They

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1638. They of that Colledge were very backward to come into their Covenant, until they were extremely threatned; and when they came, they premitted such interpretations and limitations, as were destructive of the very foundation of it; some of the Regents never came in at all. In the Colledge of *Edinburgh*, where there are but four Regents, how two of them, for not subscribing their Covenant, were expelled from their places, is notoriously known. Now one would think, that in any Kingdom the Judgment of the learned Professors in Universities and Colledges, in a point of Conscience, should weigh down the groundless opinions of their Tables, consisting of Noblemen, Gentlemen, Ministers, and Tradesmen.

But leaving the many unanswerable Reasons which may be brought against this their Covenant, We shall desire the Reader to observe three things, which appeared at the very first coming out of it:

First, How in it they swelled far above all that ever was complained of, either in their Tumults or Petitions: In their Tumults they complained only of the Service-Book; in their Petition exhibited to Our Council and sent up to Us, they complained of the Service-Book and Book of Canons; more of their grievances then, We knew not: Now in this their Covenant, besides these two, they complain of, and do abjure, as they make their Adherents believe, the five Articles of *Pearth*, which were established by Acts, first of the general Assembly, and then of Parliament; Then they complain of the high Commission, which ever since the Year 1609. hath been quietly established and in practice amongst them; Then they complain of Prelates sitting in Civil Judicatories; a thing which we cannot chuse but wonder at, not only in regard of Our Self, whom by this means they would rob of the benefit of the Abilities of any of Our Subjects in Our Counsels and Affairs of State, as if Holy Orders did superinduce a disability for Civil Wisdom and Prudence; but especially in regard of themselves, because by this strange conceit they contradict, more than they are aware of, their own false and prodigious opinions: For what incongruity can they find in it, for a Bishop to sit at our Council Table, where many causes are heard, in which Religion is concerned; or in Our Session, where many Church-men have trials for their Maintenance? When they themselves hold it not only convenient, but necessary, and that even *Jure Divino*, that Noblemen, Gentlemen, Merchants, Taylors, Sadlers, Shoemakers, and others of most Mechanical Trades, shall sit and give Sentence in Parochial Sessions and in Presbyteries, in Causes Ecclesiastical, and those of the highest Nature, even the last and supreme Censures of the Church, Excommunication, and depriving of Ministers; nay, that they shall give Sentence in the general Assembly (a Judicatory which now they hold to be above Our Session, Council, or Parliament; for they maintain that the Acts of that Assembly may, in many cases, disannul and derogate from the Acts of the other three) where they do assume to themselves to determine all questions *de Fide*, *Cultu & Disciplina*, of Faith, Worship or Discipline, and in which of late they did assume to themselves power to determine, and, according to their weak and poor power, did determine Controversies concerning Predestination, universal Grace, irresistibility of Grace, concurrence of Free-will with Grace, total or final falling from Grace, and other such like intricate Points, as some men would

be loath to live so long until they could make them understand them.

Secondly, We desire the Reader to observe with what affections this their Covenant was received abroad, both by Protestants and Papists; at the very first publishing of it: By Papists it was received with infinite joy, as hoping that now the time was come in which both We and Our Successors might be brought to abhor and detest that Religion, whose professed Zealots had been the Authors of such an unsufferable Covenant, which could not consist with Monarchy; which appeared to Us most evidently by the Advertisements which then were sent up to Us from some of Our Council of that Kingdom, that the sudden and frequent arrival of Priests and Jesuits from *Downy* and other Seminaries beyond the Seas, was so great, in hope of their welcome to Us, because of this seditious Covenant, that unless some speedy order were taken for their present discouragement and sending back, the evil might quickly pass remedy; which moved Us, notwithstanding these present Broils, to take present order for such proceedings against them, as they were forced to retire. With Protestants abroad, it was received with most offensive scandal and infinite grief; which appeared unto Us by Advertisements from some of Our public Ministers abroad, who certified Us, that both the Ministers and others of their Consistory at *Charton*, and of other Reformed Churches in *France*, as also the Professors, Ministers, and Consistory of *Geneva*, and of other neighbouring Reformed Churches in those parts, were so scandalized with this prodigious Covenant, as that they were afraid of nothing more than this, that it would bring an indeble scandal upon the Reformed Churches, and alienate the minds of all the Princes of Christendom from ever entertaining a good thought of their Religion. Of what condition then and fearful consequence that Covenant is, which bringeth grief and offence to Our Friends, joy and triumph to Our Enemies, is evident to all eyes that are opened.

Thirdly, We desire the Reader to consider with what fury and madness this Covenant, after it was conceived, was obtruded to all sorts of People: With what threatnings, with what beating, tearing of the clothes, drawing of the blood, and exposing to thousands of injuries and reproaches, at *Edinburgh*, *S. Andrews*, *Glasgow*, *Lanark*, and many places more, of those Ministers, who out of religious conscience towards God, and loyal carriage towards Us, did either dissuade their Parishioners from entering into it, or could not by their intreaties or threatnings be perswaded to enter into it themselves. No doubt it cannot be a Covenant approved by God, the first bitter and accursed fruits whereof were the many drops of blood drawn from many of God's Ministers, which now no doubt do call for God's vengeance upon the whole Land.

Now, the fire of this seditious Covenant flaming throughout all the corners of the Kingdom, and that to such an unexpected height and violence, as it was past both the skill and power of Our Council to quench it, Our Council resolved to send up unto us Sir *John Hamilton* Our Justice Clerk, one of Our Privy Council, and one of the Lords of Our Session, that he might fully acquaint Us with the passages of this Rebellion, and the consequences of it. After Our hearing of him many times, and many consultations had with such of Our Council of *Scotland* as were then here present, and such of our Council here in *England* as We thought fit

Anno 1638. fit to communicate this business unto, We resolved to send unto that our Kingdom the Marquess of Hamilton with the full power of an High Commissioner, as in other Cases our Royal Father and we had many times done in important business concerning that Kingdom; and in the mean time, we dispatched home the said Sir John Hamilton to give notice thereof, but that they might carry themselves quietly until our Commissioner his coming, from whom they were to expect our pleasure, with all favour which might consist with Royal Authority, as also that they might before our Commissioners going from hence, have time to make us fully acquainted with the uttermost of their Grievances, that so accordingly our Commissioner might receive Instructions from us for giving unto them all just satisfaction.

And so we, having here taken into our serious consideration all their Petitions, which we might have justly rejected, because of the insolencie of their demeanour, and their tumultuous way of presenting them to our Council, yet resolved to take the mildest course we could for calming of these Commotions, and therefore we settled upon a way usually practised by our Royal Father in that Kingdom since his coming to the Crown of England, viz. to establish an High Commissioner, with full Power and Authority to conclude and determine all such things as should be found for the good, quietness, and peace of that Kingdom, with as full and ample power as other Commissioners had exercised in any time of our Royal Father, and especially at Parliaments. And considering that none, in the consultations which we held for this business, had ever shewed himself more forward and inclinable to advices and counsels of Peace, nor a more zealous Patriot towards his Native Country, than our right trusty and well-beloved Cousin and Councillor of both Kingdoms, James Marquess of Hamilton, &c. Gentleman of our Bed-chamber, and Master of our Horse; We made choice of him for our High Commissioner, to that purpose, being perswaded both of his Loyalty and Fidelity towards us, as also of the great acceptation of his Person with our Subjects there, in regard of his Birth and Place, but especially of his singular care of, and love to his Countrey, which they themselves did know he had so piously and affectionately expressed in all his Consultations and Counsels here with us: Him therefore we dispatched from hence with full Instructions, according to which he was to receive his Commission under our Great Seal of that Kingdom at his coming thither, which he received and presented to the Lords of our Council, frequently assembled at *Dalkeith*, the sixth of June following; the true tenour of which Commission here followeth.

The Commission of the Marquess of Hamilton.

CAROLUS Dei gratia Magna Britannia, Francie, & Hibernia, Rex, Fideique Defensor: Omnibus probis hominibus suis ad quas presentes literae pervenerint, Salutem. Sciatis nos considerantes magnos in hoc Regno nostro Scotia non ita pridem exortos tumultus, ad quas quidem componendas, multiplices regie nostrae voluntatis declarationes promulgavimus, quae tamen minorem spe nostra effectum hactenus sortita sunt: Et nunc statuentes, ex pio erga dictum antiquum regnum nostrum affectu, ut omnia gratiose

stabiliantur & instaurentur, quod (per absentiam nostram) non alia ratione commodius effici potest, quam *Car. 14.* fideli aliquo Delegato constituto, cui potestatem credere possumus tumultus ejusmodi consopendi, aliaque officia praestandi, quae in bonum & commodum dicti antiqui regni nostri eidem Delegato nostro imperare nobis videbitur: Cumque satis compertum habeamus obsequium, diligentiam, & fidem predilecti nostri consanguinei & consilarii Jacobi Marchionis Hamiltonij, Comitis Arrania & Cantabrigiae, Domini Aven & Innerdail, &c. eundemque ad imperata nostra exequenda sufficienter instructum esse: Idcirco fecisse & constituisse, renoreque praesentium facere & constituere praefatum predilectum nostrum consanguineum & consiliarium Jacobum Marchionem de Hamilton, &c. nostrum Commissionarium ad effectum subscriptum: Cum potestate dicto Jacobo Marchioni de Hamilton, &c. dictum regnum nostrum adeundi, ibidemque praefatos tumultus in dicto regno componendi, aliaque officia a nobis eidem committenda in dicti regni nostri bonum & commodum ibi praestandi: Eoque Concilium nostrum quibus locis & temporibus ei visum fuerit convocandi, ac rationem & ordinem in praemissis exequendis servandum declarandi & praescribendi: Et quaecunque alia ad commissionis hujus capita pro commissis ipsi fide exequenda, eandemque ad absolutum finem perducendam & prosequendam conferre possunt tam in Concilio quam extra Concilium nostro nomine efficiendi & praestandi: Idque similiter & adeo libere ac si Nos in sacrosancta nostra persona ibidem adessemus. Et hac praesentis nostrae commissionis durante nostro beneplacito duratura ad semper & donec eadem per nos expresse inhibeatur. In cujus rei testimonium praesentibus magnum sigillum nostrum apponi precepimus. Apud castrum nostrum de Windore vigesimo die Mensis Maij Anno Domini millesimo sexcentesimo trigesimo octavo, Et Anno regni nostri decimo quarto.

Per signaturam manu S. D. N. Regis superscriptam.

The whole Body of our Council, with all respectful and dutiful expressions of joy and thankfulness of our Fatherly care of that our Kingdom in these difficult times, acknowledged and received the said Commission and Commissioner: And the Lord Marquess of Hamilton, did with all submissive reverence then and there accept the said Commission, promising the uttermost of his endeavours for settling the peace of that Kingdom, so far as might consist with his Majesties Royal Crown and Dignity, and the Laws and Liberties of that our ancient and native Kingdom, as by the Act of Council dated at *Dalkeith* the Sixth of June 1638. doth more fully appear: After which acceptation of the Commission, the said Lord Marquess had by our Council, and all others, whensoever he went abroad, all respects, honour and reverence due to our Commissioner, performed unto him, the Chancellor carrying the Great Seal before him, and some other Noblemen of great place and quality carrying the High Commission before him likewise.

His Majesty having now taken this course which he conceived most agreeable both to the customs of that Kingdom, and most acceptable to them, in regard of the choice of the Commissioner, had then assured hopes, that the dangerous distractions of that Kingdom might be happily composed: But these hopes were quickly blasted; for no sooner had the Heads of the Covenant notice of these peaceable courses intended by the King, but they flew out, even before the Commissioners arriving there, into far greater violence than heretofore, increased the

Anno 1638. frequent Meetings of their Tables, subdivided them into several Committees, increased their provision of Arms, made their Pulpits ring with most seditious Sermons, putting the people in fear, that now there was more danger to be expected from the Lord Marquess his coming home, and all peaceable Treaties, than ever; and at their Tables concluded upon a Paper, consisting of Ten Propositions or Articles, which they caused immediately before the Commissioners arrival, with wonderful expedition, to be dispersed throughout all the Shires of that Kingdom: Which Ten Articles, according to the true Copy, are here inserted.

First, For observing union, it is thought fit, that no Answer be made to any of the States-men or others, having Commission from the King, concerning the publick business, but with common consent and advice according to the Articles of our Covenant against divisive motions; and if any propound motions tending to the breach of our union; it would be told them plainly, we will repute them as unfriends both to us and our cause.

Secondly, For the better method in preparing and holding of matters to be treated of, it is thought fit that there be a Committee chosen, and that some of the Gentry, Burrows, and Ministers be present at the Meetings with the Noblemen.

Thirdly, It is thought fit, that all who are interested may attend punctually to Dyets and Meetings, with the rest of the number appointed for the good of the Publick Business; and, lest our Adversaries should (upon the frequent attending of the prime Noblemen and States-men) take occasion to affirm, That they have power to dispose of their Friends in this Cause, their attendance would be the more shunned; to shew we will depend upon no man who is of an averse Judgment, or who are about a contrary Employment in the matter of our Covenant and Conscience.

Fourthly, If there be any new Proclamation, it is thought fit that it may be obviated and reencountered with a new Protestation, which would be considered upon, and would contain our eight last Articles; And that our Protestation may be backed with good Information and Reasons, and sent with diligence to the Commissioners to the several parts of the Kingdom, that they be not deceived nor surprized with Proclamations or Suggestions, and that the Copy of the Protestation may be given to the Commissioners of Shires and Burghes, to meet the Proclamation in all points needful.

Fifthly, If the Discharge of the Book of Service, and Canons, and limitation of the High Commission be granted; and that upon the States-men and Commissioners offer, the King will grant all we can crave which is not repugnant to Law, and alledge that Episcopal Power and Articles of Pearths Assembly are established by Law; It is answered that the abuses of Episcopal Government are contrary to Law, and censurable by Law, and the Articles of Pearth should be rightly interpreted, and our desires for the free and yearly exercise of General Assemblies, free admission of Ministers without unlawful Oaths, and relieving of the Articles of Pearths Assembly, and that the Prelates boundless usurped power, limited according to the Covenants of their Admission, are all agreeable to Law for the Reasons contained in the Articles: And if the Bishops, States-men, and others, be of a different Judgment from the most part of the Church and Kingdom, the General Assembly and Parliament (who were the Law-makers,) are only competent Judges for interpreting their own Acts, whose direction we crave: And although the

Law were interpreted as they alledge, which is altogether untrue, and contrary to the grounds and meaning of the Law, yet the Body of the Kingdom, for whose good the Law was made, may crave the lawful redress of the grievances sustained by that Law, and our Complaints, Supplications, and Protestations against the Bishops, depending in Process for clearing the Subjects Loyalty, and repairing the wrong complained of, cannot be otherwise lawfully decided, cannot remedy the present Evils, nor prevent the like or worse Evils in time coming.

Sixthly, It is thought fit, that all who have subscribed the Covenant, be made sensible that they are obliged by their Oath, not to rest satisfied with less than the desire of our Articles, which are agreeable to Law, Conscience, and Reason, and without which we will be frustrated of our ends, our Adversaries in time will obtain the establishment of the Evils we complain of.

Seventhly, It is thought fit, that the number of the Commissioners be doubled, against the States-men and Marquess down coming, and that all be warned to be ready upon Advertisement.

Eighthly, That the Report of the Subscriptions of the Covenant may be sent to Edinburgh from all several parts of the Kingdom.

Ninthly, That things recommended to our former Committee be adverted to, with the best diligence that can be.

Tenthly, It is thought expedient that all the time of the General Meeting there be a Fast.

THe Marquess of Hamilton, his Majesties Commissioner, upon his way to that Kingdom, did meet with Advertisements of these strange fears, which the Ringleaders of the Covenant (who were afraid of nothing more than that the King's Subjects should receive satisfaction from him by his Commissioner) had possessed the People with, and the bad entertainment he was like to receive at his coming thither, he acquainted the King therewith, and went forward on his Journey until he came to Barwick, from whence he sent to his especial Friends and Kindred, and to all such Gentlemen of his own name, and others, as were his Vassals and Tenants, and hold their Lands from him by Service and attendance on him when he shall require it, he received answer that all these Obligations were quite discharged by the Covenanters Table at Edinburgh, who had absolutely commanded that none, who had subscribed their Covenant, should go to meet, or give any personal attendance upon his Majesties Commissioner, until such time as they should have leave from their Table so to do; and so the Lord Commissioner went from Barwick unattended by these Noblemen, or by any other of his own Kindred or Vassals, unless such as had not subscribed their Covenant, (except some few, whose affection exceeded the command of the Tables;) an affront before that time never offered to any person of his quality in that Kingdom: Yet he was very nobly and honourably received, and conducted to Dalkeith by all the King's Council, most of the Lords of the Session, who are the Judges of the Law, great troops of the Nobility and Gentry, who had not subscribed their Covenant.

Now,

Anno 1638. Now, the reasons why their Table had laid this strict charge, of not conducting the Lord Commissioner, upon all their adherents, were these two, as appeared plainly by the speeches uttered by many of the Covenanters themselves: *First*, That they might not seem to shew the least respect to any, especially to those of greater rank, who were disaffected to their Covenant, as was ordered in the third Article of their ten last mentioned: *Secondly*, That they might make trial of their power with their own Party, the Heads of the Covenant being perswaded, that if they could prevail with their Associates for breaking through the Bonds of Nature, Blood, Consanguinity, Civility, Vassalage and Dependence, in pursuance of their Orders, they should not much need to fear that any other obligations could be able to divert them from obedience to their Dictates.

The Lord Commissioner, immediately upon his coming to *Dalkeith*, (where the Council assembled for safety, because the Combuſtions at *Edenburgh* increased daily) met with many discouragements and difficulties. *First*, The King had sent some small proportion of Arms and Powder to be put into the Castle of *Edenburgh*, justly doubting the surprisal of it by the Covenanters, who were there assembled in great Multitudes, and had of late made great provision of Arms there. No sooner had the Ship (in which these Arms with other Goods were) cast Anchor in *Leith* Rode, but the Covenanters sent for the Merchant owner of the Goods, commanding him to bring the Ship into the Harbour, and discharging him from unloading any thing in the Ship, especially Arms, until he had leave from them, as he would answer the contrary at his peril; of which the Lord Treasurer being advertised, provided that night a Boat which landed the Arms and Powder, and Carts which presently carried them to his Majesties Palace at *Dalkeith*, some four miles distant: How for this the Merchant was used by them, and how they did threaten to come by force and carry away that Provision out of his Majesties own house of *Dalkeith*, is notoriously known. Much about this time the Lord Commissioner came to *Dalkeith*, where he was received for his first welcome with the certain news of the increase of the Peoples rage in *Edenburgh*, of the Covenanters resolution first to take the Castle, but (upon better advice) of their deserting that purpose, yet falling upon that which was bad enough; for they had begirt the Castle with strong Guards, so that no person or provision could pass to or from it, but by their permission: Besides, they had entred into consultation, whether they should by force take out of the King's Palace of *Dalkeith* that small provision of Arms and Powder which was lately carried thither: which counsel they were perswaded by some not to follow, because of the residence of his Majesties Commissioner there at that time; but one thing they resolved upon, that during the abode of the Lord Commissioner and Council there, though but four miles distant from *Edenburgh*, they would take no notice of them, send no Petition to them: and howsoever they allowed some of the Commissioners particular Kinsmen and Acquaintance to go thither and visit him, yet they would not depute any to speak with him of the business for which he was sent, or of their complaints and grievances, but resolved not to leave *Edenburgh*, where they were well enough, so that if he had any thing to deliver to them, he might come thither, for to him and the Council they would not come: And that they might have some

colourable pretence with the People for this their insolent behaviour and resolution, it was cast out and rumoured abroad, that if they went to *Dalkeith*, there was an intention to blow them up with Gun-powder; not that the Authors of that foul and devillish aspersion entertained the least thought of any such fear, but that they might both have a colour for their unmannerly not addressing themselves thither, as also beget in the minds of their ignorant Followers a higher indignation against, and jealousy of the Lord Commissioner and Council for such a wicked and treacherous Plot.

Now, at this very time when they made all this stir about that small provision of Arms for the Castle of *Edenburgh*, which exceeded not two hundred Muskets, and so many Pikes, with some small quantity of Powder, the Covenanters had two good Ships come home loaded with Arms and Ammunition, which they landed openly and avowedly.

All these difficulties and new troubles, augmented daily of purpose since their notice of the Lord Commissioners journey, put him and the Council to such a stand, as they knew not well what resolution to take. The Covenanters force and rage increased, which they had not power in any proportion to discharge; they could not discover in them the least inclination to peace; they found they would not so much as address themselves towards them, and they did not hold it agreeable with the King's Honour, or the dignity of those places which they held under him, nor yet for their safety, to go to them; At last this means was thought on, no doubt by the advice of those of their Tables, who scorned to seem to yield or petition for any such thing themselves.

The Citizens of *Edenburgh* sent certain Commissioners to the Lord High Commissioner with a Supplication that he would be pleased to repair to the King's Palace at *Halyrud-house*, where they might more conveniently give demonstration of their affection to his Majesties Service, in attending his Graces directions. The Commissioner after he had acquainted and advised the Council with this their Supplication, by their advice, as willing to take any occasion to enter into the business for which his Majesty had sent him, returned this Answer to the Commissioners of *Edenburgh*, That if they would undertake to be Masters and Governours of their own City, that their Citizens would behave themselves as good and dutiful Subjects, and take order that the Multitudes, now present in their City, who called themselves Covenanters, should do so too, and that the Guards about the Castle of *Edenburgh* should be dismissed and discharged, he would within a day or two repair to his Majesties Palace at *Halyrud-house*, otherwise not: For that he did hold it not agreeable to the King's Honour, that his Majesties Commissioner and Council should reside at the King's said Palace, which is situated at the one end of the City, when the Castle seated at the other end of the same should be blocked up with Guards: All which, these Commissioners undertook to perform, and by their words desired to approve themselves most Loyal Subjects, hoping to clear themselves from many aspersions laid upon them, when his Grace would be pleased to hear and examine their proceedings.

Anno 1638. Hereupon the Lord Commissioner, according to his promise, did remove himself from *Dalkeith* to the Palace at *Haly-rud-houfe*, attended by all the Council, such of the Nobility, Gentry, and others, as were affected to the King's Service, which consisted of a great number: Some two or three miles from *Edenburgh* he was met with the whole Body of the Nobility and Gentry of Covenanters, then resident at *Edinburgh*, who were all mounted on Horse-back, and consisted of divers thousands; and besides, in a nearer distance from *Edenburgh*, by the Ministers then resident there, who were all on foot, and consisted of many hundreds; and so all the way to the Palace was filled with swarms of people of all sorts and sexes, many of whose exclamations and outcries were very sharp and bitter, stuffed with cursings of Popery and Bishops; by which it was apparent that the multitude had been made believe that these two were one and the same thing. His Majesties Commissioner, when he first met on the way the Lords who call themselves Covenanters, was entreated by them to hear a Speech delivered, as he should pass along, by a Minister in the name of the rest: But he, remembering the Advertisements which he had received of their most seditious Sermons, and knowing by the same Advertisements that he who was to deliver this Speech was a deprived Minister, and one of the most seditious in the whole pack, returned answer to the Lords that he would not hear it, justly doubting that it might be stuffed as full of passages against the King's Authority as their Sermons used to be; and so that speech was omitted: Now, whether these great troops of Covenanters, both of Horse and Foot, in a great Body by themselves, which did not joyn at the first with that Company which attended his Majesties Commissioner from *Dalkeith*, but stayed for him on the way in a far grosser Body by themselves, was assembled to do honour to the King's Commissioner, or for shewing their own power and strength, by way of comparison with the Company whom they met, which they far exceeded, we will not determine. But thus the Lord Commissioner was conducted to the King's Palace of *Haly-rud-houfe*, where he was received by the Lord Provost, Bailiffs, Magistrates, and Citizens of *Edinburgh* with outward demonstrations of being welcome. And this was all the entertainment which at any time he had from the Body of the Covenanters, during the time of his abode in that Kingdom; which whether it were hearty and sincere, or but only in show, and to shew their own power, we leave it to be judged by the entertainment and respect which afterward he received from them; which will be found to be just none at all: For during the time of his continuance amongst them, though he found that they gave civil respects to him as Marquess of *Hamilton*, yet his being clothed with the King's Authority and Commission did much diminish them, as shall appear now in the next place, by those perpetual affronts which they ceased not to offer daily to him and the Council, in all their proceedings concerning the business for which he was sent.

The Lord Commissioner now being settled at the King's Palace, with the assistance of the Council, he fell presently upon the main business with the Covenanters, whom he desired to dismiss their great Multitudes; which they did, being indeed necessitated thereunto for the ease of their great charge. The two main Propositions which he

offered to their consideration were these: First, what they should expect from him in the King's Name for satisfaction to their complaints, and accommodating their grievances: Next, what might be expected from them for returning to their former obedience, especially in renouncing and delivering up their late Covenant. Both which Propositions they did receive with so much slighting and contempt, as that they avowed, no satisfaction from his Majesty should be accepted which contained any particulars; but that they expected, first, A General Assembly of the Church, and then a Parliament, that in these two Judicatories they would represent and discuss their grievances: And no wonder, for in both these they knew that themselves were to be both Judges and Parties. For the second, they answered, that they could not return to their former obedience, from which they would never acknowledge that they had departed in the least degree, having done no act but that which became good and dutiful Subjects: And for their Covenant, that they would rather renounce their *Baptism* than renounce it, or abate one word or syllable of the literal rigour of it; it being more available and useful unto them, than all the *Laws and Acts of Parliament* which had been enacted in that Kingdom since the time of *Fergus the first King thereof*: And that it was a proposition which though they had now heard, they were resolved never to hear a second time: And accordingly, after the King's propositions thus made and rejected, they presently filled the people with such misreports of the intentions and ends of the Lord Commissioners coming, as they wrought them to a greater height of fury than before, as if now their Religion and Laws were brought to the Stake: For now new Guards were clapt upon the Castle of *Edenburgh*, the Guards and Watches of the City multiplied, the Preachers Prayers and Sermons grew to be so many Libels, and Admonitions that they should take heed of crafty Compositions, or yielding in the least point of their intended Reformation; for if they should abate in any one thing, it would be thought that they might be mistaken in all. They presently printed their weak Reasons against their rendring up of their Covenant, nay, they grew to that rage, that on the *Saturday* having knowledge that the Lord Commissioner (attended with the Council) was to hear Divine Service and Sermon in his Majesties Chapel at the Palace the day following being *Sunday*, they sent him word that whosoever should read the English Service in that Chapel, should never read more, and that there were a thousand men provided for the disturbance of it; which forced the Lord Commissioner that night to repair to *Dalkeith*, being unwilling to hear a Sermon but in that Chapel, or there, without hearing the English Divine Service, it having been continually read there by the space of twenty years, in the audience of the Council, many of the Nobility, Judges, and persons of all quality; without any interruption or dislike: Nay more, they grew to that boldness as to write Letters to every one of the Council, requiring them to subscribe their Covenant; which Letter sent to every one of them severally, but in the same words, here followeth.

*The Copy of the Covenanters Letters
to the Lords of the Privy Council.*

May it please your Lordship,

WE the Ministers of the Gospel, convened at this so necessary a time, do find our selves bound to represent, as unto all, so in special unto your Lordship, what comfortable experience we have of the wonderful favour of God, upon the renewing of the Confession of Faith and Covenant, what peace and comfort hath filled the hearts of all God's People, what resolutions and beginnings of reformation of manners are sensibly perceived in all parts of the Kingdom, above any measure that ever we did find or could have expected, how great glory the Lord hath received thereby, and what confidence we have (if this Sun-shine be not eclipsed by some sinful division or defection) that God shall make this a blessed Kingdom, to the contentment of the King's Majesty, and joy of all his good Subjects, according as God hath promised in his good Word, and performed to his People in former times; And therefore we are forced from our hearts both to wish and entreat your Lordship to be partaker and promover of this joy and happiness by your Subscription, when your Lordship shall think it convenient: And in the mean while, that your Lordship would not be sparing to give a free Testimony to the Truth, as a timely and necessary expression of your tender affection to the Cause of Christ now calling for help at your hands: your Lordships Profession of the true Religion as it was reformed in this Land, the National Oath of this Kingdom sundry times sworn and subscribed, ablishing us who live at this time, the duty of a good Patriot, the Office and trust of a Privy Councillour, the present employment to have place amongst those that are first acquainted with his Majesties pleasure, the consideration that there is the time of trial of your Lordships affection to Religion, the respect which your Lordship hath unto your fame both now and hereafter, when things shall be recorded to Posterity, and the remembrance, that not only the eyes of men and Angels are upon your Lordships carriage, but also that the Lord Jesus is a secret witness now to observe, and shall be an open Judge hereafter to reward and confess every man before his Father, that confesseth him before men: All of these and each of them, besides your Lordships personal and particular obligations to God, do call for no less at your Lordships hands, in the Cause of so great and singular necessity; and we also do expect so much at this time, according as your Lordship at the hour of Death would be free of the terror of God, and be refreshed with the comfortable remembrance of a word spoken in season for Christ Jesus, King of Kings and Lord of Lords.

THE Lord Commissioner in the mean time resolved to publish his Majesties gracious Declaration, for relieving of their Grievances, and satisfying the people in his Majesties forwardness for the maintenance of the Religion professed in that Kingdom, and his averfeness from Popery, which they of the Covenanters Table having notice of,

being above all things afraid that our people should receive any satisfaction from the King, or rest contented with the grace of his Majesties reasonable proffers of favour, did mightily repine at, they came to the Lord Commissioner, and wished him for his Majesties Honour, his own safety, and peace of the publick, not to make any such Declaration; which undoubtedly would be encountred with a Protestation, and that in such manner as would be displeasing to him, and make the publishing of that Declaration be found disserviceable unto the King.

The Lord Commissioner being perplexed with these unexpected and dangerous difficulties, resolved by fair proceedings to gain so much time, until he might make the King acquainted with them, and receive his answer and instructions concerning them: In his Letters of advice he acquainted his Majesty with the danger threatned if he should publish the Declaration, which though he knew to be full of grace, yet the heads of the Covenant would never suffer the multitude of their members to understand it so. Two things he desired of the King; One, that in case his Majesty continued in a resolution of publishing our Declaration, he would be pleased to sweeten it with this further favor, as to restore to the City of *Edenburgh* the sitting of the Privy Council, the Session, and all other Courts of Justice, which he conceived would be very acceptable to the Councillours, Judges, to all Advocates, and all dependents upon the Law, to all the King's Subjects which had business depending in any of these Courts, but most of all to the City of *Edenburgh*, which complained much of their being impoverished by absence of these Courts, and that this was like to prove a most probable perswasion for reclaiming them to their former obedience. Next, that his Majesty would be pleased to give him leave to take a Journey into *England*, though he should return presently, that he might acquaint his Majesty with the new emergencies of businesses, and such other things as could not be conveniently expressed in Letters, and so accordingly receive instructions from his Majesty for his carriage.

To which Letters of advice his Majesty did return by a speedy dispatch this Answer, That the King would have our Declaration no longer delayed, but commanded him presently to publish it, because he would not (whatsoever the event should be) have the people barred the knowledge of his Gracious intentions and favours towards them, which his Majesty did see the leaders of them studied nothing more than to suppress; And that at his entreaty, the King was contented that all the Courts of Justice should presently begin to sit again at *Edenburgh* for the reasons contained in his Letters, and in hope of reclaiming of that City, which otherwise by their misdemeanour had no reason to expect any such favour from his Majesty; And withal, after the dispatch of these two, that the King was contented he should repair to him, as he desired, whensoever he should find it convenient, taking first order with the Council for keeping all things in order until his return.

This Answer of his Majesties so soon as the Lord Commissioner received, he assembled the Council, and made them acquainted with it, who were so well satisfied with the bringing back of the Courts of Justice to *Edenburgh*, that presently they sent unto his Majesty a Letter of thanks of this Tenour.

Anno
1638.

Most Sacred Sovereign,

THe Marquess of Hamilton, your Majesties Commissioner, having imparted unto us your Majesties gracious pleasure and allowance that the Judicatories of the Council, of Session, and others, should be returned to the City of *Edenburgh*; Thereupon, the Lord Commissioner being present, order was given for publication at the Market-Cross of *Edenburgh*, with all Solemnities requisite; and that the like publication should be made throughout the whole Kingdom at all publick places: This hath given so great contentment to all your Majesties Subjects, that we cannot express with what dutiful respect and hearty Prayers for your Majesty they have embraced this great and undeserved favour: In consideration whereof we conceive our selves bound in duty to acquaint your Majesty herewith; and withal to render to your Majesty most humble and hearty thanks for this so great grace and goodness, which we hope shall contribute to the good of your Majesties Service, and to establishing the peace of the Country, for the which we all your Majesties good Subjects shall ever be most thankful, and all in duty bound to pray for your Majesties long and happy Reign.

Holy-rood-house,
July 2. 1638.

Subscriptur

*Traquair, Lauderdaile.
Roxburgh, Kinoul.
Mar, Southesk.
Morton, Lorne.
Winton, Naper.
Lithgow, Dalryell.
Wigtonne, Hay.
Kingorne, Ja. Carmithaell.
Hadinton, Thomas Hop.
John Hamilton.*

And accordingly the Lord Commissioner caused Proclamation to be made at the Cross of *Edenburgh*, for the first sitting down of the Session there, the Tuesday following, being the third of July, 1638. which was received with much joy by the Judges, Advocates, and all others having relation to the Colledge of Justice, but above all by the Magistrates and Citizens of *Edenburgh*, that the Lord Commissioner and Council did then well hope all mens minds had been well prepared to receive the Declaration of his Majesties Grace and favour which was to be published in the next Proclamation, with an humble and thankful acknowledgment; which undoubtedly they had done, if they had not been not only diverted, but perverted by those men who interpreted every satisfaction of his Majesties Subjects received from the King, to be a dividing and pulling them away from themselves: And therefore they quickly cast about to find out some means, how this our special-favour might not be repented by them, which was this: They assured their followers that there were two of the Lords of the Session, viz. Sir Rob. Spotswood President of the same, and Sir John Hay our Clerk of Register (answerable to the Master of the Rolls here in *England*) sworn enemies to their Covenant, well affected to Episcopal Government, Procurers and Abettors of the pretended Innovations, that unless these two were presently removed from the Session, there could be no

good intended to them by the bringing of it back to *Edenburgh*, and therefore advised them to send some of their number to the Lord Commissioner to desire that these two Judges might presently be removed from that Court; Not that they who put this in their heads, thought that the Lord Commissioner could yield to a request of so high injustice, but because they knew, that he neither could nor would yield unto it, and that therefore by his denial they should have means to irritate the People, even to a disgust of that his Majesties Gracious favour, which the day before they had so well relished.

But yet according to their resolution, some of the principal Covenanters of all sorts sent from their Table, had the boldness to repair to the Lord Commissioner, and to demand of him that which they were sure no just nor honest man could grant, viz. That they could clearly prove Bribery and corruptions frequently to have been used by these two Judges, and therefore intreated him to remove them presently from their places of Judicatory, after which they would intend process, and so legally proceed in the probation of these crimes objected against them: To which their demand the Lord Commissioner returned this just and modest answer; That sure they could not expect that he either could or should condescend to this their desire, which yielded unto, did overthrow the very Foundation and main Rule of Justice, viz. That any man should be punished for any crime before he were legally convicted of it, and therefore he advised them to follow the constant course of Justice, which was this; If they thought these Judges clearly convincible of these horrible crimes, they should intend first Process against them, and then probation of the crimes; of which if they were found guilty, then they needed not doubt but they should be removed from their places; and receive such further condigne punishment as the Laws of the Kingdom had provided for such notorious Criminals; assuring them, that the King his Master would be so far from hindring the course of Justice against any such offenders, as that he would hold it a special Service done to him, to bring the iniquity of the Judges to publick Trial and Censure, and that he would make his Majesty acquainted with their demands: with which just answer they were resolved to be so unsatisfied, that they replied unto him, that this his denial would be attended with a great inconvenience to all the King's Subjects, for they would in that case of denial make and publish a Protestation, that whatsoever Act, Decree, or Order, the Lords of the Session should make in any Cause, at which these two Judges, or either of them, were present and gave voice, should be null and void in Law; and that none of the King's Subjects either should be bound or would yield obedience to them: (Was not this a strange Usurpation upon Regal power?) To this the Lord Commissioner only added, That every such Protestation must be made before the Lords of the Session, who had the power of admitting or repelling it, and therefore for that point he remitted them to these Lords as the competent Judges of it; which answer of the Lord Commissioner they presently laboured to have misconstrued by their Party, telling them that there was no hope of any Justice to be had against any man who was an enemy to them and their Covenant.

At

At the day appointed by the Proclamation, the Session fate down, and the Lord Commissioner in his own person went to the place, and opened it, with a short speech to the Judges, to this purpose.

That he was warranted from Us to recall the Session again to Edinburgh; That the chief thing that had moved Us thereunto, was the sense of the many incommodities which Our Subjects in general, and the Judges in particular did sustain by the removing of it; That we had required him to desire and command the Judges to grant all reasonable dispatch to Our Subjects in the Administration of Justice, that so some time, which was lost might be regained; That in Our name he required them to be very careful and circumspect, that in these troublesome times no Order nor Decree might pass from them, which might be prejudicial to Our Crown or Service.

The Judges hereupon returned to the L. Commissioner their humble and hearty expressions of all thankful acknowledgment, for this his Majesties singular favour and grace to themselves and all his Subjects, and with great submission intreated him to return unto his Majesty their humble and hearty acknowledgment.

And here now We desire the Reader to observe, that the Covenanters neither made any such Protestation against the sitting of the two Judges, as they talked of, nor did ever intend any Process or probation against them for the crimes objected, though the Lord Commissioner immediately after his return from his Majesty, assured them, that the King not only had given them leave, but would thank them for so doing, which we are confident they would have done if they had conceived these Judges guilty, and giveth to all persons good assurance that this calumny against these Judges, was only cast in by some of their Ring-leaders, to mar and interrupt that resentment of the King's grace and favour, which they perceived wrought very much upon many of his Majesties Subjects of their Party, for bringing back again the Courts of Justice to the City of Edinburgh.

The Session thus settled, his Majesties Commissioner resolved to publish by Proclamation the Declaration of Grace and Favour: The principal Covenanters, when they could not dissuade him from it, presently went about, and both by themselves and their seditious Preachers, filled their Followers minds with such fearful expectations of it, that some daies before it was published, they filled the Streets with multitudes of People, especially near the Cross where it was to be proclaimed, and those in Hostile Equipage divided into Ranks, pulling their Swords out of their Belts, and with Pistols, (being Arms prohibited by the Laws of that Kingdom,) giving out, that if this Declaration were hearkened unto, it would, undoubtedly bring ruin to their Religion, Laws and Liberties, though the People knew nothing of what was to be delivered in the Declaration; Some daies they continued in this posture, which made the Lord Commissioner delay the publishing of it, until he might hear of more quietness and peace in the Streets; of which being advertised, he caused the Proclamation of Grace and Favour solemnly to be made at the Cross of Edinburgh: No sooner were the Trumpets sounded, but there came to the Cross a mighty confux of People, the Covenanters had presently a Scaffold erected, on which they mounted with a Protestation ready

written in their hands, before the Kings Proclamation was pronounced: His Majesties Proclamation was this.

Car. 14.

CHARLES by the grace of God, King of Scotland, England, France, and Ireland, Defender of the Faith. To our Lovits

Heralds,

Messengers, our Sheriffs in that part, conjunctly and severally specially constitute greeting. Forasmuch as We are not ignorant of the great disorders, which have happened of late within this Our ancient Kingdom of Scotland, occasioned, as is pretended, upon the introduction of the Service Book, Book of Canons, and High Commission, thereby searing innovation of Religion and Laws. For satisfaction of which fears, We well hoped, that the two Proclamations of the eleventh of December, and nineteenth of February, had been abundantly sufficient. Nevertheless, finding that disorders have daily so increased, that a powerful rather than perswasive way, might have been justly expected from Us; Yet We out of Our innative indulgence to Our People, grieving to see them run themselves so headlong into ruin, are graciously pleased to try, if by a fair way We can reclaim them from their faults, rather than to let them perish in the same. And therefore once for all, We have thought fit to declare, and hereby to assure all Our good people, that We neither were, are, nor by the Grace of God ever shall be stained with Popish Superstition: But by the contrary, are resolved to maintain the true Protestant Christian Religion already profest within this our ancient Kingdom. And for farther clearing of scruples, We do hereby assure all men, that We will neither now nor hereafter press the practice of the foresaid Canons and Service-Book, nor any thing of that nature, but in such a fair and legal way, as shall satisfie all Our loving Subjects, that We neither intend innovation in Religion or Laws: And to this effect, have given order to discharge all Acts of Council made thereanent. And for the High Commission, We shall so rectifie it with the help of advice of Our Privy Council, that it shall never impugn the Laws, nor be a just grievance to Our loyal Subjects. And what is farther fitting to be agitate in general Assemblies and Parliament, for the good and peace of the Kirk, and peaceable Government of the same, in establishing of the Religion presently profest, shall likewise be taken into Our Royal consideration, in a free Assembly and Parliament, which shall be indicted and called with Our best conveniency. And we hereby take God to witness, that Our true meaning and intention is, not to admit of any innovations either in Religion or Laws, but carefully to maintain the purity of Religion already profest and established, and no waies to suffer Our Laws to be infringed. And although we cannot be ignorant, that there may be some disaffected persons who will strive to possess the hearts of Our good Subjects, that this Our gracious Declaration is not to be regarded; Yet We do expect that the behaviour of all Our good and loyal Subjects will be such, as may give testimony of their obedience, and how sensible they are of Our Grace and Favour, that thus passeth over their misdemeanours, and by their future carriage make appear, that it was only fear of innovation, that hath caused the disorders which have happened of late within this

Our

Anno 1638. Our ancient Kingdom. And are confident, that they will not suffer themselves to be seduced and misled, to misconstrue Us or Our actions, but rest heartily satisfied with Our pious and real intentions, for maintenance of the true Religion and Laws of this Kingdom. Wherefore We require and heartily wish all Our good people carefully to advert to these dangerous suggestions, and not to permit themselves, blindly under pretext of Religion, to be led in disobedience, and draw on, infinitely to Our grief, their own ruin, which We have, and still shall strive to save them from, so long as We see not Royal Authority shaken off. And most unwillingly shall make use of that power which God hath endued Us with, for reclaiming of disobedient people.

OUR WILL is herefore, and We charge you straightly and command, that incontinent these Our Letters seen, you pass to the Market-Cross of Our Burgh of *Edinburgh*, and all other places needful, and there by open Proclamation make publication hereof to all and sundry Our good Subjects, where through none pretend ignorance of the same. The which to do, We commit to you conjunctly and severally Our full power, by these Our Letters, delivering the same by you duly execute and indorsed again to the Bearer. Given at Our Court of *Greenwich* the twenty eighth day of *June*, and of Our Reign the thirteenth year, 1638.

Per Regem.

NO sooner was it ended, but this their ensuing Protestation against it begun, and was publickly read; which here, according to their Printed Copy, We have caused to be inserted.

The Protestation of the Noble-men, Barons, Gentlemen, Burroughs, Ministers, and Commons, &c.

WE Noble-men, Barons, Gentlemen, Burgessees, Ministers, and Commons, That whereas we the King's Majesties true and loyal Subjects, who have ever esteemed it our greatest happiness to live under a Religious and Righteous King, and our greatest glory to testify our best affections to our gracious Sovereign, have been in his Majesties absence from this His native Kingdom heavily pressed for a long time past, And especially of late, with diverse innovations, which both in themselves, and in the way wherein they have been urged, do manifestly tend to the prejudice of the King's Honour, and of our Religion, Laws and Liberties, And by which we were brought to such extremity, that there was no way left betwixt the Rock of Excommunication, and the high pain of Rebellion on the one part, and the desperate danger of forsaking the way of true Religion, and the breach of our Covenant with God on the other, but to represent our Case, and present our Supplications to the Lords of Secret Council, that being equally pondered by them, they might either be answered by themselves, or by their commendation might ascend to his Majesties own consideration: And therefore in all humble manner we did to this effect supplicate their

Lordships: we were most willing (for the most following of our Supplications) to obey their direction in choosing Commissioners for the great number of Supplicants, who flocked together from all quarters of the Kingdom; were careful to order our selves in all Christian and quiet carriage, and against the tediousness of many and long delays did wait for a long time with very great patience, till at last they were pleased to receive our Supplications, Complaints and Bills: And conceiving them to contain weightier matters than could by themselves be determined, they did promise and undertake to represent and recommend the same, according to their more than ordinary importance, unto his Majesties Royal consideration, and to report his Majesties answer.

While his Majesties good Subjects of all Ranks, throughout the whole Kingdom, had their minds wakened, and their hearts filled with the expectation of a gracious and satisfactory answer, worthy of his Majesties pious and equitable disposition, in the Month of *February* last, incontinent a rumour flyeth through the Country, and filleth all ears, That the Lords of his Majesties Secret Council were commanded to make such a Proclamation concerning the Service Book, Book of Canons, and the peaceable meetings of his Majesties good Subjects in time coming, as we were persuaded to have been procured by the secret working, and malignant mis-information of our Adversaries, Seeking for their own private ends, without respect to his Majesties honour, and welfare of this Kirk and Kingdom, to stop the course of our legal proceedings, and to escape their own due censure: And therefore intending to make known to the Lords of Secret Council what was noised concerning the Proclamation; how far the whole Kingdom had been by some sinistrous mis-information frustrate of their hopes, and their constant desire to have some course taken by their Lordships' advice; how his Majesty being further informed, might deliver his good Subjects from so great grievances and fears, and establish a sure peace in this Country for time to come; we found our selves tyed by order of Law to decline those against whom we had made our complaint, unless we would admit our Parties to be our Judges: And in case our Declinator should not be accepted, we behoved to protest, that we might have immediate recourse to the King himself, &c.

Thereafter in the Month of *March*, finding that by the foresaid Proclamation the Innovations supplicated against were approved, our lawful proceedings condemn'd, our most necessary meetings prohibited, there being no other way left unto us, we were necessitate to renew the national Covenant of this Kirk and Kingdom, thereby to reconcile us to God, provoked to wrath against us, by the breach of his Covenant with in this Land, to clear our Sovereigns mind from all jealousies and suspicions, arising from our Adversaries mis-information of our intentions and carriage; and so to make way for his acceptance of our humble Supplications, and grant of their lawful remedies, to guard this Land in defence of Religion, Authority and Liberty against inward divisions, and external violences. And that our actions might be answerable to our holy Profession, we afterward drew up an humble Supplication, containing our grievances, and desires of the ordinary remedies thereof, to have

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Yet seeing that no Proclamation could sufficiently remove the present evils, nor settle our fears, nor secure us from the re-entry of any evil or Innovation, which it seemed to discharge or prevent the like in time coming, nor satisfy our humble Supplications, craving the present indiction of a free Assembly & Parliament, as the only remedies of our evils, and means to prevent the like: And seeing this Proclamation doth not so much as make mention, or acknowledge any of our Supplications, Complaints, and Grievances, or any just cause thereof, except under the name of great increase of disorders, faults, and misdemeanors, but only our fears of some future Innovation of Religion or Laws, occasioned only (as is pretended) by the Introduction of the Service Book, Book of Canons, and High Commission; which fear his Majesty hoped to have been abundantly and sufficiently satisfied by his two former Proclamations of the ninth of December, and nineteenth of February. And by this his present Declaration, except his Subjects be blindly (under pretext of Religion)

led unto disobedience, Doth mis-ken, pass over, and so in effect deny all our supplications, bills, articles, and desires, especially our complaints against the Prelat our parties. And, that once for all, in a fair and perswasive way, even after the relait of our last supplication, clearing us from the calumny of unlawful combination; Doth not disallow nor discharge any of the innovations, and evils complained upon, but only assureth that his Majesty will not press their practice, but in such a fair and legal way, as shall satisfy his Subjects of his intention; which (joyned with the other clause, allowing and confirming the Proclamation the nineteenth of February) evidenceth the liberty left to any Prelate or persons to practise the same, and by all other fair waies to perswade others thereunto; and his Majesties resolution to press their practice in a fair and legal way: And also confirmeth the former Declaration, that the Service Book is a ready mean to maintain the true Religion already professed, and to beat out all Superstition, and no waies to be contrary to the Laws of this Kingdom, but to be compiled and approved for the universal use and edification of all his Majesties Subjects; Doth not abolish, but promiseth to rectifie the High Commission, with advice of his Privy Council, implying the King's power, with consent of the Council, to establish this or any Judicatory within this Kingdom, without consent of the three Estates convened in Parliament, contrary to the fundamental and express Laws thereof; and by consequent with the like reason, to establish Laws and Service Books, without consent of the Assembly and Parliament; Which is contrary to the main ground of all our Supplications, against the manner of their Introduction; Doth only promise to take into his consideration in an Assembly and Parliament, which shall be called at his best convenience, while as the evident and urgent necessity, for settling the combustions, threatening the total dissolution and desolation of this Church and State, excuseth our uncessant and importune calling for these present remedies: Doth insinuate the continuance and execution of any pretended Laws for these innovations of Worship, and corruptions of Church Government, and civil places of Church-men, which by our Covenant, we have obliged ourselves to forbear, and the re-establishment of these evils in an Assembly and Parliament, which he will call in his best conveniencie, to wit, for that and this other end of satisfying his Subjects judgments anent the Service Book and Book of Canons; Doth condemn all our former proceedings, even our supplicating, complaining, protesting, subscribing of our Covenant together, and our continual Meetings, as great disorders, increase of disorders, deserving justly a powerful rather than a perswasive way, a running headlong into ruin, a perishing in our faults, a blind disobedience under pretext of Religion, and doth threaten and denounce, Now once for all, If we be not heartily satisfied, and give testimony of our obedience after this Declaration, but continue, as by our former proceedings, to draw on our own ruin, that albeit unwillingly, he must make use of that power which God hath indued him with, for reclaiming of so disobedient people.

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Therefore we, in our own name, and in the name of all who will adhere to the Confession of Faith, and Reformation of Religion within this Land, are forced and compelled, out of our bound duty to God, our King, native Country, our selves and our posterity, (lest our silence should be prejudicial to so important a cause, as concerns God's Glory and Worship, our Religion and Salvation, the Laws and Liberties of this Church and Kingdom, or derogatory to our former Supplications, Complaints, Protestations, Articles and proceedings, or unanswerable to the solemn Oath of our Nation Covenant with God) To declare before God and man, and to protest, *Primo*, That we do, and will constantly adhere, according to our vocation and power, to the said Reformation, in Doctrine, use of Sacraments, and Discipline; And that notwithstanding of any innovations introduced therein, either of old or of late. *Secundo*, We protest, That we adhere to the Grievances, Supplications, and Protestations given in at Assemblies and Parliaments, and to our late Supplications, Complaints, Protestations, and other lawful proceedings against the same, and particularly against the Service Book, and Book of Canons, as main innovations of Religion and Laws, and full of Popish Superstition, and so directly contrary to the King's Declaration, And against the High Commission, as a Judicatory established contrary to the Laws and Liberties of this Church and Kingdom, and destructive of other lawful Judicatories, which both in respect of the nature of it, and manner of Introduction, without consent of the three Estates of Parliament, cannot be any waies rectified, but absolutely discharged: *Tertio*, we protest, That we adhere with our hearts to our Oath and subscription of the Confession of Faith, the solemn Covenant between God, this Church and Kingdom, and the clauses particularly therein expressed and generally contained, and to our last Articles for the peace of this Kirk and Kingdom, drawn out of it, and to all the matters therein contained, and manner of remedy therein desired. *Quarto*, we protest, That this Proclamation or Act of Council, or any other Act, or Proclamation, or Declaration, or ratification thereof, By Subscription, or Act, or Letter, or any other manner of way whatsoever, or any precondemnation of our cause or carriage, before the same be lawfully heard and tried in the supreme Judicatories of this Kirk and Kingdom, the only proper judges to national causes and proceedings, or any certification or threatening therein denounced, shall no waies be prejudicial to the Confession of Faith, Laws and Liberties of this Kingdom, nor to our supplications, complaints, protestations, articles, lawful Meetings, proceedings, pursuits, mutual defences, nor to our Persons and Estates, and shall no waies be disgraceful either in reality or opinion, at home or abroad, to us or any of us: But on the contrary, that any Act, or Letter, or subscription of the Council, carrying the approbation of the Declaration, and condemnation of our proceedings, *indicta causa*, is and ought to be reputed and esteemed unjust, illegal and null, as here before God and man we offer to clear, and to verifie both the justice of our cause and carriage, and the injustice of such Acts against us, in the face of the first gen. Assembly of the Church and Parliament of the Estates, unto whom with all solemnities requisite, we do publickly appeal. *Quinto*, We pro-

test, that seeing our former supplications, last Articles, and our last desire and Petition to his Majesty's Commissioner, which petitioned for the present indiction of a free general Assembly and Parliament, according to the Law and Custom of all Nations, and of this Nation in the like case, to hear the desires, ease the grievances, and settle the fears of the body of the Church and Kingdom, are thus delayed, and in effect refused, to wit, *Once for all*, till his Majesties conveniency for the end contained in this Proclamation, that We continue by their presents to supplicate his Majesty again and again, for the granting of the same: And whatsoever trouble or inconvenience fall out in this Land in the mean time, for want of these ordinary remedies, and by the practice of any of these innovations and evils, contrary to our supplications, articles, and confession, it be not imputed unto us who most humbly beg these lawful remedies, but also that it is, and shall be lawful unto us, to defend and maintain the Religion, Laws and Liberties of this Kingdom, the King's Authority in defence thereof, and every one of us one another in that cause, of maintaining the Religion, and the King's foresaid Authority, according to our power vocation and Covenant, with our best counsel, bodies, lives, means, and whole strength, against all persons whatsoever, and against all external or internal invasions menaced in this Proclamation. Like as that in the great exigency of the Church, necessitating the use of these ordinary and lawful remedies, for settling the commotions thereof, it is and shall be leasome unto us to appoint, hold and use the ordinary means, our lawful Meetings and Assemblies of the Church agreeable to the Law of God, and practice of the Primitive Church, the Acts of the general Assemblies, and Parliaments, and the example of our Worthy Reformers, in the like case. *Sexto*, We protest, that our former Supplications, Complaints, Protestations, Confessions, Meetings, Proceedings and mutual defences of every one another in *this cause*, as they are, and were in themselves most necessary, and orderly means agreeable to the laws and practice of this Church and Kingdom, to be commended as real duties of faithful Christians, loyal Subjects, and sensible members of the body of the Church and Kingdom, and no wise to be stiled nor accounted great disorders, misdemeanors, blind disobedience under pretext of Religion, and running headlong into ruin, &c. So they proceeded only from conscience of our duty to God, our King, native Country, and our posterity, and doth tend to no other end, but to the preservation of the true reformed Religion, the confession of Faith, Laws, Liberties of this His Majesties most ancient Kingdom, and of His Majesties authority in defence thereof, and satisfaction of our humble desires, contained in our Supplications, complaints and articles, unto the which we adhere again and again, as we would eschew the curse of the Almighty God, following the breach of his Covenant: And yet we do certainly expect, according to the King's Majesty his accustomed goodness and justice that his sacred Majesty after a true information of the justice of our cause and carriage, will presently indict these ordinary remedies of a free Assembly and Parliament, to our just Supplications, complaints, and articles, which may be expected, and useth to be granted from so just and gracious a King, towards most loyal and dutiful Subjects, calling for redress of so pressing grievances, and praying heartily that His Majesty may long and prosperously reign over us. Where-

Anno 1638. **W** Hereupon a Noble Earl, John Earl of Castles, &c. in name of the Noble-men, M. Alexander Gibson younger of Dury in name of the Barons, James Fletcher Provost of Dundy, in name of the Burrowes, M. John Ker Minister at Salt-Prestoun, in name of the Ministers, and Master Archbald Johnston, Reader hereof, in name of all who adheres to the Confession of Faith and Covenant lately renewed within this Kingdom, took Instruments in the hands of three Notars present, at the said Mercat-Cross of Edinburgh, being invironed with great numbers of the foresaid Noble-men, Barons, Gentlemen, Burrows, Ministers and Commons, before many hundred witnesses, and craved the extract thereof: And in token of their dutiful respect to his Majesty, confidence of the equity of their cause, and innocency of their carriage, and hope of his Majesties gracious acceptance, they offered in all humility, with submissive reverence, a Copy thereof to the Herald.

Now we must appeal to the Judgment of the World, whether there was any thing in this Proclamation which deserved such an undutiful and rebellious Protestation, or the seditious clamours, which both at their private and publick Meetings, especially in their Pulpits, were made against it.

This Protestation needeth no answer; for after the first part of it, which is nothing but a Repetition of that which they have so often said, there is nothing but a number of falsities heaped up together, the Reader may easily perceive: For whereas they alledge, *That they have removed the impediment which caused their Covenant to be mistaken, as if it had been an unlawful Combination;* 'tis nothing so, for no Covenant or Oath can be made or imposed without his Majesties Authority. We suppose that thereby they mean that which they tendered to his Majesties Commissioner, and called it by the name of an Explication of their Covenant; which Explication was so far from giving unto his Majesty any satisfaction, that both to the King and all reasonable men it must needs appear to be a stronger confirmation of their unlawful combination: For whereas they refused to except the King out of the number of those persons against whom their band of mutual maintenance is intended, it plainly demonstrateth, that in their intention his Majesty is the person chiefly aimed at. In some few lines after this, they profess that they never so much as called in question his Majesties resolution to maintain the Religion professed in that Kingdom, and his care for not admitting any Innovations in Religion, or any stain of Popish Superstition: Whereas 'tis notoriously known that in their private Meetings, nay, even in their publick Assemblies and Sermons, they have endeavoured to settle in his Majesties good Subjects minds, opinions, fears, and jealousies, quite contrary to these their Printed asseverations. In the last part they ground their Protestation upon no grounds but such as these: That they will continue together, because they have obliged themselves by Oath so to do, and because they will and are resolved to adhere constantly to what they have done, and because they offer to clear themselves before a general Assembly and Parliament, where they themselves make account to be Judges. Now these and such like false and weak grounds it is very unnecessary to confute, the rehearsal of them being upon the first view, their sufficient conviction. After all these, they end their Prote-

station with two very unfavourable conclusions: The first is, that if the King will not allow of their proceedings, *they themselves will call it a General Assembly,* which they shall be sure to allow of them. A notable piece of hypocrisie and disloyalty together, to be suiters to the King for that which they (as they say) both may do and are resolved to do without his leave: The second is, they protest, that, notwithstanding any thing which his Majesty doth or shall say to the contrary, *all their proceedings are in themselves most necessary, and orderly means agreeable to the Laws and practice of that Church and Kingdom, to be commended as real duties of faithful Christians, loyal Subjects, and sensible members of the body of that Church and Kingdom, and no way to be styled or accounted great disorders, misdemeanors, blind disobedience, under pretext of Religion, and running headlong into ruin:* All which words are multiplied, only to make up a very unmannerly contradiction to the very words of the King's Proclamation.

The Lord Commissioner seeing, not that he was not able to give, but that they were resolute not to receive any satisfaction by what was offered, and that the most that they could be brought to, was that which they called an explication of their Covenant, but indeed was none; for they would never yield that these words, whereby in their Covenant they bound themselves in a mutual defence against all persons whatsoever, should admit this interpretation (*except the King*): He told them plainly, that since his Instructions were out, he could proceed no further with them without new conference with, and Instructions from his Majestie; and therefore he resolved a speedy Journey to England, to inform his Majesty of what had passed, and make him acquainted with that Explication of their Covenant which they had given him, though as it had given no satisfaction to himself, so he was sure it would give none to his Majesty: In the mean time, he entreated them to behave themselves more quietly and peaceably than they had done, until the King's pleasure were further known.

That pretended Explication of their Covenant was conceived by way of Petition, and was as followeth:

To His Majesties Commissioner:
The Supplication of the Noble-men, Barons, Burgesses, Ministers and Commons here attending His Majesties gracious answer of our former Petitions, Complaints, and Desires,

Humbly shewing,

That whereas we expecting from your Grace, as His Majesties Commissioner, a gracious answer of our former Supplications, complaints and just desires, have presented to your Grace a Petition, humbly craving a free general Assembly and Parliament, as the ordinary remedy of our Grievances, and the only mean to put this Kingdom to quietness, It pleased your Grace to shew, that His Majesty, from his Princely care of this Kirk and Kingdom, would be most willing to indict a free general Assembly, and call a Parliament for those good ends; but that your Grace, as His Majesties Commissioner, hath conceived the Confession of Faith, and Covenant lately renewed by us His Majesties Subjects, to be an unlawful combination against Authority; thereby to cast off our dutiful obedience, and not a Covenant for maintaining of true Religion of His

Anno 1638. *Majesties Person and Authority, and of the Laws and Liberties of the Kingdom. And we being most willing to remove that, as the main hinderance of the obtaining of our desires; Therefore, and for clearing of our loyalty, and vindicating our selves from so great an imputation, We do now in all humility remonstrate to your Grace, as His Majesties Commissioner, and declare before God and men, that we are heartily grieved and sorry, that any good man, but most of all that our Dread Sovereign should so conceive of our doing: And that we were, and still are so far from any thought of withdrawing our selves from our dutiful subjection, and obedience to His Majesties Government, which by the descent, and under the Reign of 107 Kings, is most chearfully acknowledged by us & our Predecessors, that we never had, nor have any intention or desire to attempt anything that may turn to the dishonour of God, diminution of the King's greatness and authority. But on the contrary, we acknowledging our quietness, stability and happiness to depend upon the safety of the King's Majesty, as upon God's Vicegerent set over us for maintenance of Religion, and ministracion of Justice, have solemnly sworn, not only our mutual concurrence and assistance for the cause of Religion, but also to the uttermost of our power, with our means and lives, to stand to the defence of our Dread Sovereign the King's Majesty, His Person and Authority, in the preservation and defence of the true Religion, Liberties and Laws of the Kingdom. And therefore, we His Majesties loyal Subjects, free from that and all other imputations of that kind, most humbly beseech your Grace to esteem that our Confession of Faith and Covenant, to have been intended, and to be the largest testimony of our fidelity to God, and loyalty to our King: And that hinderance being removed must still supplicate that your Grace would be pleased to indict a free general Assembly and Parliament, which will undoubtedly redress all our evils, settle the peace of the Kirk and Kingdom, and procure that chearfulness of obedience which ought to be rendered to His Majesty, carrying with it the offer of our Fortunes, and best endeavours for His Majesties honour and happiness, as a real testimony of our thankfulness, and our hearty Prayers to God, that his Majesty may long and prosperously Reign over us.*

NOW doth this Petition deserve the name of an Explication of their Covenant? Much less of such an Explication as should give either his Majesty or his Commissioner any satisfaction? No, for it containeth neither more nor less than this, that they do not mean to shake off their obedience, if the King will give way to all their courses, which by this Petition they justify; so that their meaning is, that they will continue obedient Subjects, if the King will part from his Sovereignty; which is in effect, that they will obey if his Majesty will suffer them to command. But where it was expected that to these words of their Covenant, whereby they bind themselves to mutual maintenance, *against all persons whatsoever*, should have been added, *except the King and his Successors*, that was refused, though even that could have given no satisfaction, unless his Majesty should give way to that which divers Acts of Parliament have made Sedition, and punishable with death.

Upon notice given by the Lord Commissioner of his intended departure, the debates at their Table grew very hot and fiery upon this point, Whether they should presently indict a general Assembly, and fall upon the violent courses intended by them, or that they should grant some short time for his Journey, his stay with his Majesty, his return to them again, with the King's final answer and last resolution; and in the mean

time promise that they would behave themselves quietly and peaceably, and continue all things *in statu quo* until his return. This last was agreed unto, though not without much contrariety of voices, and so some of the principal Covenanters came and acquainted the Lord Commissioner with this their resolution, which was, That they would expect the King's answer, and his return upon the fifth of August next at the farthest; until which time they would break up their great meeting, contain themselves and the people in quietness and peace; but if by that day he did either not return, or not bring with him from his Majesty such an answer as they expected, then they would hold themselves free, and go on to prosecute the courses which they had resolved upon. And so the Lord Commissioner began his Journey towards England.

After the Commissioner had at Greenwich made his Majesty fully acquainted with all their insolencies, he speedily dispatched him with new Instructions, and commanded him to return, so that he might be back in Scotland by the fifth of August, and gave him order for the indicting both of a General Assembly and a Parliament, but so, that he should first be fully satisfied, by all informations which he could conveniently receive, of the constitution of a General Assembly, with which perhaps many were not acquainted, none having been kept for divers years: And therefore it did require good deliberation, to agree both upon the members of the Assembly (not for their persons but for their quality) and of what things were usually treated and handled there.

No sooner was he returned into Scotland, but he found all things in much worse case, and in a far greater combustion than he left them: For he found that the heads of the Faction (being afraid that he might bring back with him some satisfactory accommodation, which the Subjects might like well, but they themselves resolved to reject,) had in the time of his absence assured their Followers, that they might compass their ends by such means, and upon such conditions as themselves desired: Nay, they proceeded so far, as to make the people believe what they knew to be most untrue, *viz.* That the Commissioner was well satisfied with all their proceedings, and especially with their Covenant, in regard of the late Explication they had made of it; and were so impudent as to use that inducement for an argument, whereby they perswaded many of all sorts, especially of the Ministers, who had formerly stood out against their Covenant, to enter into it, in this short time of his absence from them; And the three Ministers in their answers to the Queries of the Divines of *Aberdene*, had the boldness to Print, that the Commissioner rested satisfied with their Covenant, according to their Explication of it: With which their notorious calumny he found himself so highly injured, in a point which so much concerned his loyalty to the King, and the trust reposed in him by the King, that he was enforced to call the Lords of the Council, divers others of the Nobility, and some of the Lords Covenanters themselves, to give testimony of his frequent asseverations in their hearing, that as he himself was no way satisfied with that Explication, so he was assured that the King neither would nor could receive any satisfaction by it, only that he would present it to him at their entreaty: And besides the attestation of so many witnesses, he was necessitated, both for clearing of himself to his

his Majesty, and preventing the further encrease of Covenanters, upon that false and groundless surmise, to print a Manifest and Declaration of his own clearness and their calumny.

It is true, they printed a weak Answer to that Manifest, in which they confess, that they never heard him say that he was satisfied with that Declaration; but that by some probable Reasons (which are there expressed, and indeed are most improbable ones) they were induced to believe that he was satisfied with it, although that both to their new Profelytes, and in the Ministers printed Answers, they had positively averred, that after he had received that Explication he was fully satisfied with their Covenant: Which dealing of theirs gave occasion for many to think, that this false aspersion was put upon him, by those who ever laboured to strangle all hopes of reconciliation, only to raise in his Majesty a distrustful jealousy of his Service, that so he might be called back, and the People made believe that no relieving of their grievances was intended by the King.

About the same time a great stir was raised in that Kingdom upon a very slender ground, which was this: There had been printed at *Amstewp*, in several pieces, the Pictures of the several stories of the Gospels, and Acts of the Apostles, after the manner as they are usually printed in the Romish Church; some Papists, and it may be others, had caused these several pieces to be bound in their Bibles, at the several Chapters of those stories to which they did relate; they found such a Bible printed at *Edenburgh*, which being printed (as all Bibles are) by the King's privilege, upon a sudden there were made most tragical complaints, that Pictures and Images were brought into their Bibles by the King's Authority, aggravated by the Heads of that Faction, especially the Ministers, with the imminent dangers of the present Introduction of Popery, Superstition, and Idolatry, still to make the People averse from all hope of satisfaction; so that some did conceive, that these Pictures might be bound in that Bible by some of themselves, merely to irritate the People, and continue them in their distance from returning to the King's obedience: But so far with this Particular we cannot charge them.

Now, notwithstanding these new and daily emergent combustions, and their perpetual working of the People, both in their Pulpit and at their other Meetings, to new insolencies and greater heights of rage and fury, the Lord Commissioner resolved (as well as he could) to pass them over, and to enter into treaty with them for the preparative Overtures of a General Assembly, because he did see that all these impediments and blocks were laid purposely in his way, that either he might stumble at them, or be so scared as to go back; for it was plainly perceived, that whensoever he made any Proposition of Peace, likely to take or please, they presently cast about how to dash it with some new violence and accident which should make it impossible, as did most evidently appear in this Particular.

The Lord Commissioner sent some of the Council to confer with some of the principal Covenanters, concerning some necessary Propositions fit to be resolved upon before the indicting of the Assembly, both concerning the Members of which it was to be constituted, and concerning the matters to be treated of in it, (two consultations usually previous to that Meeting, for the omission

whereof in one Assembly of later times, they had so grievously complained, that in a Petition exhibited by the Ministers of their side, it was alleged for a nullity of that Assembly:) This Message was received with so much choler and contempt, that they presently blazed it abroad amongst their Followers, for a Proposition tending utterly to the ruin of the Laws and Liberties both of Church and Kingdom, that the hearkning to any such Overtures was an absolute prelimitation of that Assembly, which they intended should be free and general; that neither of the Members of their Assembly, nor of the matters to be handled in it, they would speak so much as one word until they came upon the place, and were in the Assembly; that then and there the Assembly itself was to be the sole Judge both of the competency of the Members elected, of the regularity of their election, and of all matters treated of there, whether they were of their cognizance and jurisdiction or not, and likewise gave out, that they did not much care whether the Lord Commissioner would indict an Assembly or not: They would indeed like it better if it were indicted by the King's Authority, but if his Majesty, requested by them so to do, should refuse it, they both could and would do it of themselves: Then did their Pulpits again begin to ring with this monstrous Proposition, as they called it, of the utter subversion of the Liberties of their Church, by the prelimitation of their Assembly, as if this Conference propounded by the Lord Commissioner concerning the orderly proceedings in that Meeting, had been such a blow to their Church, as they could not fear a greater from Rome it self.

And to make the Lord Commissioner believe that they were in good earnest, they had a little before caused the Presbytery of *Peebles* to begin with the election for their Commissioners to the General Assembly, being a place not above twenty miles distant from *Edenburgh*, so that they were sure it must speedily come to his knowledge: To this Election all the Gentlemen within the compass of that Presbytery resorted, intruded themselves by violence, and in despite of the Ministers would give their voices to the chusing both of the Ministers and one Lay-man to be Commissioners for that Presbytery at the next Assembly, whensoever, and wheresoever it should be kept, whenas yet no Assembly was indicted.

The Lord Commissioner weighing well these two things; First, That the principal Covenanters, Noblemen, Gentlemen, and Ministers, as he had occasion to speak with them severally, and upon several occasions, had protested unto him, that their meaning never was quite to abolish Episcopal Government, but only to have it limited and restricted, according to the Laws of that Church and Kingdom, and that they might be accountable to, and censurable by the General Assembly, if they should transgress these limits; adding, that they had far rather live under that Government, than under the tyranny of the Presbyteries, which they had heard their Fathers so much complain of, and had given them charge to beware of; the like Protestations they having likewise made to divers of his Majesties Council, and others. And Secondly, considering that he now found that they begun to speak more sparingly and reservedly in that point, and would not so much as treat of it before the Assembly, and that some of them had given out, that they had resolved upon a way to throw off that grievous burthen of the Presbyteries,

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byteries, with the weight whereof their Fathers were so much grieved, viz. by joyning so many Laick Elders to every Presbytery as there should be Ministers in it, by which means the Laity should be able to keep the Presbytery under, without the help of Bishops. Our Commissioner was now once again at a stand, not knowing how to proceed, as not being sufficiently warranted by his Majesties Instructions to indict a General Assembly or Parliament, unless he should first be satisfied by advice of them who understood the forms of Assemblies, what course was to be held, both for the Members of that Assembly, and the manner of their Election, and for a previous consultation of the principal things to be treated there; all which Consultations the Covenanters did utterly reject: He therefore resolved once again to make a Journey to the King, and acquaint him with these new occurrences, since he found them daily increasing in their obstinacy, and so changed, as he was not able to make any judgment, either of their resolutions, or desires, or of what would give them satisfaction.

And therefore the Lord Commissioner told them plainly, that he had no Authority from his Majesty to indict an Assembly, unless some particulars were agreed upon, both concerning the constitution of the Assembly, the present settling the Peace of the Kingdom, and the righting and restoring to their places such Ministers as had been displaced without order of Law, who might again be displaced, if at the Assembly they were found to deserve it: The sum of his Majesties demands he delivered to the chief Lords Covenanters in these Ten Articles, which will be found by the reading of them to be very just and reasonable:

1. **T**hat all Ministers deposed or suspended by the Presbyteries since the first of February last, without warrant of the Ordinary, shall be restored to their own places, till such time as they shall be legally convicted.
2. That all Moderators of Presbyteries, deposed since the foresaid day by the Presbyteries, without warrant of the Ordinary, be restored, and all Moderators appointed by the said Presbyteries without warrant foresaid, to desist from executing the Office of Moderator.
3. That all Ministers admitted by the Presbyteries since the foresaid day, without warrant from the Ordinary, shall desist from exercising the Function of their Ministry in that place to which they have been so presented and admitted.
4. That all Parishioners shall frequent their own Churches, and hear their own Minister, and that the Elders assist the Minister in the Session, and other exercises of the Discipline of the Church, as formerly they were used to do.
5. That all Bishops and Ministers, have their Rents and Stipends duly and thankfully paid them.
6. That all Ministers be appointed presently to repair to their own Churches, that none of them come to the Assembly, or to the place where the same shall be held, but such as shall be chosen Commissioners from the Presbyteries.
7. That according to the Act of Assembly 1606. Moderators of Presbyteries being found necessary Members of the Assembly, every one of the said Moderators be appointed to be Commissioner from that Presbytery where he is Moderator.
8. That Bishops and other Ministers who shall attend the Assembly, may be secured in their persons from all trouble and molestation.

9. That the Commissioners from Presbyteries, be chosen by the Ministers of that Presbytery only: And that no Lay-person whatsoever, meddle in the choice, nor no Minister without his own Presbytery.

10. That all Convocations and Meetings be dissolved, and that every man repair to his own House, and that the Country not only to be made peaceable, but also that all such Acts be forborn, as may make it appear to be otherways.

11. And since his Majesty is still displeased with the Covenant, wisdom and our dutiful obedience to our Sovereign require, that some such course should be taken, whereby his Majesty may receive satisfaction therein; and in the mean time, that there be no pressing, threatening, or persuading of men to subscribe the Covenant, nor no mention be made thereof any more in Pulpits.

To these (according to their usual manner) they would no way condescend, but returned to the Lord Commissioner these most unjust and unreasonable Answers.

Answers to the Particulars propounded by his Majesties Commissioner.

Having seriously considered with our selves, that nothing in this World is so precious, and ought to be so dear unto us as our Religion, that the diseases of the Church, after long toleration, did threaten no less than her utter ruin, and the expiring of the truth of Religion at last, and that a free General Assembly was the ordinary remedy appointed by Divine Authority, and blessed by Divine Providence in other Churches, and after a special manner in the Church of Scotland; we have often, and earnestly supplicated for the same, and have laboured to remove what was objected, or what we could conceive to be any hinderance to the obtaining of our desire, like as we have now for the same good end resolved to return this Answer to the Particulars propounded, to be performed by us before any Assembly be indicted.

The Particulars propounded, are either concerning Matters Ecclesiastical or Civil. Ecclesiastical, or Church Matters are, The first, concerning Ministers deposed or suspended by the Presbyteries, since the first of February last, without warrant of the Ordinary, that they be restored to their own places. The second, concerning Moderators of Presbyteries deposed since the foresaid day, to be restored, and all Moderators appointed by the said Presbyteries without warrant a foresaid, to desist from executing the Office of Moderator. The third, concerning Ministers admitted since the foresaid day, that they desist from exercising the Function of the Ministry in that place; to which they have been admitted. These three Particulars do concern the power, duty, and particular facts or faults of Presbyteries, wherein we have no power to judge or determine, whether they have proceeded lawfully or not, far less can we urge or command them to recall what they have determined or done, in the suspending, deposing, or admitting of Ministers, or Moderators, they being properly subject to the superiour Assemblies of the Church; and in this case and condition of the Church, to the General Assembly, where, if they shall not after trial justify their proceedings, from the good warrants of Scripture, reason, and the acts and practices of the Church, they ought to sustain their own deserved censure. And since on the one side, there be many complaints against the Prelates for their usurpation over Presbyteries in the like Particulars; and on the other side,

side, there be such complaints of the doings and disorders of the Presbyteries, to the offence of the Prelates; we trust that his Majesties Commissioner will not esteem this to be any hinderance of the indiction of a General Assembly, but rather a powerful and principal motive with speed to convene the same, as the proper Judicatory wherein to determine such dangerous and universal differences of the Church. Neither do we hear that any Ministers are deposed, but only suspended, during this interim till a General Assembly, for their erroneous Doctrine and flagitious Life: So that it were most * offensive to God, disgraceful to Religion, and scandalous to the People, to restore them to their places till they be tried, and censured. And concerning Moderators, none of them (as we understand) are deposed, but some only changed, which is very ordinary in this Church. The fourth, concerning the repairing of Parishioners to their own Church, and that Elders assist the Ministers in the Discipline of the Church, ought to be cognosced and judged by the particular Presbyteries, to which the Parishioners and Elders are subject, since the cause may be in the Ministers no less than in the Parishioners and Elders. And in case they find no redress there, to assent till they come to a General Assembly, the want whereof maketh disorders to be multiplied, both in Presbyteries and particular Parishes.

To the sixth, That Ministers wait upon their own Churches, and that none of them come to the Assembly, or place where the same is kept, but such as shall be chosen Commissioners from Presbyteries, we answer, That none are to come to the place of the Assembly, but such as are either allowed by Commission to have voice, or otherwise have such interest as they can justify to his Majesties Commissioner, and the Assembly convened.

To the seventh, Concerning the appointing of Moderators of Presbyteries to be Commissioners to the General Assembly, only constant Moderators, who have ceased long since, were found in the Assembly 1606. (which yet was never repudiated by the Church to be a lawful National Assembly) so be necessary Members of the General Assembly. And if both the Moderators, who if they be necessary Members, need not to be chosen, and the chosen Commissioners repair to the Assembly, the Assembly itself can judge best of the Members whereof it ought to consist.

To the ninth, That no Lay-person whatsoever meddle with the choosing of Commissioners from the Presbyteries, and no Minister without his own Presbytery, we say, That according to the order of our Church discipline, none but Ministers, and Elders of Churches ought to have voice in choosing Commissioners from Presbyteries, and that no Minister, or Elder, should have voice in Election, but in his own Presbytery.

The rest of the Particulars are concerning Civil Matters: As the fifth, concerning the paying of Rents and Stipends to Ministers and Bishops, concerning which we can say no further, but that the Laws are Patent for them, as for his Majesties other Subjects, and that the General Assembly ought not to be delayed upon any complaint in that kind.

The eighth, requiring that Bishops and Ministers be secured in their persons, we think so reasonable, that we will promise every one of us for our own parts, they shall suffer no violence from us, and that we shall hinder others so far as we may; And if any trouble them otherwise, or make them any kind of molestation in that attendance but by order of Law, the Parties are justly punishable according to the degree of their fault, as other Subjects are.

To the tenth, concerning the dissolving of all Conventions and Meetings, and the peaceableness of the Country; These Meetings being kept for no other end, but for consulting about lawful Remedies against such

pressing grievances as threaten the desolation of this Church and State, cannot be dissolved till the Evils be removed. And we trust that nothing in these our Meetings hath escaped which carrieth in it the smallest appearance of tumult, or which may seem to tend to the breach of the Common Peace: But although our Adversaries have herein calumniated us, yet we have always so behaved our selves, as beseeched his Majesties most humble and loyal Subjects, petitioning his Majesty for a legal redress of our just grievances.

To the last, concerning the Covenant; the Commissioner his Grace having many times and most instantly pressed us with that point, we did, first, by * invincible Arguments make manifest, that we could not, without sinning against God, and our own Consciences, and without doing wrong to this National Church, and all Posterity, rescind or alter the same: And thereafter did at large clear the same of all unlawful combinations against Authority, by our last Supplication and Declaration, which his Majesties Commissioner accepted, as the most ready and powerful of all other means, which could come within the compass of our thoughts to give his Majesty satisfaction, The Subscription of this our Confession of Faith, and Covenant, being an act so evidently tending to the || Glory of God, the King's honour, and happiness of the Kingdom: And having already proved so comfortable to us in the inward of our hearts, It is our ardent and constant desire, and ready wish, that both his Majesty and all his good Subjects may be partakers of the same comfort, like as we find our selves bound by Conscience, and by the Covenant itself, to persuade all his Majesties good Subjects to joyn with us for the good of Religion, his Majesties honour, and the quietness of the Kingdom: Which being modestly used by us without pressing, or threatening of the means, we hope shall never give his Majesty the least cause of discontent.

Seeing therefore, according to our power and interest, we are most willing to remove all hinderances that things may be carried in a peaceable manner, worthy our Profession and Covenant, do aim at nothing but the good of the Kingdom, and preservation of the Church, which by consumption, or combustion, is like to be desperately diseased, except remedy some way be speedily provided; And we delight to use no other means, but such as are legal, and have been ordinary in this Church, since the Reformation: We are confident that without further delay, for preventing of greater evils and miseries than we can express, our just desires shall be granted. So shall we be encouraged in the peace of our souls, still to pray for his Majesty, all increase of true honour and happiness.

Upon their refusal, he sent for some of the chief Lords Covenanters, and told them of his resolution for a new Journey; that he found their ways such as he could not go along with them; that he had power to grant them a free General Assembly, but that he could not conceive that to be a free one, in which they should bring in every man to have a voice whom they had a mind to: If they would let him know what manner of persons should sit there, and what they intended to do there, he would give his best concurrence, if he found their intentions to be agreeable to the Laws and Customs of that Church and Kingdom; if they rejected these motions, he knew nothing left for him, but to return back again to his Majesty, yet he desired them before his Journey they would let him know what it was they would have, and that they would express what was the uttermost of that which they desired from his Majesty, without which they would not rest satisfied; that with their desires he would make his Majesty acquainted, and that within a few

Car. 14.
The contrary is most true.

* The Lord Commissioner never heard any Argument to that purpose which could convince a child. The Lord Commissioner never accepted of it, nor conceived it could give satisfaction to any. It doth most evidently tend to the dishonour of God.

Anno few days he would either return to them himself
1638. with the King's Answer, or otherwise it should be
speedily sent unto them.

Their answer to the Lord Commissioner was, that they would make their Tables acquainted with his Proposition, and should shortly receive their Answer. At their Table it was much debated, whether he should have any further time allowed him for a new Journey, and a speedy return, or if they should leave him to his own choice and counsels, and they in the mean time to indict a General Assembly, and go on with the prosecution of their intended resolutions: At last, not without contrariety of Suffrages in this also, it was by most voices concluded, that to give the People satisfaction, they would yet forbear the indicting of the Assembly until the 21. day of September, before which time, if he or some other did not return with such answer as should content them, then they would hold themselves free to go on with their designs: And for expressing their desires, or what satisfaction they expected from his Majesty, they would not descend to Particulars, only they looked for a free General Assembly, and a Parliament, in which two great Courts their desires should be made known; And this being all the answer the Lord Commissioner could obtain from them, he told them that he would report it to his Majesty, and intended presently to begin his Journey.

No sooner were they parted from him, but they betook themselves to their old courses, both of incensing the people, and dashing in the Lord Commissioner all hope of doing any good in this service: The first they did by scattering a report amongst their followers, that the Lord Commissioner neither had power from the King, nor any intention in himself to give them any satisfaction, but that he only delayed time, until all things might be in a ripeness and readiness for their ruin, an evident argument whereof was, that now he had taken two Journeys thither, and yet had never offered any thing, nor were they in better case than before he was sent unto them: A thing which they knew to be most untrue, both because in his Majesties last Declaration he had granted them very many things concerning their pretended grievances, which he had not granted before, being the same things which at first they only desired; as likewise because the Lord Commissioner had now lately rendered them in writing Ten Propositions, upon the yielding to which he would presently indict an Assembly: But that was all one with them, for so they could persuade the people that nothing yet had been offered at all to content them, they cared not by what reports (true or false) that persuasion were wrought in them: The King's Commissioner, to assure the People that he intended really, and endeavoured their content, if possibly it might be effected upon any reasonable termes, contracted his former Propositions into these two (which we here insert) and caused many Copies of them to be dispersed through the City, that so the People might not be kept from the knowledge of his Majesties favour towards them.

1. *If the Lords and the rest will undertake for themselves and the rest, that no Laicks shall have voices in choosing the Ministers to be sent from the several Presbyteries to the General Assembly, nor none else but the Ministers of the same Presbytery.*
2. *If they will undertake that at the Assembly they shall not go about to determine of things established by*

Acts of Parliament, otherwise than by Remonstrance or Petition to the Parliament, leaving the determining of things Ecclesiastical to the general Assembly, and things settled by Act of Parliament, to the Parliament.

Then I will presently indict a General Assembly, and promise, upon my Honour, immediately after the Assembly to indict a Parliament, which shall cognosce of all their complaints.

THis did so irritate their Leaders, that they presently entred upon a course that should put the Lord Commissioner out of hope of ever doing any good in this Service; for they presently gave order, even before the beginning of his Journey, for the election of the Commissioners to the General Assembly throughout the whole Kingdom, to be made before his return, or the indicting of an Assembly; which caused him presently to send for the chief of the Covenanters, and absolutely to tell them, That if they did proceed to the election of any Commissioners for the Assembly before his return, he would not go his Journey at all; he would not move his Majesty for a general Assembly, nor for any thing else; he would leave them to their own ways; as a private man he would stay in the Kingdom and expect the issue of their Counsels: Which resolution of his, because it should not be concealed from the People, he caused likewise by many Copies of it in writing to be divulged amongst them: This his determination these Lords Covenanters to whom he delivered it, communicated to their Tables, who were very stiff in their former conclusion for the present election of Commissioners; yet because they could not well perceive how to satisfy the People, if they should break off all Treaty upon such a nice point, it was at the last agreed unto, and talked of as a singular favour done to the Lord Commissioner, that the election of the Commissioners to the Assembly should be delayed until his return, which we pray the Reader to observe, because it shall be known at his return, with what a horrible equivocation they did elude this their promise.

Before the Lord Commissioner began his Journey towards the King, he entred into a serious Consultation with the chief Officers of State and principal Counsellors there, what further advice they had to recommend by him unto the King, for the settling of the Peace of that Kingdom, since they clearly perceived that all his Majesties Royal and Gracious Intentions to that People were frustrated, by the rebellious and obstinate courses of some few who miss-led the rest; and since he could not possibly draw from the Covenanters their designs, nay, nor their desires, whereby he might learn what they expected for their satisfaction, he desired of them their best counsel, and that he with them might conceive in writing what they supposed would reduce the Kingdom to peace and quietness, and without which they thought it could not be effected, but by force and arms, which he was sure his Majesty would never use, but in an unavoidable extremity, and for the preservation of his Crown and Dignity. This the Lord Commissioner did not adventure to communicate with the whole Council, because he did know that some of the Counsellors were Covenanters in their hearts, though for dangerous ends, they had forborn the subscribing of the Covenant with their hands, and that they would acquaint the Covenanters with it, with whom they kept private meetings.

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1638. This Proposition being much debated amongst these Counsellors, they fell upon that way which they conceived would fully satisfy, or else none could; which was this: Since the Covenanters would not express their own desires in particulars, they thought best to take an exact view of all their Petitions, Remonstrances, Grievances, Declarations, Protestations either written or printed, which they had since the first beginning of these Troubles exhibited to the King, Lord Commissioner, or Council; and to extract out of them the Particulars of all their grievances and desires, and to represent them unto his Majesty.

And besides all these, the King being assured by the Lord Commissioner, that the principal motive which the Heads of the Covenanters had used to the People for alienating their minds from his Majesty, was that false opinion of his averiness from the Religion Reformed, and of his inclination to Popery: His Majesty resolved, above all that was desired, to take a course which should give his Subjects full and unquestionable satisfaction in that point; and therefore propounding unto his Majesty, the example of his Royal Father, his Majesty concluded to command and urge the renewing of that Confession of Faith, which was first framed and afterward renewed in his name, by which means he made account that he should both benefit his Subjects and right himself: For perceiving that they had grounded and fathered their spurious Covenant upon that Confession and Covenant urged by his Majesties Father; he resolved, by this Act of his Authority to legitimate it, that it being commanded by him, might save the People who were to swear it, from incurring the danger of the Laws, which have made it very criminal to enter into any Covenant without the King's Authority: As also, to vindicate himself from that false and wicked aspersions, which the Heads of their Covenant had most seditiously laid upon his Majesty, viz. that he had a resolution either to bring in Popery, or at least to tolerate it in his Kingdoms, which though they themselves did not believe, yet they believed that this was the most powerful means of alienating the minds of the People from his Majesty (which they only intended) if they could possibly work them to that belief. And so both his Majesty and the Lord Commissioner, who had lately come from them, were persuaded that not only his Majesties people, but all people in the World, to whose notice it should come, must rest satisfied, that he could not possibly be that way inclined, if he should command, & by his own authority effect a new subscription & swearing of that Confession of Faith, which is more directly opposite to Popery than any Confession besides extant in the World. This being added to the former advice of Council, which was to ease them of all those things which they pretended to be their principal grievances, the King well hoped should have settled the peace of that Church and Kingdom. For by granting the removing of those former grievances, without this last superaddition of his Majesties favour, the Counsellors were persuaded that the King's Subjects for the most part would be satisfied, desert their Leaders, and adhere to his Majesty with their Lives and Fortunes, as they themselves would do who signed this their Counsel with their hands, and sent it up to his Majesty by the said Commissioner.

No sooner was he come to the King at *Oatlands*, but his Majesty was astonished with his relation of their proceedings; and when he presented into his Majesty, not only the improbability, but also the im-

possibility that ever the Ring-leaders of that Rebellion would desist, until they had obtained their wicked ends, and that the only hope of peace was placed in dividing the People from them, by proffering unto the people such gracious favours, as in all likelihood they neither could nor would reject; and well weighing the advice given unto his Majesty by the principal Counsellors and Officers of State there, after mature deliberation with such as his Majesty was pleased to call unto him, and especially at the humble and earnest importunity of the Lord Commissioner, so zealously affected to the peace of the King's and his native Countrey, the King did resolve to pursue that advice of his and the other Counsellors, and did again make a very exact survey of whatsoever they had petitioned for, from the very first, either of his Majesty, the Lord Commissioner, or Council, and resolved to grant them all, and besides all these, to renew the former Confession of Faith and the Band annexed, which his Majesty made account would have given them satisfaction above all things, especially in that wherein they had been most wickedly abused, that is, in their opinion of the King's inclination to Popery. The particulars of his Majesties gracious grants unto them you shall find in the next Proclamation made after the Lord Commissioners return to that Kingdom; whom, within eight days after his coming to the King, he dispatched back again, overjoyed with his Majesties grants, as making full accompt, that he should be received this last time as an Angel of God, bringing in his mouth the branch both of piety and peace: But how far both the King and he and the Privy Counsellors, and all the good, religious, loyal, and peaceable Subjects of that Kingdom were deceived herein, the next ensuing Narration (which is almost above credit) will sufficiently declare.

For the Lord Commissioner, returning before the day agreed upon, he found all things in the time of his absence so perplexed and imbroyled by the Heads of the Covenanters, who were afraid of nothing so much, as that he should return with an answer satisfactory to the People, that he began most clearly to perceive, that these men were resolved that nothing should satisfy them; which appeared by their whole proceedings in the time of his absence, and especially in these two particulars: First, whereas they had promised that no Election of Commissioners for the Assembly should be made before Sept. 21. the day agreed upon for his return, they gave order that the Election should be made Sept. 22. being the next day after that, which they knew was to be passed before he could possibly return the King's answer to them: According to which resolution of theirs, Commissioners for the Assembly were elected in many Presbyteries upon that day, before any of the Covenanters did, or could come to know the King's answer from the Lord Commissioner, or before the Assembly was indicted, which was not until some days after these Elections were past: Now, we desire to know whether ever there were heard a more gross, absurd, and palpable equivocation than this, and that from men, who would be accounted the greatest opposites in the world to Popish Tenets, and to none more than that of equivocation. They promise that no Election shall be made until the Lord Commissioner return, and before such a day; and that promise grounded upon the Lord Commissioners resolution before his departure from them, that unless they would give him that assurance, he would not undertake his Journey, nor move the King any more in this business; but if they would

Anno 1638. expect his return and answer by that time, he would do both. These holy men resolve to expect that time before any Election shall be actually made, but give order that it shall be made the next day after, before it could be known in most parts of the Kingdom whether he were returned, or in any part of the Kingdom, or by any person of the Kingdom, what Answer he had returned from the King. The insincerity of which proceedings (condemned by many Covenanting Ministers at their Meeting at Edinburgh for a most desperate Equivocation) We may be confident every man will detest, especially in those men who boast themselves to be the only sincere Professors of these times.

Besides, the Lord Commissioner found that these men (who would not so much as hear him speak of any precedent Conference of any thing concerning the Assembly, nor of any directions to be agreed upon for the more orderly proceeding in it, but cried out against them as unsufferable prelimitations and prejudgings of the liberties of Christ and his Church) had in the time of his absence at their Tables agreed upon certain directions comprehended in eight Articles, which they had dispersed through the whole Kingdom, and commanded to be observed by the several Presbyteries thereof in their Elections; the true Copy whereof here followeth.

A Direction for Presbyteries.

That every Presbytery have a Copy of the Act made at Dundee the seventh of March, 1597. concerning the number of Commissioners; the tenour whereof followeth.

Because there hath been no order hitherto anent the number of Commissioners to be directed from every Presbytery to the General Assembly, therefore it is statued and ordained, that in all time coming three of the wisest and gravest of the Brethren shall be directed from every Presbytery at the most, as Commissioners to every Assembly, and that none presume to come without Commission: And likewise, that one be directed from every Presbytery in name of the Barons, and one out of every Burgh, except Edinburgh, which shall have power to direct two Commissioners to the General Assembly.

2. That every Presbytery have a Copy of the Commission to be given to the Commissioners; the tenour thereof follows.

T. T. the day of
The which day after calling upon the Name of God, We the Members of the Presbytery of _____ having diligently considered the manifold corruptions, innovations, and disorders, disturbing our peace, and tending to the overthrow of our Religion, and Liberties of the Reformed Church within this Realm; which hath come to pass, especially through the want of the necessary remedy of General Assemblies, as well ordinary as pro re nata, enjoyed by this Church for many years, and ratified by Act of Parliament. And now expecting shortly by the mercy of God the benefit of a free General Assembly, do by these Presents nominate and appoint _____ Minister of _____ as also _____ in name of the Burroughs, conjunctly and severally our lawful Commissioners, giving and granting unto them our full Power, Commission, and express Charge, to repair to the said Assembly at the day and place, when and where it shall happen to sit, in any safe and commodious place within this Kingdom, and there with the rest who shall be authorized with lawful Commission, in our name to propound, treat, reason, vote, and conclude, according to the Word of

God, and Confession of Faith approved by sundry General Assemblies, and received throughout the whole Kingdom in all Ecclesiastical Matters, competent to a free General Assembly, and tending to the advancement of the Kingdom of Christ, and the good of Religion, as they will answer to God, and his Church thereupon, and to report to us their diligence therein. In testification of this our Commission and Charge, we have subscribed these Presents with our Hands, and which they have accepted with the lifting up of their Hands.

3. That every Church-Session send one of the most qualified Elders unto the Presbytery the day of choosing Commissioners to the General Assembly: That by common consent of the Ministers and those Elders present in the Presbytery, there may be chosen both the Commissioners for the Ministers, and also some well affected and qualified Nobleman, or special Gentleman, being an Elder of some particular Church-Session within that Presbytery, in name of the Barons: For this is the constitution of the Presbyteries, (otherwise called Elderships) appointed by the Church in the Books of Discipline, Acts of the General Assembly, practised for many years after the Reformation, and ratified in the Parliament, the twelfth of King James the Sixth, and never since altered nor rescinded; neither can be with reason altered, seeing that same is the constitution of the Supreme and General Assemblies, and of the Inferiour and Church-Sessions, as is at more length cleared by some Reasons.

4. That such as are erroneous in Doctrine, or scandalous in Life, be presently processed, that they be not chosen Commissioners; and if they shall happen to be chosen by the greater part, that all the best affected, both Ministers and Elders, protest and come to the Assembly to testify the same.

5. To send to every Presbytery a Copy of the printed Reasons for an Assembly.

6. That Moderators by virtue of their Office be not Commissioners to the Assembly, except they be chosen.

7. That the Presbyteries in one of the ordinary Meetings, appoint to convene solemnly after the twentieth of September, either upon the 21, 22, 23, 24, or 25. for choosing of their Commissioners to the Assembly, and for to send them hither to Edinburgh before the first of October, or so soon as they can, that with common consent, they may receive the King's last answer, and advise upon the next lawful remedies, in their extream necessities of Church and State.

8. That in the Fast to be observed on the sixteenth day of September, the second day preceding their Election, they may crave God's direction therein.

TO these eight Articles they joyned (by way of Information) a very impertinent, long and tedious Discourse of Ruling Elders, too long and too simple to be here inserted, which was added no doubt only to perswade the Ministers to admit Lay-men to have voices in their Presbyteries at the Election of the Ministers who were to be Commissioners for the Assembly; or in case of their refusal, to perswade the Lay-men to put themselves in possession, and give their voices in these Elections whether the Ministers would or no, as shall appear afterwards, both by that intrusion which these Lay-Elders used in many Presbyteries, where the Ministers refused to admit them, and by some of the Tables more private instructions, by which they were ordered so to do.

Now, we desire the Reader to consider, whether the Conference which the Lord Commissioner desired for debating of what Members the Assembly was to be constituted, and the matters which

1638. which were principally to be discussed there (with so much bitterness exclaimed against by them) could in any construction or sense be taken for such a prelimitation of the Assembly, either in the Members, Matter, or Manner of it, as these eight Articles composed and commanded by their Tables. In the second Article, they set down to every Presbytery, a set form of a Commission to be made to their Commissioners, which was never done before; and at the Assembly, when the several Commissions were read, it was observed that all the Commissions were the same *verbatim*, except a very few from some Presbyteries who would not be ruled by the Table; and gave power to their Commissioners to continue no longer in the Assembly, than his Majesty or his Commissioner in his name should continue it: In the same Article, they will have the Presbyteries in their Commissions to take it *pro confesso*, that the pretended and complained of Innovations are, *corruptions and disorders disturbing the peace, and tending to the overthrow of their Religion and Liberties within the Reformed Church of that Realm*: If this be not to pre-judge and take that for granted, which was to be tried by the Assembly, whether it was so or not, *viz.* whether these things complained of were Innovations and Corruptions introduced in Religion, We must leave it to the Reader to judge. In the third Article they appoint Lay-men to sit in Presbyteries, which had not been done for above Forty years before; Nay, and these Lay-men to be equal in number with the Ministers, which is contrary to their own Book of Discipline alledged by them, which did then order that the Ministers should always exceed the number of the Lay-Elders; so that before this time they never were equal in number: Nay, that these Lay-men should have voices, not only in the chusing of their own Lay-Elder, but, which is insufferable, should have suffrage in the Election of the three Ministers Commissioners for the Assembly, which they themselves do know was never heard nor practised in that Church before, in the very first and strictest times of Reformation, nor ever since. In the fourth Article they order a notable trick and device of their own to be put in practice, whereby they were ascertained, that no Minister should be chosen Commissioner in any Presbytery where they had any power, but such as did undoubtedly concur with them in their rebellious courses: For they appointed (and accordingly it was practised) that every man suspected to be of a different Judgment from them, should presently be proceeded against and brought under the scandal of erroneous Life or Doctrine, and so made incapable of being chosen Commissioner; according to which Article there were very few Ministers in the Kingdom, who had not subscribed their Covenant, but they were presently suspended by their Presbytery, where they had voices to do it, or at the least put under Process by some one or other, which could not be prevented; for no man can be denied an original Process against any man whom he will implead: But yet this Article left no evasion, if it should happen that such a one should be chosen Commissioner, for in this case they ordered, that the rest who gave not voices should protest against the Election, and complain of it to the General Assembly, where they were sure enough to proceed against him there, and lay him aside until his Process should be discussed, which they did put in practice upon some Ministers, who did not concur in Judgment with them

at the first sitting down of the Assembly. The sixth Article is directly against the Constitutions of their Church then in force, and till then practised; the Moderator of the Presbytery being constantly one, as being most able to give an account to the Assembly of all Presbyterial actions. The seventh Article gives order for practising the above-mentioned equivocation, and enjoyneth them to make their Elections before they received the King's Answer, and that they repair to *Edinburgh* immediately after their Election, that all the Commissioners elected may consult before hand upon what was to be said or done at the Assembly; which is in effect neither more nor less, than to receive direction from their Tables how to carry themselves at the Assembly, and indeed to preconvence and hold the Assembly at *Edinburgh* before their meeting at *Glasgow*.

These were their publick Instructions which they were not ashamed to avow and send abroad from their Tables, as it were by publick Authority, to the several Presbyteries of that Kingdom; and whether they do not contain prelimitations of the Assembly, we shall leave it to the Reader to judge: But whether, if his Majesty, Commissioner, or Council, had sent any such directions and instructions to the several Presbyteries, they would not have exclaimed against them as unsufferable prelimitations of that Assembly, and pre-judgings of the Liberties of the Church of Christ in that Realm, the King did appeal even to their own Consciences. And yet these publick instructions are nothing to the private ones, which they durst not communicate to all their Party, but only to some one Laick, and one Minister, their special Confidants in every Presbytery, of which you shall hear more afterwards in their due place.

Notwithstanding all these discouragements, arising from the disorderly proceedings of the Covenanters in the time of his absence, the Lord Commissioner the day after the time prefixed for his return, *viz.* the 22. day of September, 1638. assembled the Council at the Palace of *Holy-rood-house*, and there first delivered unto them this Letter from his Majesty, as followeth.

Apud *Holy-rood-house*, Sept. 22. 1638.

The which day James Marquess of Hamilton, his Majesties Commissioner, produced and exhibited before the Lords of Privy Council, the two Missives under-written, signed by the King's Majesty, and directed to the said Lords, which being read, heard, and considered by the said Lords, they have ordained, and ordains the same to be inserted and registred in the Books of Secret Council, therein to remain *ad futuram rei memoriam*, whereof the tenour followeth.

CHARLES R.

Right trusty, &c. being certainly informed that the distractions which have happened of late, (both in Church and Commonwealth) in this Our ancient Kingdom of Scotland, have much troubled the minds of many of Our good and loyal Subjects; and that these distractions have been occasioned upon jealousies and fears of innovation of Religion and Laws, as tending to the introduction of Popery, and not without some suspicion, as if We our self were inclined that way; Upon occasion whereof, many of Our Subjects have of late subscribed a Band or Covenant for preserving the true Religion and Laws already established, and for defending the King's

N n n n 2 person,

person, and each others, in defence thereof: But the same not being warranted by Royal Authority (as that which was in Our dear Fathers time) must needs of it self be ineffectual, and much prejudicial to the ancient Form and Custom of Government kept within that Our Kingdom of Scotland: Wherefore We, out of Our inborn love to our said native Country, and for obviating these conceived fears, and satisfying of you, and all Our loving People, have thought good to ordain the Confession of Faith, and Band subjoyned thereto, of the date at Edinburgh, January 28. 1580. and signed by Our Royal Father to be renewed: And to that effect have given Order to Our Commissioner, with advice of Our Council, to set down and settle some solid course, whereby the same may be subscribed by Our Council, Judges, Magistrates of Burroughs, and all other our People of that Kingdom. And for further clearing of Our self, We declare, That as We are and ever have been satisfied in Our Judgment and Conscience for the Reformed Religion now established, and against the Roman: So We purpose, by God's Grace, both to live and die in the practice thereof, and to preserve and maintain the same in full strength and integrity, according to the Laws of that Our ancient Kingdom. What We have thought further fitting to be done at this time, concerning the Particulars contained in our Subjects Petitions; you shall receive Our full pleasure therein from Our Commissioner. And that this Our Declaration concerning Our self, and Our pious intention, for settling the Reformed Religion within that Our Kingdom, may appear to Posterity; Our pleasure is, that these presents be registred in the Books of Council.

Oatlands, Sept. 9. 1638.

THIS his Majesties Letter being received by the Council with all submissive, joyful, and thankful acknowledgment, the Commissioner made them further acquainted with the Particulars of the King's Grace and Favour, for the appeasing of the Troubles of that Kingdom, who (upon hearing of the same) were filled with excessive joy, as making full account that now malice it self could not find the least pretence of keeping the People from being satisfied, all things which ever yet since the beginning of these Troubles they had desired, being granted unto them. But so soon as some of the Privy Counsellors, who were not only Covenanters in their heart, but the very heart of their Covenant, had made some of the chief covenanting Lords acquainted with the unexpected excess of his Majesties Favours towards his People, these Lords, making full accompt that their Reign was upon the point of expiration if the People should understand the King's Grace and Favour, bestirred themselves with might and main to disperse rumours amongst them, That the News brought home by the Lord Commissioner, importing his Majesties Answer, did tend to the utter subversion of their Religion and Liberties; That there was a new Covenant to be set on foot by the King, to destroy theirs, and that if they now did not resist, all they had done was quite undone and lost: After which, the principal of them came down, first, to the Lord Commissioner, and then to the Council, requesting them, or indeed rather requiring them, that they would not subscribe the Confession of Faith, nor require it to be subscribed by others, by any Authority from the King, threatening in a manner, that if they did, they would repent it, and that a present rupture would follow: The Lord Commissioner and Council heard them twice fully, but found not the

least ground of reason for the delay of the Declaration of his Majesties Grace and Favour towards his People, as seeing it proceeded only from an earnest desire in these Lords to have it concealed from them; and therefore resolved, and imparted unto the Lords Covenanters their resolution, that they would publish it that day, being *Saturday*. The Lords Covenanters did then seem to abate something of their requests, or rather demands, and desired the Kings Commissioner and Council to delay the publishing of the Declaration only until the *Monday* following, before which time, if they could not shew good Reasons for the stopping of it, they would be content with the publication thereof: Which motion of theirs wanted not seconding from some of the Privy Council there present, who were indeed the first and chiefest of them: But the Lord Commissioner and Counsellors well and wisely foreseeing that this delay was desired, first, that these Lords Covenanters might have time to pen and prepare a Protestation against this his Majesties gracious Declaration, with the Contents whereof some of the Privy Counsellors (heartly Covenanters) had made them acquainted; which Protestation could not be provided nor penned in the space of so few hours: Secondly, That the Lords Covenanters made no question, but that the next day being *Sunday*, their Ministers in all the Pulpits of *Edinburgh*, by their subornation, should so configure up the spirits of the People against the Kings gracious Declaration, as they should not be easily and readily laid again: Thirdly, that they might have time to dispatch Messengers and Postes abroad with Copies of their Protestation, in all Burroughs where the Declaration was to be published, before, or as soon as the King's Declaration could be sent to those places: For these important considerations, the Lord Commissioner and Council did declare unto these Lords, after full hearing of them, that considering the invalidity of their Reasons to the contrary, his Majesties gracious Declaration should be published that day at the Cross of *Edinburgh*: And so accordingly the King's Declaration that day was proclaimed as here it followeth.

CHARLES, by the Grace of God, King of Scotland, England, France, and Ireland, Defender of the Faith. To Our Lovells,

Messengers, Our Sheriffs, in that part conjunctly and severally specially constituted, greeting. Forasmuch as the cause and occasion of all the distractions which have happened of late both in Church & Commonwealth of this Our Kingdom, have proceeded from the conceived fears of innovation of Religion and Laws: To free all Our good Subjects of the least suspicion of any intention in Us to innovate anything, either in Religion or Laws; and to satisfy not only their desires, but even their doubts, We have discharged, and by these presents do discharge the Service-Book, Book of Canons, and High Commission, and the practice of them; or any of them: and by these presents annuls and rescinds all acts of Council, Proclamations, and other acts and deeds whatsoever, that have been made or published, for establishing them, or any of them; and declares the same to be null, and to have no force nor effect in time coming. And being informed, that the urging of the practice of the 5 Articles of *Pearth Assembly*, hath bred great distraction and division in the Church and State, We have been graciously pleased to take the same into Our consideration; and for the quiet and peace of Church and State, do not only dispenze with the practice of the said Articles, but also discharge, like as by these presents We discharge all and whatsoever presents from urging the practice there-

of, upon either Lay or Ecclesiastical person whatsoever. And We do hereby free all Our Subjects from all censure and pain, whether Ecclesiastical or Secular, for not urging, praising, or obeying the same, notwithstanding of anything contained in the Acts of Parliament, or general Assembly to the contrary. And because it hath been, to the disgrace of Government, dispersed and surmised throughout this Our Kingdom, that some of Our Subjects have exercised such unlimited and unwaranted power, and have held themselves exempted from censure and punishment, so which others Our Subjects are liable, We do by these presents declare, that if any of Our Subjects, whether Ecclesiastical or Civil, of whatsoever quality, title, or degree, have, or shall at any time presume to do any such act, or assume to themselves any such exemption or power, That they shall, like as by these presents We make and ordain them to be liable to the trial and censure of Parliament, general Assembly, or any other judicatories competent, according to the nature and quality of the offence. And for the free entry of Ministers, that no other Oath be administered unto them than that which is contained in the Act of Parliament, And so give Our Subjects full assurance, that We never intend to admit of any change or alteration in the true Religion already established and professed in this Our Kingdom, And that all Our good people may be fully and clearly satisfied of the reality of Our intentions towards the maintenance of the truth and integrity of the said Religion, We have thought fit and expedient to injoin and authorize, like as We by these presents do require and command all the Lords of Our Privy Council, Senators of the Colledge of Justice, Judges, and Magistrates to Burgh and Land, and all Our other Subjects whatsoever, to subscribe and renew the Confession of Faith, subscribed at first by Our dear Father and His Household, in the year of God 1580. Thereafter by persons of all Ranks, in the year 1581. by Ordinance of the Lords of Secret Council, and Acts of the general Assembly. Subscribed again by all sorts of persons in the year 1590. by a new Ordinance of Council at the desire of the general Assembly, with their general band of maintenance of the true Religion, and the Kings person. And for that effect We do require the Lords of Council to take such course among the foresaid Confession and general Band, that it may be subscribed and renewed throughout the whole Kingdom with all possible diligence. And because We will not leave in Our Subjects minds the least scruple or doubt of Our Royal intentions and real resolutions, We have given warrant to Our Commissioner to indite a free general Assembly, to be holden at Glasgow the twenty first day of November, in this present year 1638. And thereafter a Parliament to be holden at Edinburgh the fifteenth day of May, Anno 1639. for settling a perfect peace in the Church and Commonwealth of this Kingdom. And because it is likely that the disorders and distractions which have happened of late, have been occasioned through the conceived fears of innovation of Religion and Laws, and not out of any disloyalty or disaffection to Sovereignty, We are graciously pleased absolutely to forget what is past, and freely to forgive all by-gones to all such as shall acquiesce to this Our gracious pleasure, and carry themselves peaceably as loyal and dutiful Subjects, and shall ratify and approve the same in Our next ensuing Parliament. And that this Assembly may have the better success, and more happy conclusion, Our will is, that there be a solemn Fast proclaimed and kept by all Our good Subjects of this Kingdom, a fourteen daies before the beginning of the said Assembly: the causes thereof to be a begging a blessing from God upon that Assembly, and a peaceable end to the distractions of this Church and Kingdom, with the aversion of God's heavy judgments

from both. And Our pleasure is, that this Fast be kept in the most solemn manner as hath been in this Church at any time heretofore upon the most extraordinary occasion.

OUR WILL is heretofore, and We charge you straightly and command, that incontinent these Our Letters seen, ye pass, and make publication hereof by open Proclamation at the Market Crosses of the head Burroughs of this Kingdom, where-through none pretend ignorance of the same.

Given at Our Court of Oranlds, the ninth day of September, 1638.

Per Regem.

After this Declaration was proclaimed, the Confession of Faith, as it was at the first commanded by King James, as also the Band annexed for defence of the Religion now established, and of the King's Person and Authority, with the Subscriptions of the Lord Commissioner and Council to them both, do here follow.

The Confession of Faith of the Kirk of Scotland.

Subscribed at the first by the King's Majesties unwhile dearest Father, of blessed memory, and his Household, in the year of God 1580. Thereafter by persons of all ranks, in the year of God 1581. by Ordinance of the Lords of Secret Council, and Acts of the General Assembly. Subscribed again by all sorts of Persons in the year 1590. by a new Ordinance of Council, at the desire of the General Assembly: With the general Band for maintenance of the true Religion. And now renewed and subscribed again by his Majesties Special Command, by the right noble Marquess, James, Marquess of Hamilton, Earl of Arran and Cambridge, Lord Evan and Evendail, his Majesties High Commissioner, and Lords of Secret Council undersubscribing. And that of and according to the date and tenor of the said Confession of Faith, dated in March 1580. and of the Band, dated in Anno 1589.

WE All, and every one of us underwritten, protest, That, after long and due examination of our own Consciences, in matters of true and false Religion, are now thoroughly resolved in the Truth, by the Word and Spirit of God, and therefore we believe with our hearts, confess with our mouths, subscribe with our hands, and constantly affirm before God and the whole World, that this only is the true Christian Faith and Religion, pleasing God, and bringing Salvation to man, which is now by the mercy of God, revealed to the World by the Preaching of the blessed Evangel.

And received, believed, and defended by many and sundry notable Kirks and Realms, but chiefly by the Kirk of Scotland, the King's Majesty, and three Estates of this Realm, as God's Eternal truth and only ground of our Salvation; as more particularly is expressed in the Confession of our Faith, established, and publicly confirmed by sundry Acts of Parliaments, and now of a long time hath been openly professed by the King's

Anno 1638. King's Majesty, and whole body of this Realm, both in Burgh and Land. To the which Confession and form of Religion, we willingly agree in our Consciences in all points, as unto God's undoubted Truth and Verity, grounded only upon his written Word: And therefore We abhor and detest all contrary Religion and Doctrine, But chiefly all kind of Papiſtry in general and particular heads, even as they are now damned and confuted by the Word of God and Kirk of Scotland: but in ſpecial, we detest and reſuſe the uſurped Authority of that Roman Antichriſt upon the Scriptures of God, upon the Kirk, the Civil Magiſtrate, and Conſcience of men: All his Tyranomous Laws made upon indifferent things againſt our Chriſtian Liberty; His erroneous Doctrine againſt the ſufficiency of the written Word, the perfection of the Law, the Office of Chriſt, and his bleſſed Evangel. His corrupted Doctrine concerning Original Sin, our natural inability, and Rebellion to God's Law, our Juſtification by Faith only, our imperfect Sanctification and Obedience to the Law, the nature, number, and uſe of the Holy Sacraments. His five Baſtard Sacraments, with all his Rites, Ceremonies, and falſe Doctrine, added to the Miniſtration of the true Sacraments without the Word of God. His cruel judgment againſt Infants departing without the Sacrament. His abſolute neceſſity of Baptiſm. His blaſphemous opinion of Tranſubſtantiation, or real preſence of Chriſt's Body in the Elements, and receiving of the ſame by the wicked, or Bodies of men. His diſpenſations with ſolemn Oaths, Perjuries, and degrees of marriage forbidden in the Word. His cruelty againſt the innocent divorced. His deviliſh Maſs. His blaſphemous Prieſthood. His profane Sacrifice for the ſins of the Dead and the Quick. His Canonization of men, calling upon Angels or Saints departed, Worſhipping of Imagery, Reliques, and Croſſes, dedicating of Kirks, Altars, Daies, Vows to Creatures. His Purgatory, Prayers for the Dead, praying or ſpeaking in a ſtrange Language, with his Proceſſions and blaſphemous Letany, and multitude of Advocates or Mediators, His manifold Orders, Auricular Confeſſion. His deſperate and uncertain Repentance. His general and doubtſome Faith. His ſatisfactions of men for their ſins. His Juſtification by Works, Opus operatum, works of Supererogation, Merits, Pardons, Peregrinations, and Stations. His Holy Water, Baptiſing of Bells, Conjuring of Spirits, Croſſing, Saning, anointing, Conjuring, Hallowing of God's good Creatures, with the ſuperſtitious opinion joyned therewith. His worldly Monarchy, and wicked Hierarchy. His three ſolemn Vows, with all his ſhavellings of ſundry ſorts. His erroneous and bloody Decrees made at Trent, with all the Subſcribers and Approvers of that cruel and bloody Band, conjured againſt the Kirk of God. And finally, we detest all his vain Allegories, Rites, Signs, and Traditions brought in the Kirk, without, or againſt the Word of God, and Doctrine of this true reformed Kirk. To the which we joyn our ſelves willingly, in Doctrine, Faith, Religion, Diſcipline, and uſe of the Holy Sacraments, as lively members of the ſame, in Chriſt our Head: promiſing and ſwearing, by the great Name of the Lord our God, that we ſhall continue in the obedience of the Doctrine and Diſcipline of this Kirk, and ſhall defend the ſame, according to our vocation and power, all the daies of our lives, under the pains contained in the Law, and danger both of Body and Soul, in the day of God's fearful judgment. And ſeeing that many are ſtirred up by Satan and that Roman Antichriſt, to Promiſe, Swear, Subſcribe, and for a time uſe the holy Sacraments in the Kirk deceitfully, againſt their own Conſciences, minding hereby, firſt, under the external Cloak of Religion, to corrupt and ſubvert ſecret-

ly God's true Religion within the Kirk, and afterward, when time may ſerve, to become open Enemies and Perſecutors of the ſame, under vain hope of the Popes diſpenſation deviſed againſt the Word of God, to his greater confuſion, and their double condemnation in the day of the Lord Jeſus.

We therefore, willing to take away all ſuſpicion of Hypocriſie, and of ſuch double dealing with God and his Kirk, proteſt, and call the Searcher of all hearts to witneſs, that our minds and hearts do fully agree with this our Confeſſion, Promiſe, Oath, and Subſcription: So that we are not moved for any worldly reſpect, but are perſwaded only in our Conſciences, through the knowledge and love of God's true Religion, printed in our hearts by the Holy Spirit, as we ſhall answer to him in the day when the ſecrets of all hearts ſhall be diſcloſed. And becauſe we perceive, that the quietneſs and ſtability of our Religion and Kirk doth depend upon the ſafety and good behaviour of the King's Majesty, as upon a comfortable inſtrument of God's mercy granted to this Country, for the Maintenance of his Kirk, and Miniſtration of Juſtice amongſt us, we proteſt and promiſe with our hearts under the ſame Oath, Hand-writ, and pains, that we ſhall defend his Perſon and Authority, with our Gear, Bodies, and Lives, in the defence of Chriſt his Evangel, Liberties of our Country, Miniſtration of Juſtice, and puniſhment of iniquity, againſt all enemies within this Realm, or without, as we deſire our God to be a ſtrong and merciful defender to us in the day of our Death, and coming of our Lord Jeſus Chriſt: to whom, with the Father, and the holy Spirit, be all honour and glory eternally. Amen.

WE under ſubſcribing, and conſidering the ſtrait link and conjunction betwixt the true and Chriſtian Religion preſently proteſt within this Realm, and Sovereign Lords eſtate and ſtanding, having both the ſelf ſame Friends and Common Enemies, and ſubject to the like event of ſtanding and decay, and weighing therewithal the eminent danger threatened to the ſaid Religion, the preſervation whereof being dearer to us than whatſoever we have deareſt to us in this life; And finding in his Majesty a moſt honourable and Chriſtian reſolution, to manifeſt himſelf to the World that zealous and religious Prince which he hath hitherto profeſſed; and to imploy the means and power that God hath put into his hands, as well to the withſtanding of whatſoever Foreign force ſhall mean within this Land, for alteration of the ſaid Religion, or endangering of the preſent ſtate, as to the reſpreſſing of the inward Enemies thereto amongſt our ſelves, linked with them in the ſaid Antichriſtian League and Confederacy; Have therefore in the preſence of Almighty God, and with his Majesties authoriſing and allowance, faithfully promiſed, and ſolemnly ſworn, like as hereby we faithfully and ſolemnly ſwear, and promiſe, to take a true, effauld, and plain part with his Majesty amongſt our ſelves, for diſverting of the appearing danger threatened to the ſaid Religion, and his Majesties ſtate and ſtanding, depending thereupon, by whatſoever Foreign or inſeſtine plots or preparations. And to that effect, faithfully, and that upon our truth and honours, bind and oblige us to others, to convene and aſſemble our ſelves publicly, with our Friends in Arms, or in quiet manner, at ſuch times and places as we ſhall be required by his Proclamations, or by writ or meſſage direct to us from his Majesty, or any having power from him, And being convened and aſſembled, to join and concur with the whole forces of our friends and favourers, againſt whatſoever Foreign or inſeſtine powers or Papiſts, and their partakers, ſhall arrive or riſe within this Iſland, or any part thereof, ready to defend or purſue, as we ſhall be authoriſed and conducted by his Majesty, or any others having his power and Com.

Commission, to join and hold hand to the execution of whatsoever mean or order shall be thought meet by his Majesty, and his Council, for suppressing of the Papists, promotion of the true Religion, and settling of his Highness estate, and obedience in all the Countries and corners of this Realm, to expound and hazard our Lives, Lands, and Goods, and whatsoever means God hath lent us, in the defence of the said true and Christian Religion, and his Majesties Person and Estate, against whatsoever Jesuits and Seminary or Mass-Priests, condemned enemies to God and his Majesty, to their utter wreck and exterminion, according to the power granted to us by his Majesties Proclamation, and Acts of Parliament: To try, search and seek out all Excommunicates, Practisers, and others Papists whatsoever, within our bounds and shire where we keep residence, and dilate them to his Highness and his Privy Council, and conform us to such directions, as from time to time we shall receive from his Majesty and his Council in their behalfs. And specially so many of us as presently are, or hereafter shall be appointed Commissioners in every shire, shall follow, pursue, and travel by all means possible, to take and apprehend all such Papists, Apostates, and Excommunicates, as we shall receive in Writ from his Majesty. And we, the remanent within that Shire, shall concur and assist with the saids Commissioners with our whole Friends and Forces, to that effect, without respect of any person whatsoever. And generally to assist in the mean time, and defend every one of us another, in all and whatsoever Quarrels, Actions, Debates, moved, or to be moved against us, or any of us upon action of the present Band, or other causes depending thereupon. And effauldly join in defence and pursuit against whatsoever shall offer or intend any injury, or revenge against any one of them for the premises, making his cause and part that is pursued, all our parts; Notwithstanding, whatsoever privy grudge, or displeasure standing betwixt any of us, which shall be no impediment or hinder to our said effauld joining in the said common cause; but to lie over, and be misknown, till they be orderly removed, and taken away by the order under-specified. To the which time, we for the better furtherance of the said cause and service, have assured, and by the tenour hereof, every one of us taking the burden upon us for our selves, and all that we may let, assure each other to be unhurt, unharmed, or any waies to be invaded by us, or any our foresaids for old feid or new, otherwise than by ordinary course of Law and Justice: neither shall we, nor any of our foresaids make any provocation, or tumult, trouble or displeasure to others in any sort, as we shall answer to God and upon our Honours, and fidelity to his Majesty. And for our further and more hearty union in this service, we are content and consent, that all whatsoever our feids and variances fallen, or that may fall out betwixt us, be within forty daies after the date hereof amicably referred and submitted to seven or five indifferent friends, chosen by his Majesty of our whole number, and by their moderation and arbitrement componed and taken away. And finally, that we shall neither directly, nor indirectly separate nor with-draw us from the Union and Fellowship of the remanent, by whatsoever suggestion or private advice, or by whatsoever incident regard, or stay such resolution as by common deliberation shall be taken in the premises, as we shall answer to God upon our Consciences, and to the World upon our Truth and Honours, under the pain to be esteemed Traitors to God and his Majesty, and to have lost all honour, credit, and estimation in time coming. In witness whereof, by his Majesties Special Command, Allowance, and Protection promised to us therein, We have subscribed these presents with our hands. At

1589.

We JAMES Marquess of Hamilton, Earl of Arran and Cambridge, Lord Even and Evendail, his Majesties High Commissioner, and Lords of his Majesties Privy Council under-subscribing, by vertue, and conform to a Warrant and Command, signed by his Sacred Majesty, of the date of Sept. 9. 1638. and registrate in the Books of Council upon the 22 day of the said Month, Swear, and with our hearts and humble and true affections to God's truth, and to his Sacred Majesty, subscribe the Confession of Faith, of and according to the date and Tenour above specified: and also renew, Swear, and Subscribe the foresaid general Band of the Tenour above written, for preservation of the true Religion, and maintenance of his Sacred Majesties Authority, according to the Tenour thereof, and siclike, as amply as the same was conceived in favours of his Majesties umwhile blessed Father of eternal memory, by the said Band. In witness whereof, we have Subscribed these presents with our hands, At Holy-rood-house, Septemb. 22. 1638. Sic Subscribitur,

HAMILTON,

Traquair, Roxburgh, Mairseall, Mar, Murray, Linlithgow, Perth, Wigton, Kingorne, Tullibardin, Haddington, Annandail, Lauderdale, Kinnoul, Dumfries, Southesk, Belhaven, Angus, Lorn, Elphinston, Naper, Dalryell, Annt, J. Hay, S. Thomas Hope, S. W. Elphinston, Ja. Carmichael, J. Hamilton, Blackhall.

At the same time was a Proclamation made for the indiction of the General Assembly, which was this:

At Holy-rood-house, the 22 of September, 1638.

‘**F**Orasmuch as it hath pleased the King's Majesty, out of his pious and religious disposition to the true Religion, and out of his Fatherly care, for removing of all fears, doubts, and scruples, which may arise in the minds of his Subjects, for preservation of the purity thereof, and upon divers great and weighty considerations, importing the glory of God, the peace of the Kirk and Common-weal of this Kingdom, to appoint and give order, that a free general Assembly be indicted, kept, and holden at the City of Glasgow the 21 of November next: Therefore the Lords of Secret Council ordains Letters to be direct, charging Maisters, and Officers of Arms, to pass and make publication hereof by open Proclamation at the Market-Cross of Edinburgh, and the head Burrows of this Kingdom; and other places needful. And to warn all and sundry Archbishops, Bishops, Commissioners of Kirks, and others having place and Vote in the Assembly, to repair and address to the said City of Glasgow the said one and twentieth day of November next to come, and to attend the said Assembly induring the time thereof, and aye and while the same be dissolved, and to do and perform all which to their charges in such cases appertaineth, as they will answer to the contrary at their highest peril.

Anno
1638.

Immediately after that, this Proclamation was made for the induction of the Parliament.

At Holy-rood-house the 22 day of
Sept. 1638.

FORASMUCH as it hath pleased his Majesty, out of his pious and religious disposition to the true Religion, and out of his Fatherly care for removing of all fears, doubts, and scruples which may arise in the minds of his Subjects, for preservation of the purity thereof, and upon divers other great and weighty causes, importing the Glory of God, the peace of the Kirk and Common-weal of this Kingdom, to appoint and give order, that the Sovereign and High Court of Parliament shall be holden at the City of *Edinburgh* upon the 15 day of *May* next to come, with continuation of daies: Therefore the Lords of Secret Council ordain Letters to be direct to Maisters and Officers of Arms charging them to pass to the Market-Cross of *Edinburgh*, and other places needful, and there by open Proclamation to make publication of the holding of the said Parliament, and to warn all and sundry Noblemen, Prelates, and Commissioners for the Barons, and Burroughs, and all others having voice and place in the said Parliament, that they and every one of them, in their most decent and comely manner, make their address to the said Parliament, attend and await thereat during the time thereof, and to discharge that duty which is incumbent to them and each one of them, as they will answer on the contrary at their peril.

And last of all was published and proclaimed first the Act of the Lords of Our Council for requiring all the King's Subjects to subscribe the said Confession of Faith and Band annexed, which here followeth:

At Holy-rood-house the 24 day of
Sept. Anno 1638.

THE which day a Noble Earl, *JAMES* Marquess of *Hamilton*, Earl of *Arran* and *Cambridge*, his Majesties Commissioner, having produced and exhibit before the Lords of Secret Council, upon the twenty second day of this instant, a Warrant signed by his Majesty, of the date the ninth of *September* instant; wherein among others of his Majesties gracious and royal expressions for preservation of the purity of Religion, and due obedience to his Majesties Authority in the maintenance thereof, his Majesty did will and ordain that the Lords themselves should swear the Confession and general Band mentioned in his Majesties said Warrant, and also should take such order, as all his Majesties Lieges may subscribe the same. And the said Lords of Secret Council, acknowledging his Majesties pious and gracious disposition and affection to the purity of God's truth, did upon the 22 day of *September* instant, unanimously and with all humble, hearty, and sincere affection, swear and subscribe the Confession of Faith, dated the 2 day of *March*, 1580, according as it was then profest within this Kingdom: To-

gether with the foresaid general Band dated in *Anno* 1589: And now to the effect that all his Majesties Lieges may give the like obedience to his Majesties so pious desire, therefore the said Lords have ordained and ordains all his Majesties Lieges, of whatsoever estate, degree or quality, Ecclesiastical or Civil, to swear and subscribe the said Confession, dated the second of *March*, 1580, and that according to the said date and tenour thereof, and as it was then profest within this Kingdom: Together with the said general Band, dated in *Anno* 1589. as they will answer at the contrary upon their obedience. And ordains Officers of Arms to pass to the Market-Cross of *Edinburgh*, and make publication hereof, and at all other places needful, wherethrough none pretend ignorance of the same.

And next after that was proclaimed the Commission of the Lords of the Privy Council, whereby they appointed and designed several Commissioners for requiring and taking the Subscriptions of his Majesties Subjects to the said Confession and Band annexed, throughout the several Shires within the Kingdom, which here followeth:

At Holy-rood house the 24 day of
Sept. Anno 1638.

FORASMUCH as a Noble Marquess, *James* Marquess of *Hamilton*, Earl of *Arran* and *Cambridge*, his Majesties Commissioner, and the Lords of Secret Council, by an Act of the date of the twenty second of this instant, have by special Warrant of his Sacred Majesty, sworn and subscribed, with all humble and hearty affection and unanimously, the Confession of Faith, dated the second of *March*, 1580. and at length insert in the Books of Privy Council, of and according to the said date and tenour thereof, and according as it was then profest within this Kingdom: Together with the general Band insert therewith in the said Books of Privy Council, dated in *Anno* 1589. Like as also the said Lords of Council, by their Act of the date of these presents, acknowledging his Majesties pious and gracious disposition and affection to the purity of God's truth, and as thereby they conceive themselves bound in Conscience and humble duty to use and follow forth all possible diligence, for procuring the Subscriptions of all his Majesties Lieges thereto. And to this effect, have thought fit that the care and diligence in procuring thereof, be committed to some of his Majesties Council and others of the Nobility and Gentry within the several Sheriffdoms and Provinces of the Kingdom, in manner after specified: Therefore the said Lord Commissioner, and Lords of Secret Council, give power, Warrant, and Commission to such of their number, and others after-following, within the bounds after specified, viz. For the Sheriffdom of *Edinburgh* principal, *William* Earl of *Lothian*, *Archibald* Lord *Naper*, *S. John* *Dalmahoy* of that ilke, *S. George* *Towers* of *Innerleith*. For the Burgh of *Edinburgh*, the Provost and Baillies of *Edinburgh*, that are, or shall be for the time. For *East-lothian*, *Robert* Earl of *Roxburgh*, Lord Privy Seal, *Thomas* Earl of *Hadinton*, *John* Earl of *Lauderdale*, *Harrie* Lord *Ker*, *S. Patrick* *Murray* of *Elibank*, *S. Patrick* *Hepburne* of *Wauchton*, and *James* *Maxwel* of *Innerweik*. For the

Anno 1638.
 'Stewarty of Dalkeith, John Earl of Traquair,
 'Lord Treasurer, William Earl of Dalhousie, and
 'S. James Macgill of Cranstonriddell. For the
 'Sheriffdom of Peebles, and Estrick Forest, the
 'said Lord Treasurer, and John Lord Yester. For
 'the Sheriffdom of Selkirk, the said Lord Treas-
 'urer, the Earl of Hadinton, S. William Scot of
 'Harden, and General Ruthven. For the She-
 'riffdom of Roxburgh, the Lord Privy Seal, the
 'Earl of Lauderdale, the Lord Ker, S. An-
 'dro Ker of Greenhead, S. William Douglas Sheriff
 'of Tiviotdail, and S. Thomas Ker of Cavers.
 'For the Sheriffdom of Bervick, the said Lord
 'Privy Seal, James Earl of Home, the Earls of
 'Hadinton and Lauderdale, and Laird of Blac-
 'der. For the Sheriffdom of Fyffe, John Earl of
 'Rosbes, Charles Earl of Dumfriesline, John Earl
 'of Ammandail, John Earl of Wemes,
 'Lord Fenton, John Lord Lindsey, David Lord
 'Balcarras, S. Thomas Hope of Craighall, Knight
 'Baronet, His Majesties Advocate, S. Alexan-
 'der Gibson of Durie, Sir James Learmonth of Bal-
 'colmie, and S. Andrew Morrey of Balvaird. For
 'the Sheriffdom of Linlithgow, Alexander Earl
 'of Linlithgow, James Lord Anont, S. John Ha-
 'milton of Orbeston Justice, Clerk,
 'Dundas of that ilk, and M. George Dundas of
 'Manner. For the Sheriffdom of Lanerk, John
 'Earl of Wigton, Archibald Lord Angus,
 'Lord Fleeming, Robert Lord Dalryell, S. William
 'Elphinston Chief Justice, Sir James Carmichael
 'of that ilke Treasurer Depute, the said Justice
 'Clerk, S. James Lockhart younger of Lee, Fran-
 'cis Douglas of Sandelands, Gavin Hamilton of
 'Raploche, S. James Hamilton of Broomhill, Ro-
 'bert Hamilton of Torrence, and Alexander Ha-
 'milton of Hags Sheriff. For the Sheriffdom of
 'Striveling, John Earl of Mar, William Earl of
 'Airth, John Earl of Montross, Alexander Earl
 'of Linlithgow, John Earl of Wigton, John Lord
 'Flemming, Alexander Lord Elphinston, James
 'Lord Anont, and S. William Murray of Polmain.
 'For the Sheriffdom of Dumfries, William Earl of
 'Queinsberrie, Master
 'of Dalryell, the Laird of Lag, William Max-
 'well of Kirkhouse, and John Dalryell of Newton.
 'For the Sheriffdom of Clackmannan, the said
 'Earl of Mar, S. Robert Bruce of Clackmannan,
 'S. Thomas Hope younger of Cars Sheriff. For
 'the Sheriffdom of Wigton, John Earl of
 'Cassils, Alexander Earl of Galloway, Sir John
 'Hamilton elder and younger of Barganie, S. Pa-
 'trick Mackie of Larg, John Murray of Brough-
 'ton. For the Sheriff of Air, Alexander Earl of
 'Eglinton, Alexander Earl of Glencarne, John
 'Earl of Cassils, William Earl of Dumfries, Wil-
 'liam Lord Crichton, John Lord Lowdown, the
 'Lairds of Barganie elder and younger, the
 'Lairds of Galtoun and Craigwallace. For the
 'Sheriffdom of Renfrew, Alexander Earl of Glen-
 'carne, Robert Vicount of Belheaven, S. Archi-
 'bald Stewart of Blackhall, the Laird of How-
 'ston and Bryce Sempill of Cathcart, S. Robert
 'Douglas of Blaikester, and S. John Maxwell of
 'Pook. For the Sheriffdom of Dumbartan, Ar-
 'gile, and Carbet, the said Earls of Montross and
 'Wigton, the Lords Larn and Flemming, S. George
 'Stirlane of Keir, and S. William Stewart Cap-
 'tain of the Castle of Dumbartan. For the
 'Sheriffdom of Perth, Stewarties of Montecib
 'and Strachern, the Earls of Airth, Montross,
 'Atholl, Perth, Tullibardine, and Kinnoul, Mur-
 'go Vicount of Stormont, the Lairds of Keir and
 'Lavers elder and younger, the Lairds of Dun-

'crub elder and younger, and
 'Blair of Balkeisock. For the Sheriffdom of For-
 'far, the Earls of Montross, Kingorn, and South-
 'esk, the Lords Carnegie and Ogilvie, the Ma-
 'ster of Spynie, Patrick Maule of Panmure, the
 'Constable of Dundie, S. Andro Fletcher of In-
 'nerpeffer, the Lairds of Din, Ethie, Balnamoune,
 'Aldbar, Bonnyton, Lethintie, and Inntiquhar-
 'yatie. For the Sheriffdom of the Mernes, the
 'Earls of Mairshall and Southesk, the Lord
 'Carnegie, S. Thomas Burnet of Leyes, the Lairds
 'of Glenbervie, Arblathnet, Morphie, Balmoyne,
 'and Halkerton elder. For the Sheriffdom of
 'Aberdene, the Marquess of Huntly, the Earls of
 'Mairshall and Kingorne, the Earl of Kingorne
 'for himself, and as Tutor to the Earl of Erroll,
 'the Lords Forbes and Fraser, and Laird of Drum.
 'For the Sheriffdom of Banff, the Marquess of
 'Huntly, the Earls of Mairshall and Finlar-
 'ter. For Elgine and Forres, the Earl of Mur-
 'ray, the Laird of Innes,
 'Brodie of that ilk, and
 'Dunbar,
 'Sheriff of Murrey. For the Sheriffdom of In-
 'verness, the Marquess of Huntly, the Earl of
 'Seafort, the Lord Lovatt, the Lairds of Grant
 'and Makintosh. For the Sheriffdoms of Caith-
 'nes and Sutherland, the Earls of Sutherland,
 'Caithnes, and Seafort, the Master of Berridail,
 'and S. Robert Gordoun. For Orkney and Zetland,
 'the Earl of Carier, S. John Buchanan of Scotis-
 'craig, and William Stewart of Maynes. For the
 'Sheriffdom of Bute, the Lord Lorn and Sheriff
 'of Bute. For the Isles, the Lord Lorn. With
 'power to them conjunctly and severally to pass
 'to the several Bounds above-written, at such
 'times and places as they shall think fit, and
 'there to exhibit the said Confession of Faith
 'and general Band above-specified, marked and
 'subscribed by the Clerk of the Council, and
 'to require all his Majesties Lieges, of what-
 'soever Rank and Quality, to subscribe the
 'said Confession of Faith, dated the second of
 'March, 1580. according to the said date and
 'tenour thereof, and as it was then profest with-
 'in this Kingdom: together with the general
 'Band dated in Anno 1589. as they will be an-
 'swerable to his Majesty and the said Lords, up-
 'on their dutie and obedience: and to make re-
 'port of their said diligence betwixt and the
 'thirteenth day of November next.

AND because many did conceive, though
 falsely, that these pretended Innovations
 had made some alteration in the Religion which
 was sworn at the first in the said Confession, the
 Lord Commissioner and Council knowing well
 that suggestion to be made by those who were
 enemies to all peace, and only to that end that
 the King's Subjects might be kept from returning
 to their obedience, did declare most truly and
 justly that the King's intention; and so accord-
 ingly the Oath which they had now taken was to
 defend the true Religion and Confession of Faith
 as it was professed in that Kingdom, and Sworn
 unto in the year of our Lord, 1588. by which
 they did assuredly conceive that all the King's
 good people would rest fully satisfied. The Act
 of Council containing that short Explication here
 followeth:

Anno
1638.

Apud Holy-rood-house 22 Septembris
Anno 1638.

THE which day a Noble Marques, JAMES
Marques of Hamilton, Earl of Arran and
Cambridge, his Majesties Commissioner, and
Lords of Secret Council, in all humble and
heartly affection unanimously Swore, and Sub-
scribed the Confession of Faith above-written,
dated the second of March, 1580. according
as it was then profest within this Kingdom:
Together with the general Band above specified,
dated in Anno 1589. Whereupon S. Thomas
Hope of Craighall, his Majesties Advocate, in his
Majesties name asked instruments.

With all these his Majesties gracious proceed-
ings the Lords of the Privy Council were so fully
satisfied themselves, that they did verily believe
that there would remain no more scruples in the
minds of his Majesties good Subjects, and that
nothing now could keep them from a chearful and
thankful returning to their former obedience.
Their own resentment and satisfaction they testi-
fied both by an Act of Council, and a particular
Letter directed to the King for that purpose, which
here do follow:

An Act of Council.

THE Lords of Secret Council having read
and maturely considered his Majesties Let-
ters, and particular Declaration of his plea-
sure anent the annulling of the Service-Book,
Book of Canons, and High Commission, dis-
charging the pressing of the practice of the five
Articles, making all persons, Ecclesiastick and
Civil, of what Title or Degree soever, liable
to the tryal and censure of Parliament, general
Assembly, and other Judicatories competent,
anent the not Administrating to Ministers at
their entry any other Oath than that which is
contained in the Act of Parliament anent the
subscribing and renewing the Confession of
Faith, subscribed by his Majesties Father of blef-
sed memory, and his Houshold, in Anno 1580.
and Band following thereupon, anent the indi-
ction of a General Assembly, to be holden at
Glasgow the 21 day of November, 1638. and
Parliament at Edinburgh the 15 of May, 1639.
and anent his gracious goodness in forgetting
and forgiving all by-gones, and indiction of a
Fast for craving of God's blessing to this Assem-
bly; find themselves so fully satisfied therewith,
and the same to be so satisfactory for removing
all the fears of the Subjects anent innovation of
Religion or Laws, that we hold our selves
bound in duty, not only to acquiesce therewith,
as the best mean to secure both Religion and
Laws, but also to use our best endeavours that
all his Majesties good Subjects may likewise rest
satisfied therewith: And that they with us, and
we with them, may testify our thankfulness for
so great a grace and goodness, with all the hear-
ty expressions of dutifulness and loyalty; And
that our true sense hereof may the more clearly
appear to our Sacred Sovereign, We do by these
humbly and heartily make offer of our Lives
and Fortunes in the defending and assisting of
his Majesties Sacred Person and Authority, in the

maintenance of the foresaid Religion and Confes-
sion, and repressing of all such as shall hereaf-
ter pres to disturb the peace of this Kirk and
Kingdom.

In witness whereof we have heartily and free-
ly Subscribed these Presents with our hands.
At Holy-rood-house the twenty second day of Sep-
tember, 1638.

Sic Subscritur.

HAMILTON,

Traquair, Roxburgh, Mairshall, Mar, Murray,
Linlithgow, Perth, Wigton, Kingorne, Tullis-
bardin, Haddington, Annandail, Lauderdale,
Kinnoul, Dumfreis, Southesk, Belhaven, An-
gus, Lorn, Elphinston, Naper, Dalzell, Anon,
J. Hay, S. Thomas Hope, S. W. Elphinston,
Ja. Carmichael, J. Hamilton, Blackhall.

The Letter of Our Council.

Most Sacred Sovereign,

IF ever Faithful and Loyal Subjects had reason
to acknowledge extraordinary favours, shown
to a Nation, and in a most submissive and hear-
ty manner give real demonstrations of the grace
vouchsafed; then do we of your Majesties Coun-
cil, of this your ancient Kingdom, mani-
fously profess, that such Acts of Clemency
vouchsafed us, cannot proceed from any Prince,
saving him who is the lively Image on Earth of
the great God Author of all goodness. For re-
turn of so transcendent grace, fortified with the
real expresion of unparallel'd Piety, Royal in-
clination to Peace, and Universal Love, not on-
ly to those of our number; but likewise to all
your Majesties loyal Subjects, we do all in one
voice, with all resentment can be imagined, in
all humility render our most bounden thanks,
and offer, in testimony of our full satisfaction
and acquiescence herewith, to Sacrifice our
Lives and Fortunes in seconding your Sacred
Majesties Commandments, and repressing all
such as shall hereafter pres to disturb the Peace
of the Kirk and Kingdom. And for some small
signification of our alacrity and diligence in
your Sacred Majesties Service, we have all,
without the least shadow of any scruple, Sub-
scribed the Confession of Faith and Band ap-
pointed to be received by all your Majesties loy-
al Subjects, sent the Act passed in Council, with
our other proceedings, which we do most hum-
bly represent to your Royal view. And we be-
sech your Majesty to be pleased, to be per-
swaded of the unviolable devotion of all here
Subscribers, who do all in all humility pray
for your Majesties most happy and flourishing
Reign.

Sic Subscritur.

HAMILTON,

Traquair, Roxburgh, Mairshall, Mar, Murray,
Linlithgow, Perth, Wigton, Kingorne, Tullis-
bardin, Haddington, Annandail, Lauderdale,
Kinnoul, Dumfreis, Southesk, Belhaven, An-
gus, Lorn, Elphinston, Naper, Dalzell, Anon,
J. Hay, S. Thomas Hope, S. W. Elphinston,
Ja. Carmichael, J. Hamilton, Blackhall.

Upon

Anno
1638.

Upon all which his Majesty in his Declaration makes a reflection that might have reclaimed the most obstinate of Rebels, had they not been Scots, as followeth:

It is not for men to judge of other mens hearts, and of their secret desires, but we do challenge the most rigid Covenanters to name any one particular ever desired by them, in any of their Supplications, Remonstrances, Protestations, Declarations, written or Printed, exhibited to Us, Our Commissioner, or Council, which is not in this our gracious Declaration granted to our people: For not only all and every one of their particular grievances any way petitioned against by them, are hereby discharged and removed, but even the two general things, which they made the people believe was the sum of all their desires and expectations, viz. a free General Assembly and a Parliament are indicted, and in that order upon which they stood so earnestly, first the Assembly, and then the Parliament: And besides all these, their own Confession of Faith, the ground as they pretend, of their Covenant renewed and established.

Who would not now have expected a happy period to all the distractions of that Kingdom, upon this our gracious assenting to all their own desires? But the devillish obstinacy and malice of those factious spirits, who did see that all their designs were utterly defeated, and that their hopes for compassing of them were now a bleeding and drawing their last breath, if they could not find some means to blindfold our peoples eyes, and so keep them from discerning and acknowledging our grace and goodness towards them: They presently before the hour that this our Declaration was to be proclaimed, filled our peoples minds and ears with fearful expectations of most terrible things to be delivered in this our Proclamation, and so destructive of the Laws and Liberties of that Church and Kingdom, especially of their late sworn Covenant, that presently they wrought the people to a detestation of our Declaration, before they knew what it was: They presently erected a large Scaffold under the Cross where our Proclamation was to be made, upon which were mounted, not one or two from every Table, to protest in the name of the rest, as heretofore they had done, but a great number of Earls, Lords, Gentlemen, and others, with their Swords in their hands, and hats on their heads, not without jeering and laughing during all the time of our Proclamation; which no sooner was ended, but with a most insolent and rebellious behaviour they assisted one *Johnston* in reading of a most wicked, treasonable, and ignorant Protestation, which within few daies after they Printed, and we do here insert, as being confident that all Subjects in the World who shall come to read it, will abhor and detest it, if ever they did feel in their own hearts the least touch or taste of a Princes favour and elemency, or carry any affection to loyalty, justice, and Government: The very reading of it will bring every good Subject and religious honest man so far out of Love with it, as it needeth no further confutation than the very perusal of it: For who can endure to hear Scripture so grossly abused, the holy name of God so solemnly invoked as a witness to such notorious falsehoods; to their rebellious courses and Covenant those attributes of Infallibility given, which are only proper to the Sacred Scripture; and

Royal Authority affronted with such peremptory asseverations, ignorant and senseless reasons, the falsehood and inconsequence whereof must needs appear upon first view to any one who shall cast his eye upon them? The Protestation follows, thus:

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The Protestation of the Noblemen, Barons, Gentlemen, Burroughs, Ministers, and Commons, &c.

WE Noble men, Barons, Gentlemen, Burgeses, Ministers, and Commons, his Majesties true and loyal Subjects, That where-as our continual Supplications, Complaints, Articles, and Informations, presented, first, to the Lords of his Majesties Privy Council; next, to his Sacred Majesty; and last, from time to time to his Majesties Commissioner, our long attendance and great patience this twelve-month by-gone, in waiting for satisfaction of our most just desires, our zeal to remove all rubs out of the way, which were either mentioned unto us; or could be conceived by us, as hinderances of our pious intentions, aiming at nothing but the good of the Kingdom, and preservation of the Kirk, which by consumption or combustion is likely to expire; delighting to use no other means but such as are legal, and have been ordinary in this Kirk since the Reformation, and labouring according to our power and interest, that all things might be carried in a peaceable manner, worthy of our Profession and Covenant, our Protestation containing a hearty thanksgiving for what his Majesty in his Proclamation from his justice had granted of our just desires; and our Protests and hopes for so much as was not as yet granted. All these made us confidently to expect from his Majesties Royal and compassionate disposition towards this his native Kingdom, that a free General Assembly and Parliament should have been indicted, as the ordinary and most proper remedies of our grievances, and did constrain us to renew our Petition, earnestly intreating, that his Majesties Commissioner would be pleased to represent unto his Majesty the condition of this Kirk and Kingdom, crying in an extreme exigency for present help, with the lawfulness of the remedies prescribed by his Majesties Laws, required by us, and presented to him in some particular Articles, which his Grace promised to recommend to his Majesty, and to do his best endeavours for obtaining the same; especially the first Article, that there might be indicted a full and free General Assembly, without prelimitation, either in the constitution and members thereof, in the order and manner of proceeding, or in the matters to be treated: And if there should be any question or doubt about one of these, or such like particulars, that the determination thereof might be remitted to the Assembly it self; as the only proper and competent judge. And now, after so many Supplications, Complaints, Articles, and Informations; after our necessary Protestation, expressing the humble thankfulness and continued desires of our hearts; after so long expectation and so much dealing, having with open ears, and attentive minds heard his Majesties Proclamation, it is our desire, purpose, and endeavour so to proceed, that we may upon the one part still be thankful to God and the King, for the least blink

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of his Majesties countenance, and the smallest crumbs of comfort that fall unto us from his Majesties Royal hands; beseeching the Lord yet further to enlarge his Majesties heart, for our full satisfaction and rejoycing, to the honour of God, the good of this Kirk and Kingdom, and his Majesties never dying Fame and Glory; that his wise Government and zeal to the service of God, may be a measure and pattern of desires to all Generations hereafter, when they shall be wishing for a religious and righteous King: And on the other part, that Christ our Lord, the King of King's, through our neglect or lukewarmness may want no part of his Sovereignty and Dominion, and that in our Religion, which is more dear unto us than our lives, we deceive not our selves, with that which cannot satisfy and make up the breach of this Kirk and Kingdom, or remove our fears, doubts, and suspicions, of the innovations of Religion: This hath made us to observe, and perceive, that his Majesties Proclamation doth ascribe all the late distractions of this Kirk and Common-wealth, to our conceived fears of the innovation of Religion and Law, as the cause and occasion thereof, and not to the innovations themselves, with which we have been for a long time, and especially of late, heavily pressed and grieved; as if the cause were rather in apprehension and fancy, than in reality and substance. That the Service Book, and Book of Canons are not so far discharged by this Proclamation, as they have been urged by preceding Proclamations; for this Proclamation only dischargeth the practice of them, and rescinds the Acts made for establishing their Practice, but doth not rescind the former Proclamations; namely, that of the nineteenth of February at Stirling, and that of the fourth of July at Edinburgh, which give an high approbation to these Books, as fit means to maintain Religion, and to beat down all superstition; and withal declares his Majesties purpose, to bring them into this Kirk in a fair and legal way: And thus both our fears that they may be introduced hereafter, must still remain; and the liberty of the General Assembly, by such a Declaration of his Majesties judgment, is not a little prejudged in the minds of so many as wisely consider and compare the preceding Proclamations with this which we now hear, although others who looking upon one step and not upon the whole progress, run on rashly, and, neither considering what they are doing, nor with whom they are dealing, may be easily deceived, *Qui paucavidet, cito judicat*, a short sight maketh a sudden judgment.

That it is declared in this Proclamation, That his Majesty neither intendeth to innovate any thing in Religion or Laws, or to admit of any change or alteration in the true Religion already established and professed in this Kingdom: and withal, this is interposed, That the Articles of *Pearth* are established by the Acts of Parliament and General Assembly, and dispensation of the practice only granted, and discharge given, that no person be urged with the practice thereof; and consequently, his Majesties intention for the standing of the Acts of the Assembly and Parliament, appointing the Articles of *Pearth*, is manifest; which is no small prejudice to the freedom of the General Assembly, That while the Proclamation ordaineth all his Majesties Subjects to be liable to the trial and censure of the Judicatories competent, and that none of

them shall use any unlimited and unwarranted power; likewise that no other Oath be administered to Ministers at their entry, than that which is contained in the Act of Parliament; in both these Articles the Bishops are meant, who are only thereby for the present curbed against their exorbitancy and enormities in exercising their Office: but the Office of Bishops is thereby not only presupposed as unquestionable, but also so strongly established, that his Majesty declareth, for the present, his intention, to admit no innovation therein: which is more evident by the induction of the Parliament, warning all Prelates to be present, as having voice and place in Parliament; and by the induction of the Assembly, warning all Archbishops and Bishops (for so are their divers degrees and Offices Ecclesiastical here designed and supposed) to be present, as having place and voice in the Assembly, contrary to the Caveats, acts of the Kirk, and our Declinator: And thus a third and great limitation is put upon the General Assembly. The Proclamation, by reason of these many real limitations, and prejudices of the liberty of the Assembly in the very points which have wrought so much wo and disturbance in this Kirk and Kingdom, and wherein the liberty of the Assembly is most useful and necessary at this time, can neither satisfy our grievances and complaints, nor remove our fears and doubts, nor cannot (without protestation) be admitted by us his Majesties Subjects, who earnestly desire that Truth and Peace may be established; and that for the reasons following.

1. **T**O keep silence in any thing that may serve for the good of the Kirk, whether it be in Preaching, Prayer, or in proposing and voicing in a lawful Assembly of the Kirk, is against the Word of God. *Esay 62. 6. Ye that are the Lords remembrancers, keep not silence, and give him no rest till he establish, and till he make Jerusalem a praise in the earth.* 1 King. 18. 21. Like the halting of the people between two opinions, and their not answering a word, when the Lord called them to give a Testimony. *Acts 20. 20. I have kept back nothing that was profitable unto you:* And again, *1 Cor. 12. 7. Math. 23. 18. Rom. 1. 18. Revel. 2. 14, 20. and 3. 15.* And therefore to keep silence, or not to meddle with corruptions, whether in Doctrine, Sacraments, Worship or Discipline, in a general Assembly of the Kirk, convened for that end, were the ready way to move the Lord to deny his Spirit unto us, and to provoke him to wrath against our proceedings, and might be imputed unto us for prejudice, for collusion, and for betraying our selves and the posterity.

2. This predetermination is against our Supplications and Protestations, wherein we have shewn our selves so earnest for a free General Assembly, contrary to every limitation of this kind; so far prejudging the liberty thereof, is against the Confession of Faith registered in the Parliament 1567. declaring that one cause of the Councils of the Kirk is for good policy and order to be observed in the Kirk, and for to change such things as men have devised when they rather foster Superstition than edifie the Kirk, using the same, and is against our late Confession, wherein we have promised to forbear all novations till they be tryed, which obligeth us to forbear now, and to try them in an Assembly, and by all lawful means to labour to recover the former purity

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3. This were directly contrary to the nature and ends of a General Assembly, which having authority from God, being convened according to the Laws of the Kingdom, and receiving power from the whole collective Body of the Kirk, for the good of Religion, and safety of the Kirk; Whatsoever may conduce for these good ends in wisdom and modesty should be propound, examined, and determined without Prelimitation, either of the Matters to be treated, or of the Liberties of the Members thereof. It being manifest, that as far as the Assembly is limited in the Matters to be treated, and in the Members to be used, the necessary ends of the Assembly, and the Supream Law, which is the safety of the Kirk, are as far hindered and pre-judged.

4. This limitation is against the Discipline of the Kirk, which, Book 2. chap. 7. declareth this to be one of her Liberties, That the Assembly hath power to abrogate and abolish all Statutes and Ordinances concerning Ecclesiastical Matters that are found noysem and unprofitable, and agree not with the time, or are abused by the People, and against the Acts of the General Assembly. Like as the pretended Assembly 1610. declareth for the common Affairs of the Kirk (without exception or limitation) it is necessary that there be yearly General Assemblies, and what order can be hoped for hereafter, if this Assembly indicted after so long intermission, and so many gross corruptions, be limited, and that more than ever any lawful Assembly of the Kirk was, when it was yearly observed.

5. It is ordained in *Parl. 11. Act. 40. K. James 6.* anent the necessary and lawful form of all Parliaments that nothing shall be done, or commanded to be done, which may directly or indirectly pre-judge the liberty of the free voicing or reasoning of the Estates, or any of them in time coming. It is also appointed in *Parl. 6. Act. 92. K. James 6.* that the Lords of Council and Session proceed in all Civil causes intended or depending before them, or to be intended, to cause execute their Decrees notwithstanding any private Writing, Charge, or Command in the contrary, and generally by the Acts of Parliament appointing every matter for its own Judicatory, and to all Judicatories their own freedom. And therefore much more doth this Liberty belong to the Supream Judicatory Ecclesiastick in matters so important as concerneth God's honour and worship immediately, the salvation of the Peoples Souls, and right constitution of the Kirk whose Liberties and Priviledges are confirmed *Parl. 12. K. James 6. Parl. 1. K. Charles,* for if it be carefully provided by divers Acts of Parliament, especially *Parl. 12. Act. 148. K. James 6.* That there be no forestalling or regrating of things pertaining to this natural life: What shall be thought of this spiritual forestalling and regrating which tendeth to the famishing or poisoning of the Souls of the People both now and in the Generations afterward.

6. It were contrary to our Protestations, proceedings and complaints against the late Innovations. And it might be accounted an innovation and usurpation as gross and dangerous to us, and the posterity, and as prejudicial to Religion as any complained upon by us, to admit limitations, and secret or open determinations, which be-

longeth to no Person or Judicatory, but to an Assembly, or to consent to, and approve by our silence the same predeterminations, it were to be guilty of that our selves, which we condemn in others. We may easily judge how the Apostles before the Council of *Jerusalem*, the Fathers before the *Nicene Council*, and our Predecessors before the Assembly holden at the Reformation, and afterwards, would have taken such dealing.

That this Proclamation commandeth all his Majesties Subjects for maintenance of the Religion already established to subscribe, and renew the *Confession of Faith* subscribed before in the year 1580. and afterward. And requireth the Lords of Privy Council to take such course anent the same, and the general Band of Maintenance of the true Religion, and the King's Person, that it may be subscribed, and renewed throughout the whole Kingdom with all possible diligence, which cannot now be performed by us. For although of late we would have been glad that our selves, and other his Majesties Subjects, had been commanded by Authority to swear, and subscribe the general *Confession of Faith* against Popish errors and superstitions; and now would be glad that all others should joyn with us in our late *Covenant and Confession*, descending more specially to the novations and errors of the time, and obliging us to the defence of Religion, and of the King's Majesties Person and Authority, and for these ends to the mutual defence every one of us of another, yet can we not now after so necessary, and so solemn a specification return to the general for the reasons following.

1. No means have been left unassayed against our late *Confession of Faith* and *Covenant* so solemnly sworn and subscribed. For, first, we were prest with the rendring and rescinding of our *Covenant*. Next, an alteration in some substantial points was urged. Thirdly, A Declaration was motioned, which tended to the enervation thereof, and now we find in the same strain, that we are put to a new trial, and the last mean is used more subtle than the former: That by this new subscription our late *Covenant*, and Confession may be quite absorbed and buried in Oblivion, that where it was intended and sworn to be an everlasting *Covenant* never to be forgotten, it shall be never more remembred, the one shall be cried up, and the other drowned in the noise thereof; And thus the new Subscription now urged (although in a different way) shall prove equivalent to the rendring of the *Covenant*, or what of that kind hath before been assayed. Like as the reasons against the rendring of the *Covenant*, do militate directly against this new motion.

2. If we should now enter upon this new Subscription, we would think our selves guilty of mocking God, and taking his Name in vain; for the tears that began to be poured forth at the solemnizing of the *Covenant* are not yet dried up and wiped away, and the joyful noise which then began to sound hath not yet ceased; and there can be no new necessity from us, and upon our part pretended for a ground of urging this new Subscription, at first intended to be an abjuration of Popery upon us who are known to hate Popery with an unfeigned hatred, and have all this year bygone given large testimony of our zeal against it. As we are not to multiply Miracles on God's part, so ought we not to multiply solemn Oaths and Covenants upon our part, and thus to play with others, as children do with their Toys, without necessity.

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3. Neither would we in giving way to this new Subscription think our selves free of Perjury: For as we were driven by an undecidable necessity to enter into a mutual *Covenant*, so are we bound, not only by the Law of God and Nature, but by our solemn Oath and Subscription, against all divisive motions to promote and observe the same without violation: And it is most manifest, that having already refused to render, alter, or destroy our *Covenant*, nothing can be more contrary and adverse to our pious intentions and sincere resolutions, than to consent to such a Subscription and Oath, as both in the intention of the urgers, and in the nature and condition of the matter urged, is the ready way to extinguish, and to drown in oblivion the Band of our union and conjunction that they be no more remembered. In this case we are called to lay seriously to our hearts, 1. That we have sworn that we shall neither directly nor indirectly suffer our selves to be divided and withdrawn from this blessed and loyal conjunction, which consisteth not only in the general Confession, but also in our explanation and application thereof, but on the contrary, shall by all lawful means, labour to further and promote the same. 2. That our union and conjunction may be observed without violation, (and so without mutilation of our application) we call the living LORD to witness, as we shall answer to Christ in the great Day, &c.

4. This new Subscription, in stead of performing our Vows, would be a real Testimony and Confession before the World, That we have been transgressors in making rash Vows, that we repent our selves of former zeal and forwardness against the Particulars exprest first in our Supplications, Complaints, and Protestations, and next abjured in our *Covenant*, that we in our Judgment prefer the general Confession unto this, which necessarily was now made more special; and that we are now under the fair pretext and honest cover of a new Oath, recanting and undoing that, which upon so mature deliberation we have been doing before. This beside all other evils, were to make way and open a door to the re-entry of the Particulars abjured, and to repent our selves of our chiefest consolations, and to lie both against God and our own Souls.

5. It hath been often objected, That our *Confession of Faith* and *Covenant* was unlawful, because it wanted the warrants of publick Authority; and it hath been answered by us, That we were not destitute of the warrant Civil and Ecclesiastical which authorized the former *Covenant*. And although we could have wished that his Majesty had added both his Subscription and Authority unto it, yet the less constraint from Authority and the more liberty, the less hypocrisie, and more sincerity hath appeared: But by this new Subscription urged by Authority we both condemn our former Subscription as unlawful, because alledged to be done without Authority, and pre-condemning also the like laudable course in the like necessity to be taken by the Posterity.

6. What is the use of Merch-stones upon borders of Lands, the like use hath *Confessions of Faith* in the Kirk, to determinate and divide betwixt Truth and Error: And the renewing and applying of *Confessions of Faith* to the present Errors and Corruptions, are not unlike ryding Merches. And therefore to content our selves

with the general, and to return to it, from the particular application of the Confession necessarily made upon the invasion or creeping in of Errors within the Borders of the Kirk, if it be not a removing of the Merch-stone from the own place, it is at least the hiding of the Merch in the ground that it be not seen, which at this time were very unseasonable for two causes: One is, because Popery is so pregnant and powerful in this Land, as we have learned of late: The other, because the Papists, who upon the urging of the *Service-Book* and *Canons*, have presumed of our return to Rome, will upon this our Subscription arise from their despairing of us, unto their wonted presumption. None of us will deny, but the large *Confession of Faith* registrated in the Acts of Parliament, doth by consequence contain this short Confession and Abjuration: Yet were it not sufficient against Popery to subscribe the one without the other: How then shall we think that the more general Confession and Abjuration at this time, when the urging of such Popish Books hath extorted from us so necessary an application, and doth still call for a testimony, is compleat enough without it.

7. The Papists shall hereby be occasioned to renew their old Objection against us, *Annus & mensuras fides de Deo decernunt*, That our Faith changeth with the Moon, or once in the year. Other Reformed Kirks might justly wonder at our inconstancy in changing our *Confession* without any real necessity, and that in one and the same year it cometh forth larger, and more particular, then shorter, and more general: And our Adversaries will not fail to traduce us as troublers of the peace of the Kirk and Kingdom without any necessary cause.

8. It will likewise prove a confirmation of their Error, who think they may both subscribe the *Confession of Faith*, and receive the *Service-Book*, and *Canons*, which is not only a direct scandalizing of them, but also a ready way to put a weapon in their hands against our selves, who maintain and profess that these and such other evils are abjured in the *Confession of Faith*.

9. If we should now swear this Confession, we should be obliged by our Oath to maintain *Pearth* Articles, which are the innovations already introduced in the worship of God, and to maintain Episcopacy, with the Civil places, and power of Kirk-men. Because we are bound to swear this *Confession* by vertue of, and conform unto the King's Command signed by his Sacred Majesty of the date of September 9. 1638. (These are the very words subjoynd to the *Confession* and Band, and prefixed to the Subscriptions) and it cannot be denied, but any Oath ministred unto us, must either be refused, or else taken according to the known mind, professed intention, and exprest command of Authority urging the same: And it is most manifest, that his Majesty's mind, intention, and commandment, is no other, but that the *Confession* be sworn, for the maintenance of Religion, as it is already or presently professed, (these two being coincident, altogether one and the same, not only in our common form of speaking, but in all his Majesty's Proclamations) and thus as it includeth and containeth within the compass thereof, the foresaid Novations and Episcopacy, which under that name were also ratified, in the first Parliament holden by his Majesty. And where it may be objected, That the Counsellors have subscribed the *Confession of Faith*, as it was professed

1580. and will not urge the Subscription in another sense upon the Subjects. We answer, first, the Act of Council containing that Declaration, is not as yet published by Proclamation. Secondly, If it were so published, it behooved of necessity either be repugnant to his Majesties declared Judgment and Command, which is more not to swear without warrant from Authority, (a fault although unjustly, often objected unto us) or else we must affirm the Religion in the year 1580. and at this time to be altogether one and the same; and thus must acknowledge, that there is no Novation of Religion, which were a formal contradiction to that we have sworn. Thirdly, By approving the Proclamation anent the Oath to be administered to Ministers, according to the Act of Parliament, which is to swear simple Obedience to the Diocesan Bishop, and by warning all Archbishops and Bishops to be present, as having voice and place in the Assembly: They seem to determine, that in their Judgment the Confession of Faith, as it was professed 1580. doth consist with Episcopacy, whereas we by our Oath have referred the trial of this or any other Question of that kind to the General Assembly and Parliament.

10. This Subscription and Oath in the mind and intention of Authority, and consequently in our swearing thereof, may consist with the corruptions of the Service-Book and Canons, which we have abjured as other heads of Popery: For both this present Proclamation, and his Majesties former Proclamations at *Linlithgow, Strive-ling, Edinburgh*; The Lords of Privy Council in their approbation of the same, and the Prelats and Doctors who stand for the Service-Book and Canons, do all speak plainly, or import so much, That these Books are not repugnant to the Confession of Faith, and that the introducing of them is no Novation of Religion or Law: And therefore we must either refuse to subscribe now, or we must confess contrary to our late Oath, and to a clear Truth, That the Service-Book and Canons are no Innovations in Religion. And though the present Books be discharged by Proclamation, yet if we shall by any deed of our own testify, that they may consist with our Confession of Faith, within a very short time, either the same Books, or some other like unto them, with some small change, may be obtruded upon us, who by our abjuration (if we adhere unto it) have freed both our selves, and the posterity, of all such corruptions, and have laid a fair foundation for the pure Worship of God in all time coming.

11. Although there be indeed no substantial difference between that which we have subscribed, and the Confession subscribed 1580. more than there is between that which is hid, and that which is revealed; a Merch-stone hid in the ground, and uncovered, betwixt the hand closed and open, betwixt a sword sheathed and drawn, or betwixt the large Confession, registered in the Acts of Parliament, and the short Confession, or (if we may with reverence ascend yet higher) between the Old Testament and the New; yet as to sheathe our Sword when it should be drawn, were imprudency, or at the commandment of Princes, professedly Popish in their Dominions, after the Subjects had subscribed both Confessions, to subscribe the first without the second, or at the will of a Jewish Magistrate, openly denying the New Testament, to subscribe the Old alone, after that they have sub-

scribed both, were horrible impiety against God, and treachery against the Truth: Right so, for us to subscribe the former apart, as it is now urged and framed, without the explanation and application thereof at this time, when ours is rejected; and the Subscribers of the former refuse to subscribe ours, as containing something substantially different, and urge the former upon us, as different from ours, and not expressing the special abjuration of the evils, supplicated against by us, were nothing else, but to deny and part from our former Subscription, if not formally, yet interpretatively. Old Eleazar, who would not seem to eat forbidden meat, and the Confessors and Martyrs of old, who would not seem by delivering some of their Papers, to render the Bible, or to deny the Truth, may teach us our duty in this Case, although our lives were in hazard for refusing this Subscription: And who knoweth, but the Lord may be calling his People now, who have proceeded so far in professing his Truth at this time, to such Trials and Confessions, as his faithful Witnesses have given of old; that in this point also our doing may be a document both to the succeeding Ages, and to other Kirks to whom for the present we are made a Spectacle?

12. If any be so forgetful of his Oath (which God forbid) as to subscribe this Confession, as it is now urged, he doth according to the Proclamation acquiesce in this Declaration of his Majesties will, and doth accept of such a pardon as hath need to be ratified in Parliament; And thus doth turn our glory unto shame, by confessing our guiltiness, where God from Heaven hath made us guiltless, and by the fire of his Spirit from Heaven hath accepted of our service, And doth depart from the commandment of God, the practice of the Godly in former times, and the worthy and laudable example of our worthy and religious Progenitors, in obedience whereof, and conform to which we made profession to subscribe: For there is no particular Act required of us, to whom the pardon is presented in this Proclamation, but this new Subscription allanerly.

13. The general Band now urged to be subscribed, as it containeth many Clauses not so fitting the present time as that wherein it was subscribed, so it is deficient in a point, at this time most necessary, *Of the reformation of our lives, that we shall answerably to our Profession, be examples to others, of all godliness, soberness, and righteousness, and of every duty we owe to God and man;* without which we cannot now subscribe this Confession, lest we loose the bands to wickedness, seem to repeat of our former resolutions and promises, and choose to have our portion with hypocrites, professing and swearing that we know God, but in our Works denying him, being abominable, disobedient, and unto every good work reprobate.

14. Since the Narrative of the general Band is now changed, and some lines, expressing at length the Papists, and their adherents to be the Party from whom the danger to Religion and the King's Majesty was threatned, are left out, and no designation made of the Party from whom the danger is now threatned, we are made either to think, that our Subscription at this time is unnecessary, or to suspect that we who have supplicated and entered into Covenant, are understood to be the Party, especially since the Lords of Council have in the Act September 22. ratified the Proclamation, found themselves bound

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1638. To use their best endeavours, that all his Majesties good Subjects may rest satisfied with his Majesties Declaration; since also we have been (although undeservedly) challenged of disorders, distractions, and dangers to Religion, and his Majesties Authority; and since in the foresaid Act, and in the Missive directed to his Majesty, the Lords of Council offer their Lives and Fortunes to his Majesty, in repressing all such as shall hereafter prease to disturb the peace of this Kirk and Kingdom; which being expressed in a generality, is by many applied to us, and interpreted of our adhering to our Covenant; we should therefore, by our Subscription of the Covenant, as it is now conceived, both do directly against our own minds, in condemning our selves, wherein we are innocent, and should consent to our own hurt, to the suppressing of the Cause which we maintain, and to the repressing mutually one of us of another, directly contrary to our former solemn Oath and Subscription.

15. The subscribing of this Confession by the Lords of his Majesties Privy Council, who by their place and high employment are publick Peace-makers, and by others who have not subscribed the late Commission, will make the breach wider, and the lamentable division of this Kirk more desperate than ever before; some having sworn to labour by all lawful means to recover the former liberty and purity of Religion; and others maintaining that for purity, which is already established; some believing and professing that the evils supplicated against, are abjured in that Confession of Faith; and others maintaining the Confession of Faith, and these corruptions (although for the present discharged by Authority) not to be inconsistent: And beside this, many divisions and subdivisions will ensue to the doleful renting of the Kirk and Kingdom, making way for the wrath and many judgments of God often threatned by his faithful Servants, which all the godly ought to labour by all means to prevent.

16. We represent also to the honourable Lords of Privy Council to be considered, That the Doctrine, Discipline, and Use of Sacraments are sworn, and the contrary abjured, according to the Word of God, and the meaning of the Kirk of Scotland, in the Books of Discipline, and Acts of Assemblies; And that in the Oath there is no place left to the generality of any mans conception of the true Faith and Religion, nor to any private Interpretation, or mental Reservation.

For these and the like Considerations, in our own name, and in name of all who will adhere to the late Covenant, subscribed by us, and sealed from Heaven, we (from our duty to God, our King, our Native Country, our selves, and the Posterity, lest our silence import a satisfaction of our desires, and a stopping of our mouths from necessary supplication for things yet to be obtained from his Majesties just and gracious disposition) are constrained to declare and protest;

First, That the cause and occasion of the distractions of the Kirk and Commonwealth, are no ways to be imputed unto us, or our needles fears, but to the innovations and corruptions of Religion, which against the Acts and Order of this Kirk, and the Laws of the Kingdom, have been pressed upon us the people of God, and his Majesties loyal Subjects; who, although under great thralldom, were living in peace and quiet-

ness, labouring in all godliness and honesty to do our duty to God and man.

Secondly, We protest, that all questions and doubts that arise, concerning the freedom of the Assembly, whether in the Constitution and Members thereof, or in the Matters to be treated, or in the manner and order of proceeding, be remitted to the determination of the Assembly itself, as the only proper and competent Judge; and that it shall be lawful for us, being authorized with lawful Commissions, as at other times when the urgent necessity of the Kirk shall require, so in this exigence to assemble ourselves at the Diet appointed, notwithstanding any impediment or prorogation to the contrary: And being assembled, against all qualifications and predeterminations, or presupposals to propound, treat, reason, vote, and conclude, according to the Word of God, confession of Faith, and Acts of lawful Assemblies, in all Ecclesiastical Matters, pertaining to the Assembly, and tending to the advancement of the Kingdom of Christ, and good of Religion.

Thirdly, Since Archbishops and Bishops have no warrant for their Office in this Kirk, since it is contrary both to Reason and to the Acts of the Kirk, that any have place and voice in the Assembly, who are not authorized with lawful Commissions; and seeing both in common equity, and by the tenour of this Proclamation, they are made liable to the trial and censure of the Assembly, we protest, that they be not present, as having place or voice in the Assembly; but as *rei* to compeer, for underlying trial and censure upon the general complaints already made, and the particular accusations to be given in against them; And that the warning given by his Majesties Proclamation, and this our Protestation, be a sufficient citation to them, to compeer before the Assembly, for their trial and censure, in Life, Office, and Benefice.

Fourthly, We solemnly protest, that we do constantly adhere to our Oath and Subscription of the Confession of Faith and Covenant, lately renewed and approved with rare and undeniable evidences from Heaven, of the wonderful workings of his Spirit in the hearts both of Pastors and People, through all the parts of the Kingdom; And that we stand to all parts and clauses thereof, and particularly to the explanation and application, containing both our abjuration of, and our union against the particular evils and corruptions of the time; a duty which the Lord at this time especially craveth at our hands.

Fifthly, We also protest, that none of us who have subscribed, and do adhere to our Subscription of the late Covenant, be charged or urged, either to procure the Subscriptions of others, or to subscribe our selves unto any other Confession or Covenant, containing any derogation thereunto, especially that mentioned in the Proclamation, without the necessary explanation and the application thereof, already sworn by us, for the Reasons above expressed: And because, as we did in our former Protestation appeal from the Lords of his Majesties Council, so do we now by these renew our solemn Appeal, with all solemnities requisite, unto the next free General Assembly and Parliament, as the only Supream National Judicatories competent, to judge of National Causes and Proceedings.

Sixthly,

anno 1638. *W* *Sixthly*, We protest, That no Subscription, whether by the Lords of Council or others, of the Confession mentioned in the Proclamation, and enjoined for the maintenance of Religion, as it is now already, or at this present time established and professed within this Kingdom, without any innovation of Religion or Law, be any manner of way prejudicial to our Covenant, wherein we have sworn to forbear the practice of Novations already introduced, &c. till they be tried in a free Assembly; and to labour by all lawful means, to recover the purity and liberty of the Gospel as it was established and professed before the foresaid Innovations: And in like manner, that no Subscription foresaid be any derogation to the true and sound meaning of our worthy Predecessors, at the time of their Subscription in the year 1581. and afterward. Withal, warning and exhorting all men who lay to heart the cause of Religion, against the corruptions of the time, and the present estate of things, both to subscribe the Covenant as it hath been explained, and necessarily applied; and as they love the purity and liberty of the Gospel, to hold back their hands from all other Covenants, till the Assembly now indicted be convened, and determine the present differences and divisions, and preserve this Country from contrary Oaths.

Seventhly, As his Majesties Royal Clemency appeareth in forgiving and forgetting what his Majesty conceiveth to be a disorder or done amiss in the proceeding of any; so are we very confident of his Majesties approbation, to the integrity of our hearts and peaceableness of our ways and actions all this time past: And therefore we protest that we still adhere to our former complaints, protestations, lawful meetings, proceedings, mutual defences, &c. All which, as they have been in themselves lawful, so were they to us, pressed with so many grievances in his Majesties absence from this native Kingdom, most necessary, and ought to be regarded as good offices, and pertinent duties of faithful Christians, loyal Subjects, and sensible Members of this Kirk and Commonwealth, as we trust at all occasions to make manifest to all good men, especially to his Sacred Majesty, for whose long and prosperous Government, that we may live a peaceable and quiet life in all godliness and honesty, we earnestly pray.

W Hereupon a noble Earl, James Earl of Montrose, &c. in name of the Noblemen; Mr. Alexander Gibson younger of Durie, in name of the Barons; George Porterfield Merchant, Burges of Glasgow, in name of the Burrows; M. Harie Rollock Minister at Edinburgh, in name of the Ministers; and M. Archbald Johnston Reader hereof, in name of all who adhere to the Confession of Faith and Covenant, lately renewed within this Kingdom, took Instruments in the hands of 3 Notars present, at the said Mercate Cross of Edinburgh, being invironed with great numbers of the foresaid Noblemen, Barons, Gentlemen, Burrows, Ministers, and Commons, before many hundred Witnesses, and craved the extract thereof: And in token of their dutiful respect to his Majesty, confidence of the equity of their Cause, and innocency of their Carriage, and hope of his Majesties gracious acceptance, they offered in all humility with submiss reverence a Copy thereof to the Herald.

Car. 14. *A* And now for trial of what hath been said, the Reader may reflect upon these Particulars: Not far from the beginning, they aver that they did confidently expect from the King a free General Assembly and Parliament to be indicted; and that his Majesties Commissioner promised to recommend unto his Majesty this their suit for a free General Assembly, without prelimitation either in the constitution and members thereof, in the order and manner of proceeding, or in the matters to be treated of; and do insinuate as if the King had not given order for any such Assembly in his Declaration; which every Reader (looking upon that Declaration) may see to be most untrue: For in it his Majesty gives warrant to his Commissioner to indict a free General Assembly; nor is there either mention or meaning of any prelimitation, though they themselves did use very many, some whereof you have heard already, and shall hear of more hereafter. Afterwards they quarrel with the King's Declaration for ascribing all the late distractions of this Church and Commonwealth to their conceived fears of the Innovation of Religion and Laws, and not to the Innovations themselves: No doubt a great crime, that the King would not acknowledge that the Service-Book, which was penned at first by those who laid down their lives in opposition to Popery, is an introduction to Popery; and his Majesty did profess that he did discharge that Book only to remove their fears and doubts, and ease their pretended grievances: Nor could he condemn that Book, without condemning the Service-Book of England, for the Covenanters Arguement alike at both. Then immediately after, *W* take it ill that though his Majesty have discharged the practice of these pretended Innovations, and voided all Acts made for the establishing of them, yet he hath not rescinded his former Proclamations at Sterling and Edinburgh: As if nothing could content them, unless the King should disgrace his own Proclamations, which did not any way establish or authorize the things complained of: Nay more, unless he should call back his own words, which cannot be interpreted to any such sense as they would force upon them, they would make the People believe, that the liberty of the General Assembly is prejudged, and, in a suspicious, undutiful, and dangerous phrase, tell them, That they do not consider with whom they are dealing; as if no trust were to be given to his Majesty. Next, they quarrel with the discharging of the practice of the Articles of Perth, but not the Articles themselves which are established by Acts both of Parliament and General Assembly; and yet it may be thought, that they would hold it for a strange Position, if the King should use his Prerogative to the disanulling of any thing established by these two Judicatories; nay, if his Majesty and the Parliament jointly should (as the World goeth now) offer to disanul any Act of their General Assembly: So glad they were to quarrel with the King's Declaration, that in their eagerness they destroy their own grounds. The next Cavil, if it were possible, is as senseless as the former, whereby they aver, that the naming of Bishops in the Proclamation for the indictment of the Assembly is a prelimitation of it, because thereby we take it as granted, that the office of a Bishop is unquestionably an Office in that Church and Kingdom: And this they call a great prelimitation put upon the Assembly; P p p p but

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1638. but with what shew of consequence we cannot possibly conceive: For who would not take that undoubtedly for an Office in any Church or Kingdom, which is established by the Laws and Acts of both? And such is the Office of a Bishop in that Kingdom: After these fancied prelimitations, they add six Reasons why they should not be admitted; which are so ignorant and simple, as it is not possible to draw them into any form of reasoning or concluding: And though they could be so drawn, yet they were very needless; for to what end should Reasons be brought against the admitting of these prelimitations, when there were no prelimitations offered, and these that are alledged are no prelimitations at all? And therefore these six Reasons, at least so called by them, are to be passed over with contempt, as having not one word in them worthy the answering.

Next, they muster up sixteen Reasons against the Subscription to the Confession of Faith urged by the King's Authority in that Declaration, of the very same piece with the former six Reasons, every way as full of Non-sense as they: The first is, that it will make their Covenant be forgotten: A matter of great consequence indeed, that their unlawful Acts should be drowned by any Act of lawful Authority! For this one would think they should thank the King. The second Reason is, that if they should subscribe this Confession now, they would think themselves guilty of mocking God: A notable whimsey, that Acts of Authority must want obedience if they cross some Peoples foolish thoughts and idle fancies. But in the mean time what a fearful mocking of God, and taking of his name in vain, is it for them to say so, and use that great name for so groundless a suspicion? The third Reason is, that they are afraid that this Subscription will introduce a division amongst themselves, it being against their Oath, in their late Covenant, to admit of any divisive motions. And truly whatsoever they pretend in all their other Reasons, this is the main, if not the only reason of the principal Covenanters furious proceedings in all their ways, and especially in this their Protestation, because they did plainly perceive that if the People should once see and acknowledge his Majesties Grace and Clemency, or be brought to subscribe to the same thing by his Authority, to which they had subscribed before by their persuasion, then they would begin again to relish Government, and so fall off, and divide themselves from those who have resolved never to indure it: In the mean time, the Reader shall do well to observe the wonderful strength of this Reason; we must not subscribe, because it will occasion some division amongst us; by the same Reason, all hope of peace must be banished out of that Kingdom for ever: For certainly if they themselves should set down in writing the utmost of their desires, and the King should assent unto them, yet undoubtedly some would dislike and not admit of those Propositions of Peace, which the rest had agreed upon: Are they therefore sworn by their Oath to reject all proffers of Peace, because some will dislike them, upon which a division must follow more or less? The fourth Reason is plain Popery, and the main ground of most of the Errors established at the Council of Trent; If they subscribe now, it will be thought that they have erred in their former proceedings; but where the reason of this Reason lies, is past ordinary finding: The fifth

Reason hath in it a reach beyond the Moon; this Subscription is urged by Authority, but our former Subscription proceeded from our own Heads, and therefore is to be preferred, as carrying with it more liberty, more sincerity, and less hypocrisie; a Reason fit to be answered by none but such as have lost their Reason. The sixth Reason is in the same case; for truly it cannot be understood. The seventh Reason supposeth that there is a Papist in the World so foolish and simple as to think, that the same Confession of Faith, consisting of the same words and syllables, enjoined to be sworn without Authority, if it shall be commanded to be sworn by Authority, becometh a new and different confession of Faith; or if that the King every year of his Reign should renew and command a Subscription to the same Confession, that then every year he should establish a new Faith; sure they need not trouble the Peoples heads with such foolish fears; for undoubtedly there will be no such foolish Fellows found amongst the Papists. The eighth Reason hath not a shew of any reason. For their ninth Reason, we are confident, that if they had known as much as now they do, and have expressed in their Answer to the Lord Commissioners last Declaration, they would have left this quite out: For the truth is, that no man can subscribe this Confession of Faith commanded by the King, and with a safe Conscience hold that Episcopacy is abjured by it, for many Reasons, amongst which this alledged by them is but one, yet a very true one, viz. That an Oath must either be refused or taken according to the known intention of him that ministred it; and it being well known, that his Majesty, according to the Laws of all his Kingdoms, is resolved to maintain Episcopal Government, no man can swear any Oath administred by the King or his Authority, which may not consist with that Government: And it is as true, that there is nothing in that Confession of Faith, which being sworn unto, abjureth Episcopacy, by whomsoever the Oath shall be administred; and therefore it is a very unjust and unnecessary fear, which seems to make them sweat at the end of this ninth Reason, viz. That this Subscription commanded by us, seemeth to determine, that the Confession of Faith as it was professed 1580. doth consist with Episcopacy: That this Subscription determineth it, is undoubtedly a very simple conceit, but that the Confession it self made in 1580. may and doth consist with Episcopacy, is unquestionably true; and it is so determined by the Covenanters themselves, who assured many who made that Scruple, and would not have come into their Covenant unless the Covenanters had first resolved them of it, that they might swear the same Confession, and yet not abjure Episcopal Government, which likewise the three Ministers in their first Answer to the Divines of *Aberdene*, have positively affirmed, averring, that Episcopacy was not abjured by that Confession, nor their Covenant, but only referred to the trial of an Assembly and Parliament: Now it is most certain, that when the King commanded this Subscription to that Confession, no Assembly (true or pretended) had determined that it was abjured, nor hath any Parliament done so yet; and therefore the Covenanters themselves have determined, that when the King required this Subscription, a man might safely subscribe without abjuration of Episcopacy:

Anno 1638. copacy: But to let the weakness of this Ninth Reason pass, it is a wonder to observe how these men in their Answer to the Fourth Reason (contained in the Lord Commissioners last Declaration) are constrained by main force of Argument to deny their own most true Proposition, expressed at the beginning of this Ninth Reason: For there they affirm it plainly, that a man may swear *secundum rem juratam*, though he know that that which he swears to, is against the meaning and sense of him that gives the Oath; which is such a notable piece of Equivocation, and, indeed, of such dishonesty, as is not to be expressed by us in its proper name; for no Patron of Equivocation hath yet out-gone it. The Tenth Reason propoundeth an undoubted truth, viz. that by swearing that Confession, none of these pretended innovations is abjured. What then? Is it not sufficient, that by the King's Authority they are discharged, and referred to the trial of a General Assembly and Parliament? The Eleventh Reason repeateth again the dark Parable of the Merch-stone which was in the Sixth Reason; it would break any man's teeth to crack it, and so it is not to be hoped, that ever any man will find the pith and kernel of it; and therefore let it be as unintelligible as the sixth. The Twelfth Reason is such a one as certainly no rational man could ever have dreamed of: If we subscribe the Confession by the King's Authority, then it will be thought that we acquiesce in his Majesties Declaration, and that we are contented to be pardoned by him, and that is such a thing as it turns all our glory into shame, by confessing our guiltiness. A strange fancy, that men should account that a shame, which the Scripture calleth *giving glory unto God*! But truly it is not far from blasphemy, when they affirm, that God by the fire of his Spirit from Heaven hath accepted their service: If they mean their Covenant, what more can be said of the holy Scriptures? For sure to be indited by the Spirit, and to be approved by the fire of the Spirit from Heaven, is much about one; if there be any difference, the odds will seem to lye upon the acceptance of it from Heaven by the fire of the Spirit; for the Spirit descending upon the Apostles in fiery Tongues, was that which both sealed their calling unto them, and enabled them for it, and for inditing those holy Scriptures which they wrote: And thus, before they are aware, they make themselves Patrons of a notable point of Popery, viz. That their Covenant, which sure was penned by men, and so but a human writings, is of equal authority with the Sacred Scriptures: For if it be approved from Heaven by the fire of the Spirit, it must be so. But it is to be hoped that every man will pity this frenzy, and give no credit to it, until they make it appear unto us, when and where God from Heaven by the fire of his Spirit did seal and approve this Covenant. The Thirteenth Reason is a mad one indeed, for it doth condemn the Confession of Faith which was first subscribed in 1580. upon which Confession they do solely ground their own Covenant; for that Confession hath no such Oath for Reformation of Life annexed unto it: The truth is, something they would have said against the King's Declaration, but they did not well know what: Their Wits were run very low, when in an extraordinary Vow and Covenant with God, they would put in Reformation of Life, unto which every man is tied by the ordinary moral Precepts, both of Law and Go-

spel, and by the Doctrine of Repentance contained in both: For the Reason which is in their fourteenth, fifteenth, and sixteenth Reasons, we leave it for them to find that can, we are persuaded they will lose their labour who seek it.

After their Reasons, they conclude with seven Protestations, which truly need not to be taken notice of; for being grounded upon to weak and inconsiderable considerations, the Reader is unreasonable, like them, if he should expect a conclusion stronger than the premises. In the preamble to them, take notice only of their dangerous and fearful approach unto blasphemy, while they affirm, That the Covenant made by them was sealed from Heaven. Their first Protestation is utterly invalid, being *Protestatio contra factum*; for it is plain to the whole World, that the rebellious distractions of that Kingdom proceed from them alone. Their second Protestation is void most evidently upon the same ground; for they themselves, both by their publick Instructions, of which you have heard, and in their private Instructions, of which you shall hear, have used many prelimitations in all the particulars against which they protest, but neither his Majesty, nor any by his Authority have used any. The third Protestation begins with a Supposition, which they themselves do know to be most false; for both Archbishops and Bishops had, at the time of this their Protestation, both by the Acts of the Church, and by the Acts of Parliament, a settled Office in the Church, and have so still by Parliament, nay, and by Assembly too, unless they do pitifully beg that which will never be granted them, That their last Assembly at Glasgow was a lawful Assembly, after the King's Authority had dissolved it. And as it beginneth with a false Supposition, so it endeth with as false and foolish a Position and Petition: For it mainteineth, That all those who are to undergo any trial at the Assembly, either upon any general Complaint already made, or upon any particular Accusation to be given in against them, are to compare at the Assembly, not to have voice, but as rei: Upon which ground, none of themselves could have voice there; for they were all liable to trial and censure upon any particular Accusation that was to be given in against them: And then their Petition is, That the warning given to the Bishops by this Proclamation, and this their Protestation, should be a sufficient Citation to them to appear as rei: That their Protestation should be so, it is so foolish a Request, as a man may be confident no man ever heard of the like before; nor could they expect that any man, indued with Reason, would yield unto it: And that the King's warning of the Bishops by Proclamation to appear at the Assembly, as he did all the rest of the Members of it, should make them appear as rei, is such a conceit, as is to be wondered any man could light upon it, unless they do hold, that every one of themselves was to appear as rei too, for all of them were warned by the Kings Proclamation to appear at the Assembly as well as the Bishops. In their fourth Protestation we may admire their rare and undeniable impudence, who dare affirm, that their Covenant is approved from Heaven, with rare and undeniable evidences, when all the Christians in the World (except themselves and their Faction) who have heard of it, do acknowledge that no such Covenant or Combination can come from Heaven, but from Hell, from whence cometh all Faction and Schism. In their fifth Protestation they do

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run into an act of High Treason; for they appeal from the King and his Council, which by an Act of Parliament is made High Treason, and which they know themselves was adjudged to be so in the case of the Ministers, who held an Assembly at *Aberdene*, after it was prorogued by his Royal Father, who being cited to compeer before the Lords of the Council to answer that high contempt, and compeering declined the Authority of his Royal Father and his Council, and appealed to a General Assembly, were therefore Arraigned of High Treason upon that Statute before the Lord Chief Justice of that Kingdom; and after pleading to it by their Advocates, were found by a Jury or Assise, guilty of High Treason; and had received Sentence accordingly, if his Royal Father, out of his singular Clemency and gracious Respect to their Calling, had not Reprieved them before Sentence, and only inflicted upon them perpetual Banishment, which they did undergo: The Act of Parliament upon which they were Arraigned was this.

The Eighth Parliament current holden at *Edenburgh*, the 22th of *May*, in the Year of God 1584. by the Right Excellent, Right High and Mighty Prince *James* the Sixth, by the Grace of God, King of *Scots*, and three Estates of this Realm.

An Act Confirming the King's Majesties Royal Power over all Estates and Subjects within this Realm.

Forasmuch as some Persons being lately called before the King's Majesty and his secret Council, to answer upon certain Points to have been enquired of them, concerning some Treasonable, Seditious, and Contumelious Speeches uttered by them in Pulpits, Schools, and otherwaies, to the disdain and reproach of his Highness, his Progenitors, and present Council; contemptuously declined the Judgment of his Highness and his said Council in that behalf, to the evil example of others to do the like, if timely remedy be not provided: Therefore our Sovereign Lord, and his three Estates assembled in this present Parliament, ratifieth and approveth, and perpetually confirmeth, the Royal Power and Authority over all Estates, as well Spiritual as Temporal, within this Realm, in the Person of the King's Majesty our Sovereign Lord, his Heirs and Successors: And also stateth and ordaineth that his Highness, his Heirs and Successors, by themselves and their Councils, are, and in time to come shall be Judges competent to all persons his Highness Subjects, of what estate, degree, function, or condition soever they be of, Spiritual or Temporal, in all matters wherein they, or any of them shall be apprehended, summoned, or charged to answer to such things as shall be inquired of them by our said Sovereign Lord and his Council. And that none of them which shall happen to be apprehended, called or summoned to the effect aforesaid, presume to take in hand to decline the Judgment of his Highness, his Heirs and Successors, or their Council in the premises, under the pain of Treason.

Their sixth Protestation is nothing but a Repetition of that which they have said so oft, even unto tediousness: In their seventh and last, they bewray an unexampled boldness, in avowing their confidence of his Majesties approbation to the integrity of their hearts, and peaceableness of their ways and actions all this time past, when in their own Consciences they do know, that his Majesty did hold and detest their ways and actions, as most unpeaceable and seditious.

And now having taken a short survey of this their Protestation, we Appeal to any man, who shall compare it with the Kings Declaration, whether his gracious Proclamation, against which they protested, did not rather deserve an humble and hearty acknowledgment of his many Graces and Favours towards them, with a joyful and submissive acceptance of them, than first to be traduced to the people before it was made, for a Proclamation tending to the utter ruin and subversion of the Religion and Laws of that Church and Kingdom; and then afterward to be encountered in publick with such an impudent, insolent, seditious, and senseless Protestation; and lastly, after all this, to be railed at in their Pulpits, and the People made to believe, that that part of it which required Subscription to their own Confession of Faith, but lately sworn and subscribed unto by themselves, was a device of the Devil, and hatched in Hell, as shall appear by that which followed?

For the next day, being *Sunday*, all the Pulpits of *Edenburgh*, nay, and many places where there were no Pulpits (for they heard Sermons in many Halls, and other profane and common places) did ring with bitter invectives and declamations against this the King's gracious Declaration, especially against that part of it which they conceived would be most satisfactory to his People, and prove a special Antidote for expelling that Poyson which they had made them swallow, concerning his declining from the Reformed Religion, and inclining to Popery, viz. the Subscription to their own Confession of Faith now commanded by him: For, they branded it so with most hideous and horrible names of the very depth and policy of Satan, that the common People, who were well perswaded of the Piety of their Preachers, could not chuse but imagine that there was some wickedness in it, which their Preachers could and did dive into, though they did not. One Preacher in his Sermon prayed God to scatter them in *Israel*, and to divide them in *Jacob*, who were the Authors of this scattering and divisive Counsel. Another Preacher in his Pulpit told his People, that the urging of this Subscription, was an Italian and a devillish device, first to make them renounce God, and perjure themselves, and then afterward there was an intention to destroy their Bodies; and so that this Subscription imported no less than the destruction both of their Bodies and Souls. These and many more such false fears suggested, first from two of the Preachers of *Edinburgh*, and from them transmitted to their Fellows throughout the Kingdom, did work so strongly with the good but simple and seduced People, as that they were wrought unto a perswasion, that this Subscription to their own Confession of Faith, commanded by the King, for removing that false opinion which their Leaders had put into their heads of his inclination to Popery, was of a far deeper reach, and of more dangerous consequence, than if he had been inclined to Popery indeed; still adding,

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1638. ding, That if they did subscribe it now by his Authority, it could receive no acceptation at God's hands, God rejecting any service done to him by constraint (it being very familiar with them at these times to term obedience to authority constraint) but when they subscribed it voluntarily, or by the perswasion of their Leaders, then it was acceptable to God; and, if they durst have used such a Popish word, no question they would have added, Meritorious: And thus you see, with what undutifulness his Majesties gracious Declaration was entertained.

Yet it was not so received by all: For, First, all the Lords of the Council (amongst whom were some, who never seemed to be satisfied before) were so fully satisfied, and so much over-joyed with this his gracious Declaration, that they did condemn and utterly detest this odious Protestation of the Covenanters; whereupon the Councils Letter of thanks and proffer of service was sent to the King, as was before declared.

Next, the greatest part of the Ministers of that Kingdom did rest satisfied with it; as shall be made evident if it come to trial: But this is most certain, that the Ministers Assembled at *Edinburgh* that morning at the Gray-Friars-Church by the name of the fourth Table, or Table of the Ministers ordinarily resident at *Edinburgh* all this time, for attendance upon the business of the Covenant, being sent unto by the other Tables, and desired by them to send some of their number up to the great Committee of all the Tables, to joyn with them in a Protestation which was to be made that afternoon against the King's Declaration, which then they expected would be proclaimed; the Ministers returned this answer by their whole voices (not above two or three at the most dissenting,) That they would not agree to any Protestation which should be made against the Kings gracious Declaration, unless it should be sent down unto them, that it might be thoroughly advised upon; especially considering that they had heard so much of the contents of that the King's Declaration, importing the removing of their grievances which occasioned their Covenant, that they could not conceive the necessity of any Protestation. Which answer being turned to the other Tables, did so trouble them, that they sent a second message to them, intreating them presently to come up to St. Gyles Church, and to sit there, that so being in a place of a near distance from their great Committee, they might the more easily consult with them. Thither they came, and staid a great while, but heard nothing from the Committee, who it seems were much distracted and puzzled about the penning of their Protestation, and had certain Ministers with them (especially *Rollock*) at that consultation, who were not deputed by the Table of Ministers to be present at it; and having stayed in that Church until near one of the Clock in the afternoon, dissolved themselves, took their leaves one of another, and resolved not to meet until the next week, many of them going home presently towards their own Country Churches, where they were to Preach the next day, being Sunday; and at their parting they deputed none to join with the Committee from the other Tables, either to consult about, or to assist at any Protestation which should be made against this the King's gracious Declaration: And all this was averred by divers Ministers then present, before divers of the Lords of the Council, and other persons of special rank and quality, who likewise would have averred it before the last pretended General Assembly, if they durst have done

it without running the hazzard of their fortunes, if not their lives: And yet in that afternoon about three of the Clock, *Rollock*, in the name of the Ministers, did upon a Scaffold join with the Deputies from the three other Tables, in that wicked Protestation, without deputation (as is presumed) from the Table of Ministers, unless perhaps he called some few straggling Ministers about the Town, of whom it may be he asked the question.

Besides, many thousands of the King's Subjects Covenanters were fully satisfied with his Declaration, though they durst not, as many of them have professed, subscribe this Confession of Faith urged by his Majesty, for fear of being troubled by the major part. And it is known, that wheresoever that Declaration was published, before that the Covenanters from their Tables sent their emissaries to dissuade the acknowledgment of it, and Copies of their Protestations against it, it was received with all expressions of joy and thankful acknowledgment; insomuch that when it was proclaimed at the Market-Cross at *Glasgow*, it was assisted with all these expressions, both by the Magistrates and all the Inhabitants, by the Principal, the Regents and Professors, by all the Ministers of that City, though Covenanters, who out of the great sense of the many obligations and favours, which his Majesty had laid upon that whole Kingdom, by this his gracious Declaration, directed their several Letters of thanks and acknowledgment to the Lord Commissioner, which are here exhibited.

The Letter of the Provost, Bailiffs, and the Council of *Glasgow*.

Most Honourable and our very good Lord,

Having received a Letter directed from your Grace to us with this bearer your Graces Cousin, and having read the same, and heard and weighed his Majesties gracious Proclamation, which was this day proclaimed within this City, to the great joy of all the hearers; We cannot but praise God, who hath endued his Sacred Majesty our Dread Sovereign, with such Wisdom, Piety, Clemency, and fatherly care of this Church and Kingdom; and pray God for a long and happy Reign to his Sacred Majesty, and his Highness posterity over us and succeeding Generations; And shall ever endeavour to approve our selves his Majesties most loyal Subjects; And wish from our hearts all happiness to your Grace, and your Graces most Noble Family, for the well-wishing of this City; and especially for the great pains taken by your Grace in this so weighty an employment, hoping and praying to God that the same may obtain the wished for accomplishment, and shall ever remain,

Glasgow this 24 of
Sept. 1638.

Your Graces most humble
and obedient Servants,

| | |
|--------------------------|------------------|
| James Stewart Provost. | Colme Campbell. |
| John Anderson Bailiff. | John Barnes. |
| Colme Campbell Bailiff. | Richard Allane. |
| Ninian Anderson Bailiff. | Walter Stirling. |
| Gabriel Cuninghame. | Gavine Nesbit. |
| William Stewart. | John Anderson. |
| Patrick Bell. | Robert Horner. |
| Matthew Hamilton.* | |

The

Anno
1638.

The Letter of the Ministers.

Most Honourable and our very good Lord,

Having received the Letter directed from your Grace, and having heard and considered his Majesties most gracious Proclamation published this day in this City, with joyful acclamations universally of the hearers, as we of the Ministry and University of Glasgow, who were present, with great contentment and joy of heart applauded thereto; and do praise God who hath inspired our Dread Sovereign with such wisdom, Piety, Clemency, and fatherly care of the Church and Common-wealth of this Kingdom, as is abundantly manifested in the said Proclamation; So we would gladly testify, by what means we can, our thankfulness to his Majesty, our Crown of rejoicing, and the breath of our Nostrils; not omitting our bound duty to your Grace, whom God and his Majesty hath appointed so fit and happy an instrument in this great errand, for your singular Prudence, rare Piety, and Zeal to God, your Prince, and Country, and incredible pains in this Honourable and weighty Employment, which we pray God may still prosper in your hands, until it be brought to a full and blessed conclusion, being willing for our part to contribute what lyeth in our poor power by our earnest Prayers and best Endeavours.

Glasgow, Sept.
24. 1638.

Your Graces humble and
most observant servants,

| | |
|------------------|---------------|
| M. Rob. Wilkie. | John Strang. |
| J. Maxwell. | John. |
| M. Bell younger. | Will. Wilkie. |
| M. Ga. Forsythe. | Pa. Maxwell. |
| M. Blair. | |

Now, besides these, in many places of the Kingdom, whither they sent their Protestation to be read, it was refused by divers, who had subscribed their own Covenant.

The Assembly being indicted, the Covenanters did now go about to effect all which they had plotted and designed concerning the election of the Commissioners to it, That all, and none but they, might be chosen whom they had resolved upon, and were of the most rigid rank, whom they were sure would receive no satisfaction, and keep all others (so far as in them lay) from accepting of any: Their device was this; They perceived that most of the Ministers throughout the Kingdom would gladly embrace peace, if they might see their Consciences satisfied in these fears and doubts, upon which they entred into the late Covenant. The Leaders resolved not to trust any such moderate men, considering that all their scruples were removed by the King's last Declaration, and the induction of a free General Assembly; and therefore they took order by their secret instructions, that none of them should be chosen, though they were Covenanters: For Ministers Non-Covenanters, they took order, that if in any place by plurality of voices such a one should be chosen, then he should be processed and protested against, (which no man could avoid) and so he should be sure to be set by at the Assembly, and cast from having any voice there. And whereas they might fear, that the rigid Ministers, designed by them for this Assembly, might want a sufficient number of their fellow-Ministers for their elections in their

several Presbyteries, they took an order, That not only for this time, but for all times to come, there should be no Minister chosen Commissioner from any Presbytery to any Assembly, but such as the Laity should make choice of: For they presently gave order from their Tables, That every particular Parish should send to the Presbytery in their bounds one Lay-man, whom they called a Ruling Elder, who by their appointment should have voice in the Presbytery as well as the Minister of the Parish; so that when the whole Presbytery was Assembled together, the number of the Lay-men was at the least equal to the number of the Ministers; By which new device, the Laity gained of the Ministers undoubtedly these four things.

First, That never any Minister should be chosen Commissioner to the Assembly, but whom they would; for they being equal in number in voices with the Ministers, and six of the Ministers being to be put in the List, and to stand in Election, out of which six, three must be chosen, and all these six must be removed in the time of the Election, and have no voices themselves in it, it is clear, that the number of the Lay-voices in these Elections must needs exceed the number of the Ministers voices at least by six: Or, if in some Presbyteries (as was done in some few) these six Ministers before their removing gave voices to whom they pleased, yet (no man being able to give a voice to himself; of necessity the number of the Lay-voices must exceed the number of the Ministers by one.

Secondly, The Laity gained this, That in all other Presbyterial Meetings, which are weekly, the Ministers should never have a casting voice, to determine any thing but what they liked; the Lay-men being alwaies at the least equal to them in number.

Thirdly, This they gained, That whatsoever should be concluded in a General Assembly, should ever be concluded likewise in a Parliament, if Our Negative voice did not stop it: (and they have not spared to give out, that they will take from his Majesty and his Successors, that which all his Predecessours have enjoyed, that is, a negative voice in Parliament, as they have done in Assemblies, for as much as lies in them:) For by their instructions they ordered, That where any Noble-man lived in any Presbytery, he should be chosen Lay-Elder there for the Assembly, and all Noble-men are Hereditary members of the Parliament: and where there wanted a Noble-man, they should chuse some special Gentleman, who in all probability standeth fair for being chosen one of the Commissioners of the Shire for the Parliament; which made the Covenanters stand so importunately for that point, viz. to have the Assembly held before the Parliament, as making just accompt, that all the Lay-voices in the Assembly were engaged to give their voices to the same conclusions, when they should sit in Parliament; and so, that the Parliament, for its Acts, should depend upon the General Assembly, and the General Assembly (for the Acts passed there) should depend upon them, but neither the one nor the other depend upon the King.

4. Fourthly, The Laity gained this, That they exempted themselves for ever hereafter from all fears of the power of the Clergy: for they being resolved (so far as in them lay) to overthrow Episcopal Government, and yet fearing by so doing to be brought again under the Tyranny of Presbyterial Government, of which they had heard their

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1638. their Fathers so grievously complain, they pitched upon this way of equal number of Lay-Elders in every Presbytery, being assured thereby to curb their Ministers, most of whom had their Stipends and Rents paid by these Lay-Patrons; and so now the Laity made accompt, that if in their Elections to this Assembly they could compass these conclusions and resolutions, they had brought the Church and Church-men under for ever.

These Conclusions, though effected by the Laity with violence, yet received great resistance by many Ministers in most Presbyteries, and in some by all: For when these Lay-Elders came to sit with them, they either refused to admit them, or desired time to deliberate, how they (who being Covenanters, and had complained of Innovations) could admit of such Innovations as those which seemed to threaten the ruin of the Liberty of the Church, for these Reasons:

First, Because, that above these forty years no Lay-Elder had sat in their Presbyteries, and therefore it was a great Innovation.

Secondly, Because at the beginning of the Reformation, when there was a kind of necessity to require the assistance of Lay-men for the Government of the Church, (Ministers being then so few and scant,) yet it was provided that they should ever be fewer in number than the Ministers, and that therefore this obtruding of themselves in equal number, was not only an Innovation, but directly against the Book of Discipline, upon which they did so much ground their proceedings.

Thirdly, That it was a thing never heard nor practised before in that Church, that Lay-men had voices in the chusing of the Ministers Commissioners for the Assembly, and therefore if they would chuse, they desired them to chuse their own Lay Commissioner, but for the Ministers Commissioners to leave it to themselves, who were better able to discern of their Ministers abilities since they were weekly conversant with them, than they whom they had never seen in their Presbytery before.

But all this opposition and arguing was fruitless: For the Lay-Elders, according to their secret instructions from the Covenanters Tables, which afterward shall be related, would not remove, but put themselves in possession of suffrage, and so these Ministers, and none but they, were chosen in each Presbytery whom the Tables at *Edenburgh* had designed: A thing so odious and distastful to the Ministers, that in some Presbyteries, the Ministers (chosen Commissioners) had but eight Ministers voices, and the voices of two and twenty Lay-men, in others not above two Ministers voices, in some but one; but in all Presbyteries the Ministers Commissioners were elected by the plurality of Lay-voices. Some of these Ministers, though Covenanters, seeing the Liberty of the Church by this means utterly lost and betrayed, did repair to the two Covenanting Ministers of *Edenburgh*, to whom they bemoaned themselves, wondering that they would give way to the utter defacing of the Church by these Laick intrusions; to whom they gave this answer, That they grieved for it as much as themselves, but that the necessity of the times was such, that they must wink at it, else the Nobility, Gentry, and Burroughs did threaten them with a desertion, upon which a division must follow, which by their Oath and Covenant they were bound by all means to prevent. But the aggrieved Ministers were not satisfied with such cold, comfortless, and uncon-

scionable answers, but resolved in many Presbyteries to draw up their Protestations against the Lay-Elders to the Assembly; yet they were so threatened by the Laity, that most of them fell back and durst not adventure upon it, though others both Covenanters and Non-Covenanters had the courage to do it, but with what success shall be declared when we come to speak of the Assembly it self. Yet this we will confidently averr, That when his Majesties Commissioner came last from that Kingdom, three parts of four of all the Covenanting Ministers did detest the elections made by Lay-Elders, and would have declared the nullity of all such elections if they durst have done it; and that these Ministers, (unless they have changed their minds since) had rather live under Episcopal Government, than under the Tyranny of the Laity and a few Ministers, from whom they have suffered more in a few Months, than ever they did under all the Bishops in the Kingdom, since his Majesties coming to the Crown: all which very many of them have affirmed, both for themselves and others, to the Lord Commissioner, divers of the Council, and others of good credit and quality.

But the elections being now past according as they had plotted them, or in good forwardness so to be where they were not yet past, the Covenanters next care was, how to hinder the subscription of the Confession of Faith commanded by the King, they conceiving it their Master-piece to stop any thing (though never so well liked by themselves) if it were commanded by his Authority; as fearing, that if he had obedience given to him in any one thing, the people might recover the taste of Government: And hearing that the Lord Commissioner was to repair to the Colledge of Justice, there to tender to the Lords of the Session, who are the supreme Judges of the Laws in that Kingdom, the Confession of Faith and Band annexed, to be sworn by Authority, that very morning they set up *Kollock* to Preach, (though it was not his ordinary course) where many of the Judges were present before they went to sit: There he with many false and foolish impertinences did so labour to perswade them, that the swearing of that Confession was unlawful and plain perjury, that he shewed himself a ridiculous and most dishonest man to most that were present, and a weak man to all; and so little he prevailed, that immediately after Sermon the Judges repairing to their usual place of sitting, whither the Lord Commissioner came presently and tendered them the said Confession, all of them, except four who were known to be of the false stamp, did swear to it and subscribe it, the number of the Judges in all being twenty.

And here we desire the Reader to observe, whether these men shall not be accounted a Faction, and not a Body of a Kingdom, when they shall separate themselves from the King who is their Sovereign; from the body of his Council, who have the supreme Government of the Kingdom under the King; and from the body of the Judges, who are the Interpreters of the Laws, and under his Majesty the supreme Judges of all their Estates and Fortunes, these two Judicatories, together with the Judges in Criminal Causes, being under the King by the Laws constituted the only Judges of all their actions? For if these Covenanters shall ascribe unto themselves the Government, because they are more in number than those who dissent from them, then certainly in all Kingdoms and Republics, the established Government

must go down; for in them all, they who are ruled and governed are far more than the Rulers and Governours.

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They then seeing that their fierce endeavours were fruitless with the Lords of the Session, with all speed dispatched some of their Tables throughout all parts of the Kingdom, to stop the subscription to the Confession of Faith commanded by the King, with Copies of their Protestation to be read in all places, where the Lord Commissioner should either proclaim the Declaration, or require subscription to that Confession: In many places they prevailed, in many not; Where they prevailed, they used such indirect and violent courses, as they gained an assent from many mens mouthes, whose minds were very far from it. In *Glasgow*, after that the Lord *Lowdan*, with divers others, Noble-men, Gentlemen, and Ministers, sent (as they pretended) from the Tables at *Edenburgh*, had caused to be read that infamous Libel (of which you shall hear afterwards) against the Archbishop of *Glasgow* in his own Cathedral Church, without the knowledge of the Magistrates of that City; the Lord *Lowdan* desired the Provost of *Glasgow* to convocate their Town-Council, that he might impart some things unto them; which the Provost refused: But that Lord and his Associates, understanding that their ordinary Church Session sate that afternoon, at which the Magistrates and Ministers were to be present, came suddenly into the place where they did sit, beyond their expectation, where the Lord *Lowdan* made a Speech of great length, concerning the iniquity and danger of his Majesties Covenant, adjuring them both by perswasions and threatnings, that they would not subscribe the Confession of Faith required by the King; and therefore his demand was, That he might have the assured promises of the Magistrates and Ministers, that they would not subscribe it, that so he might report their answer to the Tables from whence he was sent: To which the Provost presently answered, That his Lordship knew well that the Lord Commissioner had required from them a subscription to the Covenant, that they had humbly intreated of his Grace some short time to return their answer; and therefore he wondred that any man should think it was fit to answer any who was sent from the Tables, before they had made their answer to the Lord Commissioner; and so refusing to give any answer to these Emisaries, from the Tables, they went away unsatisfied.

The Covenanters, finding that his Majesties commanding of the subscription of the Confession of Faith, in many places had given satisfaction, and had indeed confuted that lying scandal of his inclination to Popery, and that many of the Covenanters had remitted much of their former rigour, being much taken with his last gracious Proclamation, the Heads and swayers of the four Tables, (as if all their designs were come to the last cast) cast about once again, and laboured hard to work the people into the belief of this one point, That none of these things promised in the last gracious Proclamation, no not the Assembly it self, were ever intended to be performed by the King; That he only studied to gain time, until he were ready for their ruin; and therefore they gave out, that the Lord Commissioners late coming from *Hamilton* to *Edenburgh* was only to Prorogue the Assembly. They spent daies and nights in penning a Protestation against it, and writing multitudes of Copies to be ready

in all places of the Kingdom, before the Proclamations of the Prorogation should arrive. They sent for all their Party to flock to *Edenburgh*, as if now there were greater danger than ever: All which was carried with notable hypocrisie; for the Authors of this report did disperse it, not that they did believe it to be true, but because it was conducive to their ends to have the people believe it.

But knowing that they who do act long parts, must needs sometimes be out, and that the time of the Assembly beginning to approach, and the Commissioners provisions and preparations for his Journey to *Glasgow*, were far stronger proofs to the people of the Kings holding the Assembly, than all which they had surmised to the contrary, they then betook themselves to their last shift, which was a miserable and wicked one, and it was this: Since they were perswaded that the Assembly indicted by the King would now hold if they could not divert it, they resolved to take such courses, as they conceived the Commissioner neither could nor would endure; with which they did conceive they should so irritate him, that he could not chuse but either discharge or prorogue the Assembly. For two things now they feared: First, that they had committed a great error in Petitioning the King for an Assembly, which they conceived was fully in their own power to indict; and therefore did begin to think, that by that act they had weakned their own power and claim, and supposed, that it had been more agreeable to their designs, if they had indicted one themselves, being the title which they meant to stand to, as appeareth by their own indictment of a new Assembly, since the dissolution of this. Secondly, they were afraid of nothing more than this, that the Lord Commissioners propounding and passing into Acts of Assembly, all the particulars of the King's grace and favour contained in his last Proclamation, would abundantly satisfy the greatest part of their own Party, when they should see the grounds of their fears of innovations in Religion removed, which occasioned them to enter into the late Covenant: But now, if the Lord Commissioner could be forced any way, either to Prorogue or discharge this Assembly indicted by the King, that then they would presently indict one themselves, which they were sure the King would not countenance with any Commissioner from him; by which means they were both secured from having their Party weakned by the propounding in Assembly his Majesties gracious offers expressed in his last Declaration, and were certainly perswaded, that they should easily induce the people to believe, that these things promised in that Declaration were never intended by the King.

To compass therefore their desires of the Lord Commissioners either Proroguing or discharging the Assembly, they resolved to increase their disorders to such a height, as they hoped he would never endure them; and to multiply so many affronts upon him, and in him upon his Majesty and his Authority, as they imagined should be past all sufferance: As first, by their Letters directed from their Tables at *Edenburgh*, they quarrelled with the Lord Commissioner, that the Confession and Covenant was commanded to be subscribed in many parts of the Kingdom by the Authority of the King and his Council, with an unbecoming violence: The Copy of their Letter to the Lord Commissioner, being then at *Hamilton*, here followeth:

please

14
Anno
1638.
Please your Grace,

WE were glad of the indiction of an Assembly as the meane to bring our complaints to an end: And as we promised for our part to do our endeavour, that all matters might be carried in a peaceable way, and no man troubled in any sort till that time, so did we certainly expect that no violence or molestation should have been used against any of those who had subscribed the late Covenant: and yet, far contrary to our expectation, are brought hither almost every hour grievous complaints from many of the people, in divers parts of the Kingdom, That they are by the threatnings and open violence of some Statesmen, Councillours, and Barons, constrained to subscribe a Confession of Faith, and Band; some with blind and doubting minds, and others against their Consciences, to the great trouble of their Souls, and great disturbance of the Peace of the Country, contrary to such peaceable preparations as should have preceded a perfite pacification at a General Assembly. If we had heard but some complaints of this kind, we would have spared both your Graces pains and our own, but complaints being multiplied more and more, we could not of duty but make some representation thereof to your Grace, that some course may be taken for present suppressing this so irreligious and unjust manner of doing; and for preventing the hard consequences that may ensue from people who are thus pressed to subscribe against their minds, and from others who are joined in Covenant with them; which, as it is humbly Petitioned, so it is confidently expected by

Edinb. 3. Oct.
1638.

Your Graces humble
Servants,

| | |
|-----------|------------|
| Cassils. | Balmerino. |
| Lothean. | Johnstown. |
| Lindsay. | Burgly. |
| Lowdowne. | |

THe complaint contained in this Letter did afterward prove to be most unjust; and yet it was dispersed through the Kingdom with horrible and most false aggravations, viz. That some of the Council with charged Pistols and drawn Daggers held to the breasts of the Kings Subjects, had forced them to subscribe the Covenant: To this their Letter the Lord Commissioner returned an answer, though not to their Table, because he would not acknowledge it, yet to that Noble-man, whose hand was first at it: The Copy of which answer is this:

My very good Lord,

I Have received from your Lordship, and other Noble-men, a Letter, containing a Complaint against the violence offered to divers of his Majesties Subjects, by States-men, Councillours, and others; and that Complaint aggravated by your promising and undertaking, for your self and all your adherents, that no man should be troubled till the General Assembly; and your just expectation that the same course should have been held on the other side by us.

For the former, I know not what States-men, Noble-men or Barons your Lordship means; for naming none, I know not to whom I shall take my self; nor do I know what violence and threatnings you mean: If you mean his Majesties Commissioners appointed by the King, they requiring his Subjects to subscribe the old Confession and Covenant, by his Authority now renewed, and remonstrating unto them the danger

they incur by Law in not obeying his Majesties commandment, I hope that cannot be called violence but duty, the omission whereof, must needs be a violation of, and violence offered to his Majesties Sacred Authority: If other violences and threatnings they have used, as your Lordship seemeth to intimate (for their obedience to his Majesties just Authority, I am sure, your Lordship will not call violence) they must answer for it, and shall whensoever your Lordship shall make known the delinquents. But, alas! my Lords, Tell me now in good earnest whether you have heard they have used such violence in perswading this Covenant, as hath been used by your adherents in enforcing of yours? Hath the blood of God's Servants, his holy Ministers, been shed, which blood I am afraid keepeth the vengeance of God still hanging over this Land? Have men been beaten, turned out of their livings and maintenance, reviled and Excommunicated in the Pulpits, and a thousand more out-rages acted upon them, for not subscribing this Covenant? Have none who have subscribed your Covenant, done it with blind and doubting minds? If they have, I beseech your Lordship not to call his Majesties Councillours legal proceedings, irreligious and unjust, until you have proved the piety and justice of the proceedings of your own adherents.

For the other, of your undertaking and promising for your parts, that no man should be troubled till the Assembly, and expecting the like from us, truly I am glad I have it under your Lordships hands; for I think there are few hours of any one day, since the indicting of the Assembly, that from all parts of this Kingdom, I am not vexed with Complaints of new processing of Ministers, new withholding of Ministers stipends unprocessed, heavy Complaints of Ministers of your own Covenant, that they are threatened, and that sharply and bitterly, for their declaring of their grief, in being barred of their freedom in the Election of their own Commissioners to the General Assembly, and being borne down by the multitude of Lay-voices, and menaced because of their protesting against the same: The Complaints of Ministers Non-Covenanters and Lay-Elders Non-Covenanters, chosen by their Sessions to assist at the Election of the Commissioners, from the Presbyteries, but turned back, for not having subscribing your Covenant, and reviled with bitter words, for being so pert as to come thither; is this the performance of promising, that no man shall be troubled till the Assembly? These are, indeed, preparations very unfit to precede this Assembly, they being so unpeaceable and like to take up much time, in discussing at that great Meeting the illegality of these Elections. My Lord, the truth is, I shall be as careful to see any wrong offered by his Majesties Commissioners (in urging his Majesties Authority) punished, when I shall know the offences and the offenders, as I am heartily grieved at the proceedings of your Associates: Here I am sure, his Majesties Commissioners have been rather backward than forward, but so have not your Lordships adherents been; for they have in very many places proclaimed your Protestation, where his Majesties Declaration hath not been Proclaimed. I hope your Lordship will pardon my unusual prolixity; for I confess I am much troubled to see his Majesties good Subjects led into such misconstructions of his pious and religious intentions towards them. This my Letter, I pray your Lordship to communicate to the other Noble Lords, who subscribed that to me. To your self and them, I pray your Lordship commend the true respects of

Your Lordsh.

For the Earl of Cassils.

Qqqq

This

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THis Letter it seems gave them no satisfaction, for they still continued their Reports: Besides, they had the boldness by another Letter from the same Tables sent likewise to the Lord Commissioner, being then at Hamilton, to expostulate with him, that one of the King's Ships at Sea had searched a Scottish Merchants Ship for Ammunition; when as they themselves before had searched a Merchants Ship for some Ammunition, which the King had sent for Scotland, and would have seized upon it, if they had not been prevented; and immediately after, a little English Vessel carrying Beer to some part of that Kingdom, was likewise stayed and searched by them. In the same Letter they quarrel with the Lord Commissioner, for hindering the bringing of Horses from England thither; which is unlawful for any one to do, without a special licence from the Master of the King's Horse. The Copy of their Letter, filled with their ordinary pretences of Religion, and the Lord Commissioners Answer unto it, be these.

Please your Grace,

After your parting from us, we had knowledge from John Wilfon Skipper, and sundry of his Passengers newly arrived, That being at Sea on his way from Holland hither, one of his Majesties small Ships of eight Pieces, came aboard and searched him for Arms and Ammunition, declaring they did the same by his Majesties Warrant. We do not so much value the hazard of any prejudice, as we are heartily grieved to find any such note of his Majesties displeasure, differencing us from his other Subjects, when our own hearts, and the Lord that searcheth them, doth bear witness of our loyalty and affection to his Majesty, especially to have found it now when we are made so secure, both by the hopes of obtaining from his Majesties favour, by your mediation, these ordinary and publick remedies that can fully settle this Church and State, and by assurance from your Grace we should find no such hard dealing, during the time of your employment amongst the Subjects here, who trust in your care to prevent speedily the inconvenience of this, as you did in that other late particular anent the arrest of our Horses in England. We think this Advertisement sufficient to your Grace, who is wounded through our sides if we suffer any thing in this time, being so far interessed to vindicate us from such prejudice, who do acknowledge our selves to be

Edenburgh, Sept. 28.
1638.

Your Graces

humble Servants,

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|------------|-------------|
| Rothces, | Montrose, |
| Home, | Weymfe, |
| Lindesay, | Boyd, |
| Loudone, | Balmerino, |
| Dalhousie, | Forrester, |
| Elcho, | Cranstoune, |
| Baltarres, | Burghly, |
| | Lothiane. |

My Lord,

I Have received a Letter this day signed by your Lordship and sundry other Noblemen, making mention, that one John Wilfon Skipper, being on his way from Holland hither, was searched by one of his Majesties small Ships. This is no new nor unaccustomed thing; for commonly the Captains of his Majesties Ships during the time of being at Sea, do take notice what the loadings of all such Ships are, as they meet with, who trade in the Channel; it being a Prerogative that belongs to his Imperial Crown: I am persuaded that your Lordship and the rest of my Lords cannot think, but if his Majesty had been desirous to have made stop of importation of Ammunition into this Kingdom this time past, but it would have been an easie matter for him to have effected; but so little hath he regarded this, as he hath not so much as taken notice of it: And yet it were no strange thing, if his Majesty should give directions to cause examine for what end so great store of Ammunition is imported into this Kingdom, and a little more narrowly to look into our actions; when, by I know not whom, there hath been so much notice taken of such Ammunition, as his Majesty hath thought fit to send hither. For notwithstanding that your Lordship says we are made secure by the hopes of obtaining from his Majesty these remedies that can fully settle this Church and State, yet I may say courses are taken to put fears in his Majesties good Subjects minds, by perswading of them that no such thing is intended: This does too too manifestly appear by the watching and guarding his Majesties Castle, and many other courses; but of this I will write nothing, my intention being only to return answer of what is writ to me: And therefore for your Lordships satisfaction I shall acquaint his Majesty with the contents of your Letters, who will no doubt give such directions therein, as his good Subjects will have no just cause of complaint: Whereas you have been pleased to say, that you have been assured by me, that you should receive no such hard dealing, during the time of my employment; let me desire you to consider this aright, and you will find it none; for neither was that Ship stayed from proceeding in their intended Voyage, nor any thing taken from them: Nor needs your Lordship to doubt that his Majesty will do any thing (except our own indiscretion provoke him) that may make appear to the World that he makes a difference betwixt us of this Nation and his other Subjects. Be confident, my Lord, that my endeavours have, and do tend to no other end, but to the glory of God, the honour of his Sacred Majesty, and the preserving from ruine this poor distracted Kingdom; and that I have and shall labour to prevent all such Accidents as may breed the least stop or hindrance of this wished event, which I hope and am confident that your Lordship and all those noble Lords who have signed this Letter to me, will take the same to heart; and then certainly you will not be so easily moved with such light and sleight reports: Nor will your Lordship think that either you or I can be wounded by the order and command of so pious, merciful, and so clement a Prince as is our dread Sovereign, who hath shewn himself to be so full of goodness, as we must of all men living prove the worst, if we be not thankful to God, and him for it: This my Letter your Lordship will be pleased to communicate to the rest who have writ to me, and esteem of me as

Hamilt. Sept. 24.
1638.

Your Lordships

humble servant,

For the Earl of Rothces.

Hamilton.
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With his Answer they were so far from being satisfied, that to answer this affront (as they did interpret it) for searching a Ship of that Kingdom at Sea, they resolved to put a greater affront upon the King, by increasing their Guards about the Castle of *Edenburgh*. In *Fife* they gave order for a Communion throughout their Churches, at which they made every one to swear that they should not subscribe the Confession and Covenant, nor any other but their own, which they swore again *de novo*; especially to stand to that part of it which concerneth mutual defence against all persons whomsoever. They gave general order for the Fast to be kept on the fourth of *November*, being *Sunday*, neglecting the day designed in the King's Proclamation, which was the *Wednesday* following, and the seventh of that Month.

The Lord Commissioner seeing these contempts daily to increase, and hearing that they had appointed the Communion to be celebrated at *Edenburgh*, sent for the Provost and Magistrates, and inquired of them these particulars: First, whether at their Communion (which was to be celebrated the two next Sundays following) it was intended that the like Oath should be taken with them, as had been taken in *Fife*? Secondly, whether they intended to keep the Fast-day designed by his Majesty in his Proclamation, and according as they had lately since been required to do, by an order sent from the Council to them for that purpose? Thirdly, what order they had taken with those, who had the day before reviled and abused Dr. *Eliot* while he was preaching in the Pulpit? That he had sent for them, because he had found those few Ministers, by whom they were ruled, to be unreasonable men, and despisers of Authority. To the last, they promised that they would make a discovery of the Offenders, and see them punished; which they never did. For the first, they thought it most unreasonable that any Oath should be ministered as it was in *Fife*. For the second, they thought it most reasonable that the Fast-day should be kept, but before they could give a full answer, they must first confer with their Ministers; at their meeting with whom, they found that the Ministers had intended that barbarous Oath at the Communion, and not to keep the King's Fast-day more than other Churches in the Country had done: Yet the Magistrates did with much persuasions over-rule them in both. The Lord Commissioner did resolve with great solemnity, attended with all the Council and Judges, to keep that Fast in the great Church of *Edenburgh*, on the day appointed by the King, and gave notice thereof to the Magistrates; who returned him thanks, and assurance of welcome; but understanding that they were resolved to discharge the ordinary Ministers of that Church, from preaching there that day, only because they were Non-covenanters, and had appointed their places to be supplied with the two only Covenanting Ministers of their Town, he sent for the Magistrates again, telling him, That he could not come to their Church, and countenance so great a disorder as the displacing of the two Preachers of that Church, only because they were faithful Subjects to the King; nor durst hear these two Preachers designed by them, who in their Pulpits did ordinarily inveigh against the King and his Authority; unless therefore he might either nominate the Preachers, or hear the ordinary Preachers of that Church, he must not come thither. The Magi-

strates did what they could to persuade with their Ministers; the one of them was contented with the Lord Commissioners desire, but the other was so obstinate, as he would no way hearken to it; and him (being so powerful with the People) the Magistrates durst not offend: And so the Lord Commissioner, with the Council and Judges, were necessitated to keep the Fast at another Church hard by the Palace. Now we desire the Reader to observe, how the Heads of the Covenanters were afraid that any show of obedience should be yielded unto the King by the People in the least point, they having ordered, that in most places of the Kingdom, the day designed by his Majesty for the Fast should not be observed; certainly, only because it was commanded by him, as being unwilling that his Majesty (whom they had given out to the People for an Innovator in Religion, and an Introducer of Popery) should be thought by them to have any care of so religious an exercise as a solemn Fast: And how that in *Edenburgh*, though the Magistrates by their earnest intreaty had procured the observation of it, yet they could not obtain it without putting a special affront upon Authority, by displacing of those Ministers who had continued in loyalty and obedience to his Majesty.

But these were nothing to their other violences, whereby they would have the Lord Commissioner take notice, that it was impossible their proceedings at the Assembly should be pleasing unto his Majesty: For not only in many of their Pulpits did they preach, That whosoever subscribed this Covenant, were perjured and villains, but when some affirmed the contrary, and reproved the Preachers for such furious Speeches, after their Sermon was ended, they were cited before their Presbyteries for so doing, and threatened with Excommunication: Nay, more than so, there were few Ministers of the Kingdom, not Subscribers of their Covenant, whom they did not presently process and cite before their several Presbyteries; and notwithstanding their Appeals to the General Assembly then approaching, yet they would not shew so much patience, but proceeded to present, most illegal, and unwarrantable suspending of them, and other censures, as best pleased them; which being complained of to the Lord Commissioner & Council, could find no redress, although they sent many times to the Covenanters, requiring them to forbear all such unjust proceedings, and to refer the trial of these oppressed Ministers causes to the General Assembly, which was now at hand.

None were so insolent as the Presbytery of *Edenburgh*; for they presently put very many of their Ministers under process: They begun with one Master *David Michell* Minister of *Edenburgh*; the Lord Commissioner wrote earnestly to that Presbytery, to forbear proceeding against him until the Assembly, to the which he had appealed, and where his cause might have a full and fair trial; which they not only most unjustly rejected, but were so unmannerly, as they did not vouchsafe to answer his Letter, either by Message or otherwise: The next Presbytery day he wrote to them again to the same purpose, but with the like success; for they proceeded without taking notice of his Letter, or returning any answer to it, although in that second Letter he had desired them, either to delay their proceedings that day, or else to send one or more of their number to him, (being then hard by at the Palace of *Holy-rood-house*) who might shew him

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him some reason why they could not stay so long as until the Assembly, which was now so near approaching. The Lord Commissioner wondring at this contempt, by the advice of some of the principal Lords of the Council, sent for an Officer of the Council, and directed him to them with an ordinary warrant drawn up in an ordinary form by the Clerk of the Council, requiring them in the King's Name, under pain of his high displeasure, and as they would answer the contrary at their utmost peril, to desist from any further proceeding in that cause until the General Assembly; to which the Defendant had appealed, and which was to begin within fourteen days: This Warrant was delivered unto them by the Officer of the Council, in whose audience it was read, and when he required an Answer to it, yet received none, but in highest contempt of his Majesties Crown, Dignity, and Royal Commandment, and against all Rules of Justice (the Appellants appeal to the superiour Court of a General Assembly, legally depending) for Doctrines preached by him four year since at least, and the Witnesses being all Lay-men, who (besides their no extraordinary memory for such a time as was laid) were men of such mean and ordinary understanding, as that it was improbable, if not impossible, that they should understand the Doctrines wherewith he was charged; and some of them being uncontroverted, and such as are generally received by all Protestant Churches in the World; they presently suspended him, and discharged him from the place of his Ministry; and afterward, to make their contempt the greater, sent down three of their number to tell the Lord Commissioner that they had done so, who offered to shew him Reasons for their so doing: But the Lord Commissioner told them, That since they were not pleased to shew him their Reasons before their Sentence as he required, he would not hear their Reasons after their Sentence as they desired. But to let pass this and many more their such unjust proceedings, against those Ministers which continued in his Majesties obedience, in all places of the Kingdom, even when the Assembly was ready to begin, notwithstanding these Ministers legal Appeals thereunto, we shall desire the Reader to observe their proceedings in one Process, which certainly was framed and pursued with such malice, injustice, falshood, and scandal, not only to the Reformed Religion in particular, but to the Christian Religion in general, as it cannot be parallel'd by any President of Injustice in precedent Ages, nor ('tis to be hoped) shall ever be followed in future, and which if it were known amongst Turks, Pagans, or Infidels, would make them abhor the Christian Religion, if they did think it would either countenance or could consist with such abominable impiety and injustice.

It is their Process against all and every one of the Archbishops and Bishops of that Kingdom: The Covenanters did indeed first desire the Lord Commissioner, in his own name, and as he was his Majesties Commissioner, to grant out Process against the Archbishops and Bishops, and thereby to cite them to appear as *rei*, or guilty persons: To whom he returned this fair Answer, That he did not hold it fit to cite them as guilty, of whose guiltiness he had no presumptions; and besides that he would be loth to do an act which should void, according to their grounds, both the Prelates places and voices in the Assem-

bly, they having laid it down for a Rule (though it were a false one) that parties cited can have no suffrage there; yet if either by the Law or Practice of that Kingdom, the King's Commissioner or Commissioners did use to grant out any such Process, he would not refuse it, being resolved to concur with them in any course of Justice: But he hoped that they would not make the King his Master, or himself, do any act prejudicial to the Bishops, their place and government, before they were heard, and that in the mean time for their satisfaction he would advise with some of the Judges and his Majesties Advocate, whether any such Process was awardable, or had usually been awarded by his Majesties Royal Father's Commissioners to the General Assembly, and according to their advice he would do that which should be agreeable to Justice. From this Answer of the Lord Commissioner, they expected no satisfaction to their desire; for they themselves did know as well as any Judge or Advocate in the Kingdom, that no Commissioner either could award, or ever had awarded any such Process as they required: And therefore they moved the Lord Commissioner once again, that he would require the Judges or Lords of the Session to grant out such Process; with which Request, when the Lord Commissioner made the Judges acquainted, they returned him that Answer which the Covenanters knew very well they could not chuse but make, *viz.* That they could grant out no Process for the compearance of any persons before them, but those who were impleaded, and whose Causes were triable before them. The truth is, the Lord Commissioner found by their inquiry, and the Covenanters knew it perfectly well, that the ordinary way of Process or Citation to a General Assembly was to pass it under the hand of the Clerk of the Assembly, whose Office is during life, if he be not legally removed, and usually too under the hand of him who was Moderator at the last General Assembly; both which were then living, and are so still: The name of the Clerk of the Assembly being Master *James Sandelands*, an Advocate and Commissary of *Aberdene*, and the Moderator of the last Assembly, being the now Archbishop of *St. Andrews*: But they who had all this while gone on in disorderly, illegal, and unjustifiable ways, belike thought it an incongruity to keep the beaten Path and Tract of Justice in any thing, and therefore they fell and resolved upon a way so unlike Justice, so repugnant to Religion and common Honesty, as one would wonder how they hit upon it, having neither Law nor Practice for it, which was this, They caused to be drawn up a most false, odious, and scandalous Libel against the Archbishops and Bishops, with a Petition annexed, to the Presbytery of *Edinburgh*, wherein they desired the Libel to be admitted by them; the Copy whereof, as it was exhibited by them to the said Presbytery, and afterward publicly read in all the Pulpits thereof, here followeth; which his Majesty wished out of his love to the Christian Religion might never come to the notice of any Pagan, and out of his love to the Religion Reformed, he wished might never come to the notice of any Papist: But it cannot be concealed.

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The Bill, or the Complaint of the Noblemen, Barons, Burgesſes, Miniſters, and Commons, Covenanters, (which were not Commiſſionaries to the Aſſembly) againſt the pretended Archbiſhops and Biſhops within this Kingdom, as it was preſented to the Preſbytery of Edinburgh; with an Act of Reference of the Bill, from the Preſbytery to the next General Aſſembly, as it was fully read on the Lord's day before Noon in all the Churches within the Preſbytery of Edinburgh, according to the Act.

Noblemen.

Unto your Wiſdoms humbly ſhews and complains, We John Earl of Sutherland, John Earl of Athol, William Earl of Dalhousie, Mungo Viſcount of Stormouth, Hugh Lord Montgomery, David Lord Elcho, George Lord Forreſter, Arthur Lord Forbeſſe, John Maſter of Berridale, Robert Lord Boyd, David Lord Balcarras, John Lord Melvill.

Barons and Gentlemen.

Craggemillar, Lugtoun, Buchanan, Young, Dury, Balgonny, Balbirny, Maſter William Hamilton, Thomas Cragge of Ricarton, John Cowper of Gogar, John Hamilton of Boghall, David Inglis of Inghiltoun, John Dundas of Newliſton, Sir William Cockburne of Langton, Patrick Cockburne of Clerkinton, John Leſlie of Newton, Colonel Alexander Leſlie, David Barclay of Onverme, Sir Michael Arnot of Arnot, Sir Michael Balfoure of Deanmill, John Aiton of Aiton, David Beaton of Balfoure, John Lundie of Lundie, Walter Murray of Livifton, Sir John Preſton of Ardrrie, Walter Cornwall of Bonhard, William Scot of Ardoffe, Robert Forbeſſe of Riceſſe, Sir Andrew Murray of Balvarde, George Dundasſe of Dudiftone, Sir William Murray of Blebo, Maſter Robert Preſton, William Dickſone.

Miniſters.

Maſter William Scot Miniſter at Cowper, Maſter George Hamilton at Nuburne, Maſter Walter Grog at Balmerino, Maſter John Machgil Parſon of Fliske, Maſter Andrew Blackhat at Aberlady.

Burgesſes and Commons.

George Bruce of Carnock, George Potterfield a Burgeſs of Glaſgow, John Smith, John Mill, Lawrence Henryſon, Richard Maxwell, Burgeſſes of Edinburgh.

WE, for our ſelves, and in name and behalf of the reſt of the Noblemen, Barons, Gentlemen, Burgeſſes, Miniſters, and Commons within this Realm of Scotland, Subſcribers of the Covenant, (who are not choſen Commiſſioners to the General Aſſembly, but) who will aſſiſt and inſiſt in this Complaint with us, as faithful Chriſtians, as loyal Subjects, and ſenſible Members of this Church and Common-weal, having intereſt to purſue this popular action, in a ſpecial manner and an eminent degree, by which perſe- God may be glorified, Chriſt's Kingdom advanced, that the Church may be reſtored to her privileges and liberties, and freed from manifold ſcandals, from the corrupters of Doctrine with Popery and Arminianiſm, of the Sacraments with Superſtition and Will-worſhip, and of the Diſcipline with Tyranny, and from the overthrowers of the peace of this Church and Kingdom by their uſurpations and lies, their violent humours, and falſhood for their own worldly ends, may be tried and cenſured accordingly, and ſo this Church and State made free from the preſent diviſions and combuſtions, and reſtored to peace and unity, both with God and amongſt themſelves, and that his Maſteſties religious diſpoſition and honour may be cleared to all the world, by the trial and cenſure of thoſe men who have fraudulently abuſed his Maſteſties Name and Authority by their truſt and credit with his Maſteſty: We moſt earneſtly make requeſt, That whereas by the Laws of this Church and Kingdom, and by his Maſteſties laſt Proclamation, all his Maſteſties Subjects, whether Eccleſiaſtical or Civil, of whatſoever title or degree, if they have exerciſed an unlimited or unwarrantable power, They are declared and ordained to be liable to the trial and cenſure of the General Aſſembly and Parliament, or to any other Judicatory, according to the nature and quality of the offence. And whereas Maſter David Lyndſey pretended Biſhop of Edinburgh, Maſter Thomas Sydeſerſe pretended Biſhop of Galloway, Maſter Walter Whiteford pretended Biſhop of Breichen, Maſter James Wedderburne pretended Biſhop of Dunblane, Maſter James Fairly pretended Biſhop of Argyll, Maſter John Spotswood pretended Archbiſhop of St. Andrews, (having their reſidences or dwelling places within the bounds of this Preſbytery of Edinburgh,) Maſter Patrick Lyndſey pretended Archbiſhop of Glaſgow, Mr. Alexander Lyndſey pretended Biſhop of Dunkell, Maſter Adam Bannatine pretended Biſhop of Aberdene, Maſter John Guherie pretended Biſhop of Murray, Maſter John Maxwell pretended Biſhop of Roſſe, Maſter George Grene pretended Biſhop of Orkney, Maſter John Abernethie pretended Biſhop of Caithneſſe, Maſter Neil Cambel pretended Biſhop of the Iles, ſhould be tried and cenſured for their unlimited and unwarranted power.

For whereas it was provided in the Cautions agreed upon in the General Aſſembly holden at Montreſe, Anno 1600. for bounding of the Miniſters Votes in Parliament, and concluded to be inſerted in the Body of the Act of Parliament, for confirmation of this Vote as a moſt neceſſary and ſubſtantial Point of the ſame, which was never yet repealed by a lawful Aſſembly, That the Miniſter ſhould ſwear, upon his admiſſion to the Office of Commiſſionary, to ſubſcribe and fulfil the Cautions agreed upon under the penalties expreſſed therein, otherwiſe he was not to be admitted; yet the ſaid Maſter David Lyndſey, ſometimes Miniſter of Breichen, now pretended Biſhop of this

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this Diocess of *Edenburgh*, and pretended Moderator of this Presbytery, with his foresaid Colleagues, the pretended Bishops and Archbishops of this Church *respective*, have taken upon them (without craving or obtaining Commission from the Church as it is set down in that Assembly at *Montross*) the office and power to vote in Parliament, without swearing at his or their entrances to subscribe and fulfill those Cautions which are set down under Penalties.

In the first Caution it was provided, that he presume not to propound in Parliament, in Council or Convention, any thing in the name of the Church without an exprels Warrant or Direction from the Church, under the pain of deposition from his Office; and that he should neither give consent unto, nor keep silence from any thing (amidst these Meetings) that might be prejudicial to the liberty of the Church, under the said pain.

But the forenamed Mr. *David Lindsey* pretended Bishop of *Edenburgh*, with the rest of his Colleagues *respective* above named, have presumed (having no Warrant nor Direction from the Church) to propound in Parliament, and to consent to several Acts which have past in Parliament, to the prejudice of the Church; as namely, To the Act concerning the restitution of the State of Bishops, Anno 1606. the Act concerning the Chapter of St. *Andrew's*, Anno 1607. To the Act of Commissariots and Jurisdictions given to Archbishops and Bishops, Anno 1609. To the ratification of the Act agreed upon in the Assembly of *Glasgow*, Anno 1610. with an Explanation, contrary to the meaning and tenor of the said conclusions, Anno 1612. To the Acts concerning the Elections of Archbishops and Bishops, and to the Acts concerning the Restitution of Chapters, Anno 1617. To the ratification of the five Articles of *Perth*, Anno 1621. To the Act concerning the Apparel of Church-men, and to the Ratification of the Acts concerning Religion, in which all the former Acts are included, Anno 1633. and to many other several Acts of this kind. In like manner he propounded and gave consent to several Acts of the Privy-Council, for the establishing of it, and of the power of the High Commission, which are against the Laws and Liberties of this Kingdom; and for Ratification of several Acts and Sentences given out by them and their Colleagues in that unwarrantable Judiciary: for in the same manner did he propound and consent unto the Acts made in the Privy-Council for pressing and bringing in of the Service-Book, which would have trod under-foot the frame of God's publick Worship in this Kingdom, if the Lord had not prevented it. And further, in the last Convention of the States holden in the years 1625. and 1629. he did not only keep silence, but propound and give consent to some things which were prejudicial to the liberties of this Church, and he did oppose himself to the just desires and grievances which were presented in the name of the Church for some of her liberties and priviledges: whereas it was provided that he shall be bound upon each general Assembly to give an account of the discharge of his Commission since the Assembly going before, and should submit himself to the censure of the Assembly, and stand to the determinations of it without farther Appeal, and should Sue for and obtain Ratification of his carriage from the Assembly, under the pain of Infamy and Excommunication; but the said Mr. *David Lind-*

sey, and his Colleagues *respective* above-named, have never given an account of the discharge of his or their Commissions, nor sought nor have obtained Ratification of his or their doings from the Assembly.

Whereas it was provided in the third Caution, that he should content himself with that portion of the Benefice which should be assigned to him from his Majesty for his livelihood, not hurting or prejudging the rest of the Ministers, or any Minister whatsoever, planted or to be planted within his Benefice, and that this clause was to be inserted in his provision: Besides, when Bishops were charged in the Assembly holden in *Octob.* Anno 1578. to quit the corruptions of that State, there was numbred amongst the corruptions, That they received for the maintaining of their Ambition and Riot, the Emoluments of the Church, which might sustain many Pastors, the Schools and the Poor; but the said Mr. *David Lindsey* with his Colleagues *respective*, have took provision for their Benefices, and the foresaid clause was not inserted; and he and they have prejudged Ministers, Schools, and the Poor, by taking and enjoying plurality of Benefices.

Whereas it was provided in the fourth Caution that he should not dilapidate nor make a disposition of his Benefice without the consent of his Majesty and the General Assembly; and for the greater warrant of this, That he should interdict himself to the general Assembly not to dilapidate, nor to give consent to the dilapidation of his Benefice made by others, and that he should be contented that an Inhibition should be raised upon him to that purpose; but the said Mr. *David Lindsey*, with his Colleagues *respective*, have set, and take settled patronages.

Whereas in the fifth Caution it is provided that he should be bound to attend his particular Congregation faithfully in all the points of a Pastor; and that he shall be subject to the Trial and Censure of his own Presbytery and Provincial Assembly, as another Minister that bears no Commission: In like manner by divers Acts and Constitutions of the General Assemblies and Presbyteries, Non-residents are punishable by deprivation; Yet the said Mr. *David Lindsey* with his foresaid Colleagues *respective*, have been Non-resident from his and their charges for many years; nor have they performed the duties of Pastors by Preaching, Administration of the Sacraments, visiting the sick, &c. but they have deserted their charges by the space now of many years; neither have they in this subjected themselves to the trial of the Presbyteries and Provincial Assemblies.

That whereas in the sixth Caution it was provided, That in the Administration of Discipline, Collation of Benefices, Visitation, and all other points of Ecclesiastical Government, he shall neither usurp nor acclaim to himself a power or jurisdiction further over the rest of his Brethren under the pain of deprivation: and in case he usurp upon the Ecclesiastical Government, if the Synodal Presbyteries, or General Assemblies did oppose, or make impediment unto him; whatsoever he did in that case should be *ipso facto* null, without a declarator; yet the said Mr. *David Lindsey* with his Colleagues *respective*, have usurped a jurisdiction in the Administration of Discipline, Collation of Benefices, Visitation, and other points of Ecclesiastical Government, without a lawful Warrant from the Church, in exercising power to suspend, deprive, command, and inhibit Excommunication at their pleasure, to fine, confine, im-

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imprison, banish Ministers, and other Professors without the warrant of the Laws of the Country; appointing their Moderators over Presbyteries and Synods, prorogating their Diets, staying their proceedings against Papists, Sorcerers, Adulterers, and other gross Offenders, by exacting Contributions to such Commissioners as he pleased to send to Court for his own and his Colleagues affairs; by depriving, and ordaining of Ministers, not only without the consent of the Presbyteries and Synods, but by ordaining of scandalous and unqualified Ministers, and depriving of learned and religious Pastors; by ordaining Ministers after a form not allowed of in this Church; by silencing Ministers for not reading the Service-Book, and Book of Canons; by interdicting after a Popish manner, the exercises of Morning and Evening Prayer in their Churches; by releasing of Excommunicated Papists; by contradicting and crossing the Votes of the Presbyteries at their pleasure; by their pretended negative vote directly contrary to this Caution; by enacting Decrees of Synods without demanding their votes; by changing and falsifying their Acts, when most votes had carried the contrary; by many waies have they failed in this caution, which are so notorious to the whole Church and to your Wisdoms, that we shall condescend upon the same when we are required.

Whereas in the seventh Caution it was provided, That in Presbyteries, and in Provincial and General Assemblies, he shall behave himself in all things, as one of the Brethren of the Presbytery, and be subject to their censure; yet the foresaid Mr. David Lindsey with his foresaid Colleagues *respective*, hath not behaved himself as a Brother at these Meetings; he disdains to sit in Presbyteries, or to be subject to their censures; he sitteth and over-ruleth in Provincial Assemblies rather as a Lord than a Moderator; and instead of behaving himself as a Brother in the General Assembly, hath, by threatening and silencing, prejudged the liberties of the lawful Commissioners; when they propounded, reasoned, or concluded matters conducing to the liberty of the Church, he forced them to conclude things contrary.

That whereas it was concluded at Mount Rose, That none of them who should have vote in Parliament should come Commissioners to the General Assembly, or have vote in it in time to come, unless they had Authority or Commission from their own Presbyteries for that purpose; yet the said Mr. David Lindsey with his foresaid Colleagues *respective*, though they had no Authority by Commission from any Presbyteries, have usurped to give votes in the last pretended Assemblies.

Whereas in the seventh Chapter of the Book of Policy, registrated in the register of the Acts of the Assembly, it was concluded, That in all Assemblies a Moderator should be chosen by common consent of the whole Brethren assembled together, and it hath been so practised since the beginning of the Reformation, till he and his Fellows began to break the Cautions; yet the said Mr. David Lindsey with his foresaid Colleagues *respective*, have usurped the place of moderation in the last pretended Assemblies, and rather domineered than moderated, to bring in novations; yea further, have directed Mandats from themselves as from the representative Church of Scotland, which name and power is only competent to General Assemblies; he hath brought in the practice of many Innovations in the

Royal Chapel, in the Abbey Church, and his pretended Cathedral; he hath laboured not only to hinder the ordinary Meetings of General Assemblies of this Church, by obtaining Letters and charge from Authority to that purpose, but also hath laboured, what in him lay, to take away from the Church the priviledge of holding General Assemblies yearly, belonging to Her by the Word of God, Acts of this Church, and Laws of this Kingdom.

Whereas it is provided by another Caution, That *Crimen ambitus* shall be a sufficient cause of deprivation of him that shall have vote in Parliament; yet the said Mr. David Lindsey with is foresaid Colleagues *respective*, are guilty of the said crime, in seeking of the said Offices, and promising and giving good deeds for them.

Whereas it was provided by the Book of Discipline, and Acts of the Assembly, Feb. An. 1569. and December 1565. and 1567. that marriage should not be solemnized without asking of Banes three several Sabbath daies before; yet the said Mr. David Lindsey and his foresaid Colleagues *respective*, have given licence to sundry Ministers to solemnize Marriage without asking three several Sabbaths before; upon which have followed divers inconveniences; a man hath been Married to a Woman her Husband being alive; and they not Divorced; some have been Married to persons with whom they have committed Adultery before, and some have been Married without the consent or knowledge of their Parents.

Whereas by the Book of Fasting, authorized by the General Assembly, and prefixed before the Psalms, no set or yearly Fast is allowed, but disallowed, as contrary to the liberty of the Church, and to the nature of the exercise (a Fast;) yet the said Mr. David Lindsey and his foresaid Colleagues *respective*, have appointed yearly Fast, and troubled some godly Professors for not observing the same.

Whereas the Office of a Deacon is set forth in the Book of Discipline, and Book of common order before the Psalms, according to the Word of God, to have no meddling with the Preaching of the Word, or the Ministration of the Sacraments, and by the first Confession of Faith ratified in the Acts of Parliament, Chapter 23. Ministers called unto particuar flocks have only power of the Ministration of the Sacraments; yet the said Mr. David Lindsey with his foresaid Colleagues *respective*, have given a power to certain Divines whom they make Deacons (men not admitted to the calling of the Ministry) to Administer the Sacrament of Baptism, under the names and titles of Preaching Deacons, and they refuse to admit diverse men to the calling of the Ministry before they be admitted to that Order.

Whereas it is ordained by the Book of Policy, and Acts of the Assembly, that no man should receive Ordination to the Ministry without a present admission to a particular flock; yet the said Mr. David Lindsey with his foresaid Colleagues *respective*, have separated the Act of Ordination from the Act of Admission.

Whereas according to the established order of the Church, and the Acts of the Assembly, the Ordination and Admission of Ministers should be publick, in the presence and with the consent of the Congregation; yet the said Mr. David Lindsey with his foresaid Colleagues *respective*, have given Ordination to some men in other places, not in their own Congregation; and violent-ly

ly have thrust upon them scandalous Ministers.

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Whereas Ministers who teach erroneous and corrupt Doctrine should be censured by the Book of Discipline, and by the Acts of the Assembly, yet the said Mr. David Lindsey and his-foresaid Colleagues *respective*, have taught erroneous and corrupt Doctrine themselves, and by their pretended power have preferred to the Ministry men who have taught erroneous Doctrine against the Confession of Faith, and Acts of Parliament quoted in our Covenant; and they cherish and maintain them who teach Arminianism and Popery; as, conditional Election; Free-will; resistibility of effectual Grace; The universality of Christ's death; The merit of it in Heaven and in Hell; a final Apostacy of the Saints; The local descent of Christ into Hell; That Christ came into the World *clauso Virginis utero*; Auricular Confession, and Papal absolution; That the Pope is not Antichrist; That the Church of Rome is a true Church; That Reconciliation with Rome is a thing easie; That the Church of Rome errs not in Fundamentals; and that she differs not in Fundamentals from the reformed Churches; They call in question the imputation of Christ's Righteousness, and they affirm the formal cause of justifying Faith, to consist in our inherent Righteousness; They affirm that there is a local and circumscriptive presence of Christ in the Sacrament, and they change the Sacrament into a Sacrifice, and the Table into an Altar, the Ministers into Priests. There are other damnable and heretical points of Doctrine which they maintain; of which we shall give particular information in our particular accusation of each one of them *respective*, with the proofs thereof, when we shall be required.

Whereas by the Acts of the Church, no Oaths or Subscriptions should be required from those who enter into the Ministry, but to the Confession of Faith, and to the Book of Policy; yet the said Mr. David Lindsey with his foresaid Colleagues *respective*, without a Warrant from the Church or Parliament, do exact divers Oaths and Subscriptions from them who enter into the Ministry; namely, That they should both in publick and private Prayers commend the Prelates to God's merciful protection; That they should be subject to the orders which were now in the Church, or by the consent of the Church, that is, by their consent (as they affirm) should be established; as to the Service-Book, and to the Book of Canons. The heaviness of this grievance made the most part of his Majesties Subjects to complain in these Articles, that worthy men which have testimonies of their learning from Universities, and are tried by Presbyteries to be fit for the work of the Ministry, and for their gifts and lives were much desired by the people; yet these men are kept out, because they could not be perswaded to subscribe and swear unto such unlawful Oaths, which have no warrant from the Acts of the Church, nor the Laws of the Kingdom; and they were Articles and Oaths conceived according to their pleasure: and men of little worth, and ready to swear, were for by-respects thrust upon the people, and admitted to the most eminent places of the Church, and of the Schools in Divinity, which breeds continual complaints, and moves the people to run from their own Parish Churches, refusing to receive the Sacrament from the hands of Ministers set over them against their hearts, which makes them not to render unto them that honour which is due from the people to their Pa-

stors; and it is a mighty hinderance to the Gospel, to the souls of the people, and to the peace of this Church and Kingdom. Car. 14.

Whereas in the Assembly holden at *Edenburgh*, in *March*, Anno 1578. it was declared that it was neither agreeable to the Word of God, nor to the practice of the Primitive Church, that the Administration of the Word and Sacraments, and the Ministration of Civil and Criminal Justice should be confounded, that one person could supply both the charges, but that a Minister should not be both a Minister and a Senator in the Colledge of Justice. And in the assembly holden in *October*, Anno 1578. it was reckoned amongst the corruptions of the State of Bishops, which they were charged to forgo, that they should usurp a criminal Jurisdiction, that they should not claim unto themselves the Titles of Lords, that they should only be called by their own names, or Brethren; yet the said Mr. David Lindsey, with his foresaid Colleagues *respective*, have assumed to themselves the Titles and Honours of Lords, they did sit as Senators in the Colledge of Justice, as Councillors in the Privy Council, as auditors in the Exchequer, and have enjoyed prime Offices of State. The pretended Bishops have usurped the place and precedence before all Temporal Lords, the pretended Archbishops before all the Noble Earls of the Land, and the pretended Primate before the prime Officers of State in the Land.

Whereas by the Word of God and Acts of the Assembly; namely, Anno 1576, 1577, and 1578. no man should be suffered to be a Minister, unless he be tied to a particular Flock and Congregation; and not to be tied to a particular Flock it is condemned as a corruption of the state of Bishops which they were charged to forgo; yet the said Mr. David Lindsey, with his Colleagues *respective* foresaid, are Ministers, and will not be tied to particular Flocks.

Whereas the Office of a Bishop (as it is now used within this Realm) was condemned by the Book of Policy, and by the Act of the Assembly holden at *Dundee*, Anno 1580. whereof these are the words; Forasmuch as the Office of a Bishop (as it is now used and commonly taken within this Realm) hath no sure warrant from authority, nor good ground out of the Scriptures, but it is brought in by the folly and corruptions of the inventions of men, to the great hurt of the Church, The whole Assembly of this Church with one voice, after liberty given to all men to reason in the said matter (no man opposing himself to maintain the said pretended Office) do find and declare the said pretended Office, used and termed as is aforesaid, unlawful in it self, as having neither ground nor warrant within the Word of God; and we do ordain that all such persons which do, or shall hereafter, enjoy the said Office, shall be charged simply to dimitt, quit, and leave the same, as an Office unto which they were not called by God; and that they shall leave off all Preaching, Ministration of the Sacraments, or other Offices of Pastors, until such time as they receive admission *de novo* from the General Assembly, under the pain of Excommunication to be used against them; and if they be found disobedient to contradict this Act in the least point, after due Admonition, the sentence of Excommunication shall be executed against them. And for the better execution of the said Act, it is ordained that a Synodal Assembly

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Besides, the said Master David Lyndsey with his foresaid Colleagues *respectively*, have, against the Laws of the Church and Kingdom, brought in the Service-Book, the Book of Canons, and the High Commission Court, and would have changed and overthrown the whole frame of Doctrine of God's word, the use of the Sacraments, the Discipline, Liberties, and Priviledges of this Church and State, if the Lord had not prevented them: The Particulars we shall present to your Wisdoms, though it be known to all men, how he and they have abused his Majesties Authority against his Royal Intentions and Declarations, they having moved discontents betwixt the King and his Subjects, by scandalous lies betwixt Subject and Subject, for which things Complaints have been given in to the Council, which we hold here to be repeated as a part of our Complaint, and to be tried by your Wisdoms, and referred to the Assembly.

Besides all these faults, the said Master David Lyndsey with his Colleagues *respectively*, in his life and conversation is slandered constantly as guilty of excessive drinking, whoring, playing at Cards and Dice, swearing, profane speaking, excessive gaming, profaning of the Sabbath, contempt of the publick Ordinances and private Family-Exercises, mocking of the power of preaching, prayer, and spiritual conference, and sincere professors; besides, with bribery, simony, selling of Commissariots places, lies, perjuries, dishonest dealing in civil bargains, abusing of their vassals, and of Adultery, and Incest, with many other offences, of which we shall give the Particulars in our particular Accusations.

Whereas the Presbytery is the ordinary Judi-

catory of this Church for trying of these Offences, and hath the Ecclesiastical Power for citation of the Parties and Offenders, with the reference of their Complaints to the General Assembly, Therefore we most earnestly and humbly beseech your godly Wisdoms, as you tender the glory of God, the peace and liberty of this Church, the removal of scandals, and punishment of vice, that you will take into your consideration and trial the foresaid many and heinous Offences, with the particular reservations and qualifications of them, which we shall present to your Wisdoms, or to the Assembly, when it shall be thought convenient; and that you would either take order with it your selves, and censure the Offenders, according to the nature of the Offences, with the Ecclesiastical pains contained in the Acts and foresaid Canons of this Church and Kingdom, or else make a reference of them to the General Assembly to be holden at Glasgow, 21 Novemb. and, that the knowledge of these should come to the Delinquents, that you will be pleased to ordain the publishing hereof, to be made by all the Brethren of the Presbytery in their Pulpits upon the Sabbath before noon, with a publick admonition to the Offenders to be present at the Assembly, to answer to this Complaint, and to undergo the censure and trial of it, and to bring with them the Books and Scrouls of Subscriptions and Oaths required from those who enter into the Ministry, with the Books of the High Commission Court, and the Books of the General Assembly, which they or their Clerk had or have fraudulently conveyed away; together with this certification, That if the said Master David Lyndsey, with his foresaid Colleagues *respectively*, do not appear in the said Assembly, and bring with them the said Books, to answer to this Complaint in general, and to the particular Heads of it, and to submit himself to the trial and proof of this Complaint general, and to the particular Heads of it, that there shall be a condigne censure of these Offenders for their contempt and contumacy: Here we humbly beseech your Wisdoms Answer.

The Act of the Presbytery of Edinburgh, 24 Octob. 1638 year, in Answer to this Complaint.

UPON the said day, we the Brethren of the Presbytery of Edinburgh, after we had received this Bill and Complaint, presented unto us by the Laird of Buchanan, the Laird of Dornie the younger, the Laird of Carberry, John Smith late Bailiff of Edinburgh, John Hamilton, and Richard Maxwell, in name of the Noblemen, Barons, Burghesses, and Commons, Subscribers of the Covenant (which are not Commissioners to the General Assembly) against the pretended Archbishops and Bishops of this Kingdom, and after we had read and seriously considered the same, we according to the desire of the Complainers did and do refer the same to the next General Assembly to be holden at Glasgow, 21 Novemb. And we ordain the publishing of this Complaint, and of our reference of it to the Assembly, to be fully read by all the Pastors of the Presbytery upon the next Sabbath before noon out of the Pulpits, with a

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publick warning and citation to the Offenders complained upon; by name Master John Spenswood pretended Archbishop of Saint Andrews, Master Patrick Lyndsey pretended Archbishop of Glasgow, Master Thomas Sydserf pretended Bishop of Galloway, Master David Lyndsey pretended Bishop of Edinburgh, Master Alexander Lyndsey pretended Bishop of Dunkeld, Master Adam Bannatine pretended Bishop of Aberdeen, Master John Gutherie pretended Bishop of Murray, Master John Maxwell pretended Bishop of Ross, Master George Greme pretended Bishop of Orkney, Master John Abernethie pretended Bishop of Caithness, Master Walter Whitefoord pretended Bishop of Brechin, Master James Wedderburne pretended Bishop of Dunblane, Master James Fayrley pretended Bishop of Argyle, Master Nail Campbell pretended Bishop of the Isles, to be present at the said Assembly, to answer to this complaint in general, and to the particular Heads of it, to undergo the trial and censure of it, and to bring with them the Books and Scrouls of the Subscriptions and Oaths of them who enter into the Ministry, the Books of the High Commission, and the Book of the General Assembly, which they either had or have fraudulently put away, and if any Pastor within this Presbytery refuse to publish this citation, we require the Reader of the Church to do it. In like manner we require all parties who have interest, either in pursuing, or specifying, or proving this complaint, to be present at the said Assembly for that purpose: Upon which the Complainers took instruments in the hands of the Notary.

According to this complaint, and the warrant of the Presbyteries reference of it, I. A. R. warn and admonish the abovenamed Offenders to compare before the next General Assembly to be holden at Glasgow, Nov. 21. for the causes contained in the Complaint, and for the certification expressed in it.

Now though the very reading of this Libel, cannot choose but work a detestation of it in the heart of every religious and just man, yet the Reader shall do well to take a more special notice of these particular passages of injustice and impiety in it:

First, That the Presbytery of Edinburgh taketh cognisance of the Cause, and accordingly makes citation, not only of the Bishop of Edinburgh, over whom they can have no Jurisdiction, but of all the rest of the Archbishops and Bishops, of which none at all, or certainly if any, very few are inhabitants within the bounds of their Presbytery: And who before this, did ever hear that any Consistory or Judicatory, Ecclesiastical or Civil, could make process against any man, or take cognisance of the Cause of any man, who was not an inhabitant, nor had any charge or estate within the precincts or bounds of those places, which only are liable to the Jurisdiction of that Court?

Next, Who did ever hear that men should willingly and willingly cite others to answer for the transgression of Acts and Laws which they themselves do know were repealed by posterior Acts and Laws, and so stood at the time of this citation, and therefore can no ways be censurable for them, though it were true that the person cited had done as it is alledged in the Libel? And such be these Acts of Assembly cited by them, which were and still are disannulled by divers Acts both of Assembly and Parliament.

Thirdly, Who did ever hear that men should be called in question for yielding obedience to Acts of Parliament and General Assemblies? And yet in this Libel the Prelates are charged with giving voices in Parliament, and practising the five Articles of Perth, and divers other particulars, which then were and are now still in force by Acts both of Parliament and Assembly: And if it should be said that these Acts were unduly obtained (which is the Covenanters only Plea,) sure to say so is a greater fault than the other: For what Judge can ever give sentence in any cause, if the asseveration of the party aggrieved by the sentence, that the Law was unjustly made, may pass for a good Plea?

Fourthly, Who ever heard that men should be charged with yielding obedience to Acts commanded by the Authority of his Majesty and his Council, especially in things not repugnant to any established Law of that Church and Kingdom? And yet such are all these pretended Innovations, with the introduction whereof the Prelates are charged in this Libel; for they were enjoined and commanded first by his Majesty, and then by Acts of the Council; it being far more agreeable to reason to complain of the Lords of the Council, by whose Authority they were commanded, than of those who in dutiful obedience to Authority did practise them: But indeed it is to be wondered at, with what face the Covenanters can blame either the one for commanding, or the other for practising them: For what ground have they, or did they ever yet alledge, for their swearing to the Confession of Faith and their Covenant annexed? Did they ever yet alledge any but the Authority of his Majesties Royal Father and his Council, who by their Authority commanded them to be sworn throughout the Realm? And did not his Majesty and his Council by equal Authority command these pretended Innovations? Was not then the Prelates practice of them as well warranted, as this Confession of Faith and the Band annexed, which were never brought in by Acts of Parliament or Assembly, but merely by his Majesties Royal Father's Prerogative, and put in execution by the Authority of his Council?

Fifthly, Who did ever hear that men professing Piety and Religion, durst adventure in the sight of God, in the House of God, and in the Pulpit, which is as it were the Chair of God, and in the face of the Congregation, which is the people of God, to command the Bishops to be indicted and accused of such horrible Crimes, as whoring, excessive drinking, excessive gaming, swearing, profane talking, profanation of the Lord's day, contempt of God's publick Ordinances, neglecting piety in their families, mocking of the power of preaching, prayer, and spiritual communication; drabery, sumptuary, lying, perjuries, dishonest dealing in civil bargains, adultery, incest, and what not? His Majesty did appeal to their own Consciences, whether they did think all of them, or any one of them, guilty of all these Crimes: Most certainly they did not; and that excuse which they bring for the justifying of this wicked Libel cannot any ways extenuate their fault. They said that some particulars contained in the whole Libel may be proved against every one of them, and therefore it is a good and a legal Libel, if they can make good any thing contained in it: But be it legal or not, the World must needs take notice that it is most unconscionable. The other things mentioned before, and charged upon them

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in this Libel, are not crimes at all, being warranted by Acts of Parliament, Assembly and Council; these last rehearsed are crimes indeed, odious in the sight of God and man, and of which, as if they be guilty, the Bishops deserve death and exquisite torments; so, if they who have accused them of these crimes, shall fail in proving them to be guilty, they deserve to be infamous throughout all Generations, for the most malicious and malignant traducers of the Servants of God, that ever lived upon the Earth, and must look for the unavoidable judgments of God to fall upon them and their whole Families for this so horrible a crime, committed wilfully against the knowledge of their own Consciences, unless they do expiate it with the bitter tears of Repentance: For his Majesty desired them to declare *bona fide*, whether they themselves did believe or conceive all the Bishops accused in the Libel, or only some of them to be guilty of these last recited Crimes: If not all, but some, why did they not distinguish them, that the People might know whom they should take for guilty, and whom for not guilty? Nay, did they not believe and know, that some of these Bishops were holy and learned men, free from the crimes objected? For instance, we will only name the Bishop of *Edenburgh*, seeing in the principal Presbytery of his Diocese this Libel was presented, admitted, and publicly read in the Churches within the Precincts of it: Did they then, or do they yet believe or suspect that he was guilty of *incest, adultery, excessive whoring, gaming, drinking, dicing, swearing, &c. ut supra*? We do verily believe, that if they were judicially called, they would absolve him from such foul crimes; how then they can answer to God, men, or their own Consciences, for accusing that reverend, learned, and holy Prelate of such crimes, for which they themselves would be his Compurgators, We must leave it to themselves to resolve: Nay, what if they themselves did not believe any one, not the most hated of all the Prelates to be guilty of these last recited crimes? Sure, the presumptions are very pregnant and unanswerable, that they did not believe it: For at the General Assembly, when the several Bishops causes came to be heard and discussed upon this Libel, they did not so much as offer to make any proof of these last rehearsed crimes against them, they examined not so much as one witness upon them in discussing the processes of many of the Bishops: And in the printed Acts of their pretended Assembly (as shall appear by those passages of it in their place) in their particular sentences of deprivation and excommunication, they not only do not censure them for these crimes, but do not so much as take notice of them: And it is well known, that these men who in all their proceedings had made every Bishops moat a beam, were not so mercifully or compassionately affected towards them, that they would have spared them, or forbore to make proof of these crimes, if they had seen but colour for it. If they shall say, that though they could not prove these crimes, yet there was a publick scandal of them; There was indeed a scandal raised amongst them, and that publick enough, when it was proclaimed in the Pulpits; But by whom was it raised? Even by the principal Covenanters themselves, who were resolved to raise a fame when they were sure they could prove no fact: Or if they should alledge that they did forbear probation, or examining of Witnesses, out of their respect either to the Bishops Calling or their Persons, they will hardly find credit with any one; For who will think they did it out of the re-

spect of their Calling, which they have given out for Popish and Antichristian? Or out of respect of their Persons, whom they have scandalized in so many great and publick Congregations of the Kingdom, infinitely exceeding in number those who were present at the Assembly? The plain truth then was this: They could easily slander them with these crimes in the Churches, but they were sure they could make no proof of them at the Assembly.

Sixthly, Who did ever hear, that the form of proceeding of Presbyteries in that Kingdom was by reading of the Libel in any Church? The Custom being to cite them personally where they may be found; or if they be not to be found, by leaving both the citation and copy of the Libel at the place of their dwelling; or if the party be out of the Kingdom, by citing him publicly in the Church, and afterward serving him with a copy of the Libel upon his coming home and appearance: And if he do not appear, by proceeding against him *tanquam pro confesso*; which form was observed by them in the processing of all the Ministers, whom at this time they suspended and transmitted over to the general Assembly, none of their Libels being publicly read in Churches: But with the Bishops they proceeded otherways, against all course of Law, made the Libel against them to be read publicly in the Churches, and that after divers of them, upon the Covenanters own knowledge, had been served with it by the Officers of that Presbytery; so that there was no use of any further publick citation, personal citation being already made: Nay, and to do it upon a *Sunday*, though that morning the Magistrates of *Edenburgh*, by his Majesties Commissioners special commandment, required them to forbear: Nay, yet to publish that infamous Libel in their Churches, upon a day when the holy Communion was solemnly administered: Nay, and in the Colledge Church where *Kollock* is Minister, (because it was late, and after-noon before all the people had received) to have the ordinary Thanksgiving and Prayers after the Communion quite omitted, and the Afternoon Sermon begun without any precedent Prayer, and all to gain time for the reading this lewd Libel, as if it had been of greater consequence than either the Thanksgiving or Prayers after the holy Communion, or the reading of those Lessons and Chapters of sacred Scripture, or using of Prayer, which are duties usually performed before Sermon: Nay, to have this Libel read in the Afternoon, directly against the Act of the Presbytery which appointed it to be read in the Forenoon, and to have it read neither by Minister nor Reader, as the Act enjoyneth, but by a Lay-man, and a fiery Advocate: All these put together, let the Reader judge whether here were not many acts, first of injustice, then of impiety; as drawing along with them the profanation and violation of the Lord's house, the Lord's day, the Lord's holy Communion, the Lord's service and worship in both parts of it, Prayer and Preaching.

Seventhly, The Reader shall do well to observe in the Preface of this Libel, what a harmless and hazzardless mustering and training of their men they make: For all the Covenanters being now one gross body, sworn to one Covenant, and to mutual defence one of another, without admitting any motion which shall tend to the division or breaking of their ranks, see how they divide themselves, only to exercise their Arms, and to make them perfect in their postures and motions; after they have cast themselves in several fi-

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As this of the Libel was a trick of falshood, so about this time there was put upon the people a notable trick of Forgery, which was this: There was a Maid, whose name is *Michelson*, her Father was a Minister; and when he died left her young, she hath been for many years distracted by fits: Upon this young Maids weakness some were pleased to work, and to report her for one inspired with a spirit of divination; and finding, that out of her blind zeal she was wonderfully affected with their Covenant, and that in her raving fits her words tended all, or for the most part, to the admiration of it, and detestation of the opposers of it; and perceiving, that she was well skilled in the phrases of the Scripture, and had a good memory, so that she could remember the bitter invectives, which both in the Pulpits and elsewhere she had heard made against the Bishops and the Service-Book, they thought her a very fit instrument to abuse the People, and cried her up so much, that the multitude was made believe her words proceeded not from her self, but from God. Thence was that incredible concourse of all sorts of People, Noblemen, Gentlemen, Ministers, Women of all ranks and qualities, who watched or stayed by her day and night, during the time of her pretended fits, and did admire her raptures and inspirations, as coming from Heaven: She spake but at certain times, and many times had intermissions of days and weeks, in all probability, that she might have time to receive instructions, and to digest them against the next time of exercising her Gifts (as they call them;) which so soon as she was ready to begin, the news of it was blown all the Town over, and the House so thronged, that thousands at every time could find no access. The joy which her Auditors conceived for the comfort of such a Messenger from Heaven, and such Messages as she delivered from thence, was many times expressed by them in tears, by none more than by *Rollock* her special Favourite; who being desired sometimes by the Spectators to pray with her, and speak to her, answered, That he durst not do it, as being no good manners in him to speak while his Master was speaking in her. Now, that she was set up

by the Covenanters, to perswade their ends with the People, there be two Reasons which may induce the Reader probably to believe:

Cur. 14

First, Because that they of best judgment, who were present at the time of her pretended raptures, did affirm, that they saw nor could observe nothing supernatural in them; they only found she had a good memory, especially of that which she had read in the Scripture, or had heard preached: That she had a very good expression of her self; but yet they found that both she knew that she was speaking, and what she was speaking (contrary to that report which went about of her) and that while she was speaking, if she were interrupted by any questions, she made very pertinent answers to them, which could not have been, if all that time she had been transported with any supernatural rapture.

Secondly, Because most of all that she spake, still tended to the Covenanters ends: When she spake of Christ, she ordinarily called him by the name of Covenanting Jesus. The sum of her Speeches for the most part was, that it was revealed unto her from God, that their Covenant was approved and ratified in Heaven, but that his Majesties Covenant was an invention of Satan; that all the adherents to it should be confounded, as all the adherents to the former were and should be protected by God, the Author of their Covenant, against all opposition whatsoever: Which Speeches of hers were averred by the Covenanters with as great confidence, and admired by the People with as much veneration, if not more, as any other of their Pulpit Dictates: Which presumptions did make very many (both Covenanters and others) think, that the crying up of this Maid did look something like a Romish imposture.

Let all this rebellious behaviour, and these contempts of his Majesties Commissioner and Council, intervening between his last gracious Proclamation of the indiction of the Assembly, and the day of the Assembly near at hand, be laid together, and what judgment can any man make of them, but that they were devised and practised principally for this purpose, That his Majesties Commissioner might prorogue or discharge the Assembly, from whence by these strange proceedings he could not have the least hope of any good? And if he should discharge it, they were sure they should gain some credit with their Party, whom they had made believe that he never intended otherwise; as also, should indict an Assembly themselves, which they made full accompt to do; which appeareth both by the tenour of the Commissions given to their several Commissioners, both from Presbyteries and Burrows, which run thus: *We give you full power to appear for Us at this Assembly now indicted the 21. of November next, wheresoever it shall happen to be, not naming the place, Glasgow, where his Majesty had appointed it, hoping that it should be prorogued; in which case they intended to hold it at Edinburgh, the seat of their Tables, as also by divers of the Covenanters Letters written to that purpose; the Copy of one, written by the Lord of Balmerino, we here exhibit to you.*

Loving

Loving Cousin,

Anno
1638.

I Have lately received advertisement from several Friends that are chosen Commissioners for the Assembly, to help them to Lodgings in Glasgow; I send you here a Roll of some of our particular Friends, whereof you may give a Copy to the Provost and Magistrates, that they (being men of quality) may be accordingly furnished for themselves and their train, with such Rooms (at least) as you have provided for me. I hope your Magistrates have been as careful to provide for the Commissioners as for the Counsellors, which are not so necessary Members of the Assembly as the Commissioners: And if they be not well eased, it may be a great argument to the Assembly to remove it self elsewhere. I am of opinion, that of the three hundred necessary Commissioners of Assembly, the half of them have not provided themselves, as being far distant and unacquainted, hoping in so good a Town to find all Commodities for money. I would send a Servant to take possession of those Lodgings which can be had, for my self and our friends, that we be not surprised with the Counsellors followers, who are to be with you the fifteenth or sixteenth of this Instant.

George Porterfield undertook to my Lord Lindsey and other Noblemen, at his last being here, to bespeak three or four of the best Lodgings they designed for such Noblemen as was given him in list; we have heard nothing of his performance. My Lord Lindsey hath written oft-times to me, and I would intreat you to desire George to write with the first occasion to John Smith, or any other he pleaseth here, that we may know his care and account of his undertaking. You will pardon me for this trouble I put you to, being for Friends that will be very sensible of it, whereof none are more obliged and less able to acquit all your favours, then

Edenb. Nov. 8.
1638.Your loving Cousin
to dispose of,

Balmerino.

I could wish our own Friends were as well bestowed near one another as can be; and if I cannot come there the next week, I will send a servant.

BY these Lines you may easily perceive, both the insolent contempts used by these men towards the King's Council, and the resolution which they had to keep the Assembly, or to remove it at their pleasures. But after they were once perswaded, that the Lord Commissioner was resolved to hold the Assembly at the time and place appointed by the King's Proclamation, the time of it approaching, they sent out from their Tables a second Paper of publick instructions throughout all the parts of the Kingdom, which were these.

1. **T**hat all Noblemen subscribers of the Covenant (except the Noblemen of the West, who shall be ready upon advertisement) meet at Edinburgh the 12th of November, and stay there till they go to Glasgow, where they shall all meet on Saturday the 17th of November at the furthest.

2. That the full number of these who are appointed Commissioners by the several Shires, to attend this common cause, with four Gentlemen within the bounds of every Presbytery at the least, out of the number of their Assessors, without excluding any voluntaries,

That they come to Glasgow the 17. day of November, to attend constantly the Assembly, and give their advice in the common cause to the ruling Elders, Commissioners to the Assembly out of these Shires and Presbyteries. Car. 14.

3. That the Burrows appoint (according to their quality and number) two, four, or six, of most judicious men to come to Glasgow the 17th of November, and there constantly to attend the Assembly, and give their advice to their Commissioner in this common cause.

4. That the Fast be observed the fourth day of November universally, with any other days they may conveniently: And if any be repairing to the Assembly, that they keep the Fast where they shall be for the time.

5. That now especially, seeing ruling Elders from particular Congregations are received in Presbyteries, that particular Congregations take such course, that no Minister Commissioner be forced to be absent from the Assembly for want of necessary charges.

6. That where any hath been deceived or compelled to subscribe this new Covenant, that the Ministers take their Declarations in writing, or by Act in the Books of Session, or before one Witness, that they were forced, deceived, or mistaken: And that every Minister make known, and intimate publicly to the people the printed Protestation, containing the Reasons against this new Subscription; and where the Minister refuseth, that some well-affected Gentleman do it.

IN the first of these, there is a Meeting appointed of all the Commissioners, first at Edinburgh, then at Glasgow, which was (no doubt) to agree upon the conclusions to be made in the Assembly, before the Assembly should assemble: In the second and third you see a course taken, That both from Presbyteries and Burrows, the several Commissioners shall have numbers of Assistants, without whose advice the Commissioners were to conclude nothing; a thing never heard of before at any Assembly of that Church; and by which multitude they meant to terrifie all those, who in Glasgow should offer to oppose or speak against them. In the fourth, to the high contempt of the King's Authority and Proclamation, they appoint another day for the publick Fast than was by his Majesty designed. In the sixth, they order that all these who had subscribed his Majesties Covenant and Confession, should be presented as publick Offenders.

These new instructions, especially that Article which appointed so great troops to repair to Glasgow, all which (as the Lord Commissioner was informed) meant to go thither with Arms, and in hostile equipage, which is most severely prohibited by the Laws of that Kingdom, moved his Majesties Commissioner and Council, by publick Proclamation at the Cross of Edinburgh, severely to interdict any Commissioner for the Assembly at Glasgow to travel thither, or to continue there with more attendance than those of their own family and ordinary retinue; and that they should carry with them no other Arms, but such as were allowed by the Laws of that Kingdom, under the pains and penalties contained in the said Laws. This Proclamation they only answered with a Protestation, yielding no obedience to it; for they travelled to Glasgow in great troops, carrying with them prohibited and warlike Arms.

Anno 1638. It is easie now to be conceived, that the Lord Commissioner could expect no good from this Assembly, the preparations whereunto were so full of Rebellion and Tumult; and the precedent Elections of the Members whereof had induced many legal, unavoidable, and undeniable nullities of it: Yet because the People should clearly see the reality of his Majesties Royal intentions, and the Covenanters party might understand how they had been abused by the reports which their Leaders had dispersed, That his Majesty meant nothing less than to keep this Assembly; and principally, that in that Assembly his Majesty might fully make good to all his Subjects, whatsoever he had promised in his last gracious declaration, (the Heads of the Covenanters having mainly laboured with them that point, viz. that he never meant to perform what therein he had promised) the Lord Commissioner began his Journey towards Glasgow, and arrived there on the 17th day of November in a quiet and peaceable manner, none of his Train carrying with them any prohibited Arms: There met him at Glasgow all the Council by his Majesties direction, according to a Letter which his Majesty had written unto them, requiring them to assist him all the time of his being there, with their best concurrence and counsel: His Majesties Letter to them here followeth.

Right trusty and right well-beloved Cousin and Counsellor, Right trusty and right well-beloved Cousins and Counsellors, We greet you well: As by your Letter we find how well you are satisfied with Our gracious pleasure, expressed in our late Proclamation and Declaration; so we do expect the continuance of your care by your best endeavours, to bring all Our good People to a true sense of Our Royal intentions, and real care of preferring and advancing the good and peace of that Church and Kingdom, which hath always been and still is one of Our chiefest cares. We give you hearty thanks for your affection and pains in this service, and do approve of your course in subscribing of the Confession and Band, and order taken by you for publishing and requiring the like due and thankful acceptance of Our gracious pleasure by all Our good Subjects. And seeing the time of the Assembly doth now approach, We require you to attend diligently upon Our Commissioner, until the time appointed for the down sitting of the said Assembly, and further, to the final ending thereof; that from time to time you may be assisting to him with your best opinions and advices, for preparing and digesting every thing that may conduce to bring this business, to be treated upon in the Assembly, to the wished peaceable and happy end. And although We will not doubt but that all Our good Subjects will be careful of every thing that may concern Us, or Our Sovereign Authority; yet because that at such publick and general Meetings, it is not to be expected that all mens dispositions will be alike, and of one temper, We require you, and that in a more particular manner, according to the trust and confidence We have in your affections to Our service, carefully to advert, that if any proposition shall be made, which may seem to derogate from Sovereignty, or that true estate of Monarchical Government already established within that Kingdom, or which may impede the peaceable conclusion of this Assembly, that as good Subjects and faithful Counsellors and Servants to Us, you assist Our Commissioner to withstand the same to the uttermost of your power: To whom We will you to give absolute trust in every thing which he in Our name shall deliver or impart to you, or any of you, in publick or in private, And so We bid you

farewell. From Our Honour of Hampton-Court the first of October 1638.

Car. 14.

THe City of Glasgow being much filled and thronged with all sorts of People on the 21. day of November 1638. the day designed by his Majesties Proclamation, the General Assembly begun, and was opened; and the proceedings were as follow.

After Sermon in the Morning, they assembled in the Afternoon: The ancientest Minister of the Town, who had preached in the Morning, desired all present to begin the Action with the chusing of a Moderator: The Lord Commissioner (who sate upon a Seat raised in a place eminent above the rest, with his Assessors about him conveniently seated below) told them that there was something to be done before the choice of the Moderator, viz. that his Commission was first to be read, that it might be known by what Authority he sate there; which was done, and so his Majesties Commission to him was publickly read, as followeth.

CAROLUS Dei gratia, Magna Britannia, Franciae, & Hiberniae Rex, Fideique Defensor, Omnibus probis hominibus suis ad quos praesentes litterae pervenerint, Salutem. Sciatis nos considerantes magnos in hoc regno nostro Scotia non ita pridem exortos tumultus, ad quos quidem componendos multiplices regiae nostrae voluntatis declarationes promulgavimus, quae tamen minorem spe nostra effectum hactenus sortitae sunt: Et nunc statuentes ex pio erga dictum antiquum regnum nostrum affectu, ut omni gratiose stabiliantur & instaurentur, quod (per absentiam nostram) non alia ratione melius effici potest quam fideli aliquo Delegato constituto, cui potestatem credere possimus tumultus huiusmodi consopendi, aliaque officia praestandi, quae in bonum & commodum dicti antiqui regni nostri eidem Delegato nostro imperare nobis videbitur. Cumque satis compertum habeamus obsequium, diligentiam, & fidem praedilecti nostri consanguinei & consilarii, Jacobi Marchionis Hamiltonij, Comitum Arraniae & Cantabrigiae, Domini Aven & Innerdail, &c. eundemque ad imperata nostra exequenda sufficienter instructum esse, Idcirco fecisse & constituisse, tenoreque praesentium facere & constituere praefatum praedilectum nostrum consanguineum & consilarium Jacobum Marchionem de Hamilton nostrum Commissionarium ad effectum subscriptum. Cum potestate dicto Jacobo Marchioni de Hamilton, &c. dictum regnum nostrum adjuvandi, ibidemque praefatos tumultus in dicto regno nostro componendi, aliaque officia a nobis eidem committenda in dicti regni nostri bonum & commodum ibi praestandi, eoque Concilium nostrum quibus locis & temporibus ei visum fuerit convocandi, ac rationem & ordinem in praemissis exequendis servandum delatandi & praescribendi; & quaecunque alia ad Commissionis huiusmodi capita pro commissa sibi fide exequenda, eandemque ad absolutum finem perducendam & prosequendam conferre possunt, tam in Concilio quam extra Concilium, nostro nomine efficiendi & praestandi; idque similiter & adeo libere ac si nos in sacrosancta nostra persona ibidem adessemus. Praeterea cum plena potestate dicto Jacobo Marchioni de Hamilton, prout sibi videbitur nostro servitio & bono dicti regni nostri conducere, conventum omnium ordinum ejusdem regni nostri indicendi, ac publica comitia & conventus eorundem ordinum eorumve alterius vel utriusque quibus temporibus & locis sibi visum fuerit statuendi, & ibidem nostram sacratissimam personam cum omnibus honoribus & privilegiis supremo Commissionario nostri Parliamenti & publici conventus incumben? similiter adeoque ample sicut quibus sac

*premiis Commissionarius quocunque tempore retroacto
 1638. gaudens est gerendi: Necnon, cum possetur prefato
 Jacobo Marchioni de Hamilton Synodus nationalis
 Ecclesia dicti Regni nostri tenendas temporibus & locis
 quibus sibi visum fuerit indicendi, & ibidem seipsam
 tanquam nostrum Commissionarium gerendi, omniaque
 eidem tenendis inservientia secundum leges & praecon-
 predicta Ecclesiae & Regni nostri praestandi: Et hinc
 praesentis nostra Commissionis durante nostro beneplacito
 duratura, & semper donec eadem per nos expresse inhi-
 beatur. In cujus rei Testimonium, praesentibus
 magnum sigillum nostrum una cum privatorum nostro sigillo
 (quia praefatus Marchio de Hamilton in praesentiarum
 est magni sigilli custos) apponi praecipimus, Apud
 Oatlands vigesima nona die mensis Julii, Anno Domini
 millesimo sexcentesimo trigesimo octavo, Et Anno
 Regni nostri decimo quarto.*

Per signaturam manu S. D. N.
 Regis superscriptam.

NOW this his Majesties Commission was sealed both with the Great Seal of that Kingdom and the Privy Seal, because the Archbishop of St. Andrew's the late Lord Chancellor, had lately delivered up unto his Majesty the Great Seal of that Kingdom, which being by the King for a time deposited into the custody of the Lord Commissioner until his Majesty should otherwise dispose of it, it was thought fit, that the said Commission to him should be attested, not only by the Great Seal, which he then had in his Custody, but by the Privy Seal also, which was in the keeping of the Lord Privy Seal: After the Commission read, the Lord Commissioner exhorted them to a peaceable and moderate carriage, touching a little (but with great discretion) the disorderly proceedings which had been used before their Meeting: At which a Nobleman Lay-Elder presently took fire (an undoubted presage of their succeeding carriage) and answered sharply, That they had given his Grace content for all their proceedings; to which the Lord Commissioner replied, That he had never yet received any satisfaction from them in any of their proceedings, and, by way of attestation, called God to witness to it: It had like to have grown to a hot contestation, but that that night the Assembly was dismissed. The next day upon their first sitting down, they urged presently the choice of a Moderator; but the Lord Commissioner desired first his Majesties Letter to the Assembly to be read, which was done, and it was thus:

ALthough We be not ignorant that the best of Our Subjects have been mistaken by many of Our Subjects in that Our ancient Kingdom, as if We had intended innovation in Religion or Laws; yet considering nothing to be more incumbent to the duty of a Christian King, than the advancement of God's glory, and the true Religion; forgetting what is past, We have seriously taken to Our Princely consideration such particulars as may settle and establish the truth of Religion in that Our ancient Kingdom, and also to satisfy all Our good people of the reality of Our intentions herein, having indicted a free General Assembly to be kept at Glasgow the 21 of this instant; We have likewise appointed Our Commissioner to attend the same, from whom you are to expect Our pleasure in every thing, and to whom We require you to give that true and due respect and obedience, as if We were personally present Our selves. And in full assurance of Our consent to what he shall in Our name promise, We have signed

these, and with the same for a Testimony to posterity to be registered in the Books of the Assembly. At White-Hall the 29 of Octob. 1638.

THEN they called again for the choice of a Moderator, at which time one Dr. Hamilton presented to the Commissioner a Declinator and Protestation in the name of the Bishops against the Assembly, containing the nullities of it, with a desire that it might be read, and a publick Act entered for the production of it: Upon this there arose a very great heat in the Assembly, they alledging, that nothing could be done until a Moderator was chosen; and they did directly refuse to read the said Declinator: upon which both the Lord Commissioner entered a Protestation in the Clerk of Registers hands against the refusal of it, and took Instruments thereupon; and so likewise did Dr. Hamilton in the name of the Bishops. At last they proceeded to the choice of a Moderator; to which, before Our Commissioner gave way, he entered (as before) another Protestation, that their Act of choosing should neither prejudice his Majesties Prerogative and Authority, nor any Law or Custom of that Church and Kingdom, nor bar him (when he should see cause) from taking legal exceptions, either against the person elected, or the illegality of his election: And so they having put divers other stales upon the List, accordingly as it was resolved upon before at their Tables in *Edinburgh*, without one contrary voice except his own, who could not chose himself, one Mr. Alexander Henderson, the prime and most rigid Covenanter in the Kingdom, was chosen Moderator.

The third day the Lord Commissioner, at their first Meeting, required again that the Bishops Declinator and Protestation might be read, which he conceived they had promised after the Moderator should be chosen: but they rejected it again, adding then, that the Assembly must be fully constituted of all its Members, and be once an Assembly, before any thing could be presented to it: To which it was answered by the Lord Commissioner, That he required it only to be read, not to be discussed until the Members of the Assembly were constituted by allowing their several Commissions, because this Declinator contained reasons why either all, or at least some elected, should not be admitted Commissioners in the Assembly, because of the nullities of the elections expressed in the Declinator; which reasons containing the said nullities, might persuade (as they hoped) with them, for the rejecting their Commissions, which could not be done after their approving and allowing of them, and so by virtue of these Commissions, admitting them for constituted Members of the Assembly. The reason why the Lord Commissioner did so earnestly urge the reading of that Declinator, was, because he did fore-see the fallacy which they meant to use, viz. The Declinator cannot be read before the Assembly be constituted; and they fearing that the Declinator contained reasons against the constitution of it by such Members as were elected, and that after they were once admitted, it was too late to alledge any reasons; for then they were faine to answer, that all Elections were discussed, and the Members of the Assembly received, and therefore nothing then to be heard against either; which indeed afterward was their very answer: There was nothing left here to the Lord Commissioner, but entering a Protestation as formerly, and solemnly calling themselves to witness,

nefs, whether with any shew of Justice the re-
Anno ing of the Bishops Protestation could be den-
 1638. before the Elections were admitted, the pri-
 pal aim of it being to shew reasons why they co-
 not be admitted, wondering with what colour
 face they (above all men) could do it, who
 read and published so many Protestations
 against the King's Proclamations and Acts of
 Council; and so, how they could deny to
 Lord Commissioner a thing required in his Ma-
 jesties name, and by his authority, which they
 themselves had practised without any warrant
 or authority at all: But all in vain, for not
 least resolution taken at *Edenburgh* must suffer
 abatement: and therefore rejecting the reading
 of the Declinator, they first put by the Clerk
 the Assembly his Son, who by reason of his
 thers sickness had a lawful deputation from him
 and whom (as it seemeth) they afterward wrong
 to a dismissal, and went on to the Election of
 new Clerk, whom without one contrary voice
 they did chuse, viz. one Mr. *Archibald Johnston*
 an Advocate, the Clerk of their Tables at *Eden-*
burgh; against whose Election his Majesties Com-
 missioner likewise protested as formerly. At
 admission he made a short Speech, declaring
 (against his Conscience) his unwillingness
 accept that charge, but yet affirming, that at
 time he would not be wanting to contribute
 part towards the defence of the Prerogative
 the Son of God; as if that now had been in
 danger.

The fourth day they begun the reading of
 several Commissions. The Lord Commissioner
 as formerly, entred a Protestation to take excep-
 tion against their Elections, in his own due time
 only he was content they should go on, that
 might see their Justice in allowing or disallow-
 ing the Elections, of which he knew many to be
 very untoward, and made with violence: No
 the Reader is carefully to observe their partiality
 in admitting or rejecting Elections: for where-
 ever there was a Non-Covenanter chosen (of
 which number there were not above two or three)
 or any moderate Covenanter, nor designed by
 them at *Edenburgh*, and chosen according to the
 secret instructions (with which the Reader shall
 afterward be made acquainted) them they either
 quite rejected, or suspended from voice, until
 some exceptions made against their Election
 should be discussed; which they were sure should
 never be done: as shall now appear in these par-
 ticulars.

When the Commission from the Presbytery of
Peebles was read, there was presently read a Pro-
 testation and Petition given in by a mean Minister
 of that Presbytery, not against the Election it-
 self (for there did not appear the least shew of
 exception against it when the Act of the Presbyte-
 ry was read) but against some violence pretend-
 ed to be used by the Lord Treasurer, who, being
 an Inhabitant within the Precincts of that Presby-
 tery, was present at the Election: The Petition
 was conceived in very boisterous and uncivil
 terms: The Lord Treasurer answered all that
 was pretended so fully, that not any one in the
 Assembly seemed to be unsatisfied; there being
 not one Election returned which was more pun-
 ctually made, and that even according to their
 own publick instructions: yet because the Com-
 missioners elected, though Covenanters, were
 not the same who had been designed at *Edenburgh*
 nor such as another Lord, dwelling in that Pres-
 bytery, who was a Lay-Elder and Covenanter

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had a mind to, the approbation of that Commis-
sion, and admission of these Commissioners most
shamefully was put off and respited, until that
Petition and Protestation might be examined;
and so it was continued from time to time, though
it were often called upon: the Lord Commis-
sioner told them, That sure there were none pre-
sent, who did not admire at these proceedings;
and that if the Petitioner failed in his probati-
on (which afterward he did, and asked pardon
for it) he deserved some exemplary punishment
to be inflicted upon him, who had dared to tra-
duce so great an Officer of State: In this particu-
lar it was too plain, that the poor Minister was
only set on to present this Protestation for the
reasons now declared.

After this, there arose a very hot contestati-
on, concerning the Election of the Lay-Elder
for the Presbytery of *Brichen*: The Earl of *Mont-
ross* presented one Commission in which the
Laird of *Dunn* was chosen Lay-Elder by the voice
of one Minister, and a few Lay-Elders: There
was another Commission presented by that Pres-
bytery, in which was returned the Lord *Carnegie*,
lawfully chosen by the voices of all the rest of the
Ministers and Lay-Elders; yet because the Earl of
Montross did oppose the Election of the Lord *Carnegie*,
though his own Brother-in-law, all the
Covenanters in the Assembly sided with the Laird
of *Dunn*, for whom the Earl of *Montross* stood,
both of them being rigid Covenanters, against
the other Lord who was a Covenanter likewise,
but a more moderate one. And indeed, it was a
wonder to see how openly all rules of Justice with-
out any fear or shame, were laid aside in this par-
ticular; for though they did not approve the Ele-
ction of the Laird of *Dunn*, who wanted voices
to his Election, yet they would not admit of the
other, whose Election admitted not the least
scruple. In the agitation of this business, there
fell out a memorable passage, of which the Co-
venanters were very much ashamed, because it
betrayed one of their secret instructions, and it
was this: There was written upon the back of
that Commission which was tendered by the Lord
Montross, a Declaration wherein the lawfulness of
that Commission, and the unlawfulness of the
other was offered to be cleared, in which, among
other things, it was objected against the Lord
Carnegie his Election that it was made contrary
to the directions of the Tables at *Edinburgh*;
which the Clerk perceiving, stopped, and would
read no further. The Lord Commissioner here-
upon required the Moderator to give him a copy
or extract of that Paper which was last read, and
of the names of those who had subscribed to it,
and that subscribed by the hand of the Clerk of the
Assembly. The Moderator absolutely refused it:
the Lord Commissioner told him, that he desired
it to help him in his Majesties service, that by it
he might be the better informed how to proceed
in his objecting against such Commissions as be
meant to challenge: The Moderator again refused
to do it, alledging, that the challenged Declara-
tion was but accidentally written on the back of
the Commission; the Lord Commissioner replied,
That could not be written privately or accidental-
ly, which was given in publick to the Assembly,
and that by a member of it, of so great place and
quality, for a justification of his proceeding in
that Election; and withal protested, That though
he were not his Majesties Commissioner, but the
meanest Subject of the Land, he could not in Ju-
stice be denied the copy of any thing exhibited in a
Court.

Car. 14

King CHARLES the First.

Agno
1638.

Court of Justice. But all in vain: for after much cavilling by the Moderator and other Covenanting Lords, the Lord Commissioner desiring the Moderator to put it to voices whether he could be denied a Copy of it; even that was refused him likewise, they being afraid, that the Assembly would not deny so notorious an act of justice: upon which the Lord Commissioner (though mildly, yet with some expression of distast) did thus deliver himself: Let God Almighty judge if this be a free Assembly, in which is denied to his Majesties Commissioner that, which cannot be denied to the meanest of his subjects; and at last, he took instruments in the hands of the Clerk Register, that he was refused the Copy of a Declaration given in to the Assembly, delivered into the Clerks hands, and publicly read by him; in which amongst other things, was contained, that the Election of the Lord *Carnegie*, Commissioner from *Brichen*, was invalid, as being contrary to the directions of the Tables of the Commissioners at *Edinburgh*; which occasioned the Moderator to say, That his Majesties Commissioner needed no Copy of it, he had so faithfully repeated all that was contained in it: the Lord Commissioner hereupon, since he could not obtain a Copy of it, desired all present to be witnesses of what the Moderator had spoken, and that he had acknowledged his faithful repetition of that part of the Declaration whereof he was refused the Copy; and thereupon again took Instruments. In this business Sir *Lewis Stewart*, one of the Assessors to the Lord Commissioner, spake some few words; which when the Moderator was about to answer, the Lord of *Montross* forbid him to answer one who had no place to speak there: Afterward there arose a great contestation between the Earl of *Somerset*, one of the Assessors, and the Moderator, with so much heat on the Moderators side, and some Lords who sided with him, that the Lord Commissioner was put to moderate the Moderator, and quench the head of the Assembly; for which many of them gave the Lord Commissioner thanks, and so all business was continued till Munday.

On Munday, being the fifth day of their sitting, they went on in the rest of the controverted elections, refusing to hear the Lord *Carnegie* his election discussed, but putting it off to a Committee: Mr. *Andrew Logie* Minister of *Red*, but a Non-covenanter, being returned a Commissioner from the Presbytery of *Garrloche*, was refused to be admitted, though they laid not the least exception against his election: their pretence was, There was a Petition presented against him to the Assembly, and no voice must be allowed him, until he had answered that: A very easie device for putting by any Commissioner whom they liked not, since it was no hard matter to find one to present a Petition against any man. Another Minister of the Channery of *Rosse*, and Archdeacon of *Rosse*, one Mr. *William Mackenzie*, Commissioner from the Presbytery of the Channery, upon certain Cavils both of his Election and Commission, which did bear, that he should continue there no longer than his Majesty or his Commissioner should continue the Assembly, because the sole power of calling and dissolving of Assemblies did belong to the King, for the present was only suspended from his voice; the reason was plain, he was a Non-covenanter, and had openly averred in the Assembly, that at their Election the Ministers of their Presbytery were threatened by those who brought Letters from the Tables, if they should return the Election of any,

but such as they who brought the Letters desired. Two Elections were returned from the Presbytery of *Aberdene*, one of Covenanters, made by a few Ministers, but many Lay-Elders, at which neither the Moderator nor the Clerk of the Presbytery were present; Another of Non-covenanters, which Election was made only by Ministers, and at which the Moderator and Clerk were both present; yet that other Election, at the return whereof there wanted the Clerks hand, (without which no Presbyterial Act can be taken for a Record) was allowed, and the other rejected, upon the bare relation of one of the Covenanting Ministers who was returned wrongfully, and the attestation of the other whom the Moderator openly in the Assembly called up and desired to testify whether the Relation of his fellow was true: an excellent way of proof against a publick Record, to take the Testimony of one who was as wrongfully returned as the Relator.

The University of *Aberdene* sent none of their Professours to the Assembly, not daring to trust themselves upon the way, having been so much threatened with the loss of their lives for writing against the Covenant: Only they sent one of their number, no Divine, but a Professour of Humanity, to excuse their absence; his Commission being read, gave him only power to be there, and did constitute him their Agent in any thing which should concern their University; requiring him to continue there, and from time to time to give them advertisement of all that passed. The Moderator did justly affirm, That that was no Commission, the party having no power by it to give any voice in the Assembly, and so there was no more to be said to it: but immediately something being transmitted by whispering from ear to ear, until it came to the Moderators ear, the Moderator begun presently to recant, and perusing his Letter of credence, said, he perceived that there was only want of formality in the draught, which they might easily pass over; and so they allowed that for a Commission which was none, and admitted him to have a voice in the Assembly, though the University gave him no such power, nor would they have sent any Commissioner but a Divine. At this sudden change of the Moderator, made in him by a whisper, many begun to smile, and to lay wagers that the party admitted was a Covenanter, which the Moderator did not expect from that University, and that this secretly-conveyed intelligence of it had changed him; and indeed afterward it proved to be so.

And thus the Members of their Assembly were constituted, just as they had designed them; at which they were mightily over-joyed, being now assured, that they might conclude what they pleased: And although it might in common reputation have better suited with the principles of wisdom, not to have taken exceptions against these few Elections, which were made contrary to their directions (for thereby they had gained the opinion of impartiality, and had lost nothing of their power, these few voices not being able to carry any thing against their great number) yet such was their blind obstinacy, that they scorned that any one should sit there who run not their Rebellious courses, as holding it a dis-reputation to them if they should be thought to have abated any thing, not only of their power

still

but

even of their will. Besides, not only their wishness, but even their pride appeared notably in one particular: his Majesty, in his Letters to the Assembly, had nominated for Assessors to his Commissioner these six: The Earl of *Traquair* Lord Treasurer, the Earl of *Roxburgh* Lord Privy-Seal, the Earl of *Argyle*, the Earl of *Lauderdale*, the Earl of *Southesk*, Lords of the Privy Council, and Sir *Lewis Stewart* an Advocate, a far fewer number than ever his Majesties Royal Father called to assist any of his Commissioners; all which ever constantly had voices in the Assembly; But here, though these six suffrages were able to do nothing against their minds; yet because they would be sure to clip the wings of authority, they absolutely refused to let them have any voice at all, telling his Majesties Commissioner, That he might consult with these Assessors if he pleased, but that they were to have no voice in the Assembly: affirming, with incredible impudence, That if the King himself were there, he should have but one voice, and that not negative neither, nor more affirmative than any one member of the Assembly had: by which means they have published to the World this sweet and wholesome Doctrine, That their King in their Ecclesiastical Assembly hath no more power than any Town-Clerk, Taylor, or Sadler who shall sit as a Lay-Elder there: which desperate opinion of theirs doth plainly shew the reason why in their last publick instructions preceding the Assembly, they ordered, That every Lay-Elder from Presbyteries should come attended with three or four, and every Commissioner from Burroughs with five or six of their own rank and quality, who should continue with them all the time of the Assembly, without whose advice they should not give voice to any thing; a thing never heard of at any General Assembly before. Sure they had heard and knew the number and names of the Assessors, whom the King had appointed to assist the Lord Commissioner; and therefore they would have every Mechanical Artizan, chosen a Lay-Elder for the Assembly, (whom they held to have equal power with his Majesty in it) to carry the same Badge of Power and State with his Majesty, and to have their Assessors as well as he, and those equal in number to his, and the same power with his, of consulting, though not concluding: all which, whether Royal Majesty and supreme Sovereignty could or ought to digest, any reasonable man may judge.

The Assembly being just now the same thing which the Tables were at *Edinburgh* in substance, but in condition far worse (for here were none now but the most obstinate Covenanters, whom the several Tables had picked out of all the pack) and they meeting at the Town-house of *Glasgow* alwaies before they met at the Church (the place of the Assembly) the Moderator being the same materially who governed them at *Edinburgh*, though not so formally chosen as now; the Clerk of the Assembly being the same, who was Clerk to their Covenant and to their Tables at *Edinburgh*; the Members of the Assembly being the same who sate at their Tables there, and those the most corrupted and distempered of them all: who could now expect less insolent conclusions from this Assembly, than they had found from their Tables?

And indeed the very same were found: For immediately they bragged that now they were

a constituted Assembly, and resolved to laugh at any who should quarrel with the Elections which they had approved; and especially at the Bishops Declinator, if it should contain any arguments to that purpose. The first Cock who begun to crow upon this Dunghill, though it were within night, no ordinary time of crowing, was Mr. *Andrew Ramsay*, a Minister of *Edinburgh*, who, getting up upon a Stool or Forme, made a very great bragg, offering by dispute to prove against any man the lawfulness of lay-Elders, by Scripture, Antiquity, Fathers, Councils, the judgment of all the Reformed Churches, even of the Church of *England*, who admitted them into the High Commission. The Lord Commissioner seeing him crowd so much in a very little room, told him that he run no great hazard or danger in his challenge; for he was sure the Judges would be his seconds: yet if it pleased him, he would find one should enter into the Lists with him, either publicly or privately, upon that quarrel; but many of his Brethren were not very well pleased with his glorious challenge, as making account that he would never be able to make good the greatest part of it: And with this bragg the Assembly dissolved for that night.

The next day, being the 27 of *November*, after the Assembly was met, his Majesties Commissioner urged once again that the Bishops Declinator might be read; which was accordingly done by the Clerk of the Assembly. It was entertained with much jeering and laughter, and by transmission of a whisper from one ear to another they resolved, when it was read out, to have received it with a general hissing; but yet by another general whisper, transmitted as the former, that course was stopped. After it was ended, the Lord Commissioner spake home to them, for the necessity of that Declinator, and the unavoidable strength of the reasons contained in the same, and in depressing, by way of parallel, their Libel against the Bishops: which he spared not to call infamous and scurrilous, both in the matter of it, and the manner of promulging it; and hereupon took instruments in Our Clerk of Registers hands, both for the production and reading of the Declinator. Some of the Lords of the Assembly offered to do the like in the Clerk of the Assemblies hands, but the Lord Commissioner told him it was needless, since it was not tendred to the Assembly but to himself: First, the Moderator in a short speech deplored the obstinacy of the Bishops hearts, who in all that Declinator had bewrayed no sign of remorse and sorrow for their wicked courses; and then the Lords of the Assembly perceiving their error, that they who found themselves to be Judges, had offered to take instruments in the Clerks hands of the production of any exhibits (which was never heard to be done by the Judge, but only by the actor or plaintiff) prompted some young Noble-men, and Gentlemen Covenanters (but not Members of the Assembly) then present, to demand instruments of the production of the Bishop's Declinator; in whose name one *Gibson*, one of the Clerks of the Session (and so acquainted with Law terms) both demanded instruments, and thundered out a verbal Protestation, in such Law terms as was not easie to be understood by most of the auditors: The sum of what was understood was this, That they would pursue their Libel against the Bishops so long as they had lives and

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1638. fortunes, *Eriam in foro contentiosissimo*, and required Dr. Hamilton their Proctor then present, to take notice that they cited him to compeer *die in diem* till sentence were given. Our Commissioner first protested against that Protestation, and then discharged the Bishops Proctor from appearance before the Assembly, to which he had presented no Declinator; but required him to appear before himself, to whom it was presented, when he should require him: The Declinator of the Bishops here insueth.

The Declinator and Protestation of the Archbishops and Bishops of the Church of Scotland, and others their adherents within that Kingdom, against the pretended General Assembly holden at Glasgow, Novemb. 21. 1638.

WE Archbishops, Bishops and other Under-subscribers for our selves, and in name and behalf of the Church of Scotland: Whereas it hath pleased the King's Majesty to indict a General Assembly of the Church to be kept at Glasgow, November 21. 1638. for composing and settling of the distractions of the same. 1. Do acknowledge and profess, That a General Assembly lawfully called and orderly convened is a most necessary and effectual meane for removing those evils wherewith the said Church is infested, and for settling that order which becometh the House of God. And that we wish nothing more than a Meeting of a peaceable and orderly Assembly to that effect. 2. We acknowledge and profess, as becometh good Christians and faithful subjects, that his Majesty hath authority by his Prerogative Royal to call Assemblies, as is acknowledged by the Assembly at Glasgow, 1610. and Parl. 1612. and that it is not lawful to convene without his Royal consent and approbation, except we will put our selves in danger to be called in question for Sedition.

Yet nevertheless in sundry respects, we cannot but esteem this Meeting at Glasgow most unlawful and disorderly, and their proceedings void and null in Law, for the causes and reasons following:

First, Before his Majesties Royal Warrant to my Lord Commissioner his Grace to indict a lawful free General Assembly, the usurped authority of the Table (as they call it) by their missives and instructions, did give order and direction for all Presbyteries to elect and chuse their Commissioners for the Assembly, and, for seeking of God's blessing to it, to keep a solemn Fast, Sept. 16. whereas his Majesties Warrant for indicting of that Assembly was not published till the 22 of that month: so that they preventing and not proceeding by Warrant of Royal authority, the pretended Commissioners being chosen before the Presbyteries were authorized to make Election, cannot be reputed members of a lawful Assembly.

Secondly, A lawful Assembly must not only be indicted by lawful authority (as we acknowledge this to be) but also constituted of such Members as are requisite to make up such a Body. For if, according to the indictment, none at all do convene, or where the Clergy is called there meet none but Laicks, or more Laicks than of the Clergy, with equal power to judge and determine; or such of the Laicks and Clergy as are not lawfully authorized, or are not capable of that employment by their places; or such as are legally disabled to sit

and decide in an Assembly of the Church: a Meeting consisting of such Members cannot be thought a free and lawful Assembly: By that Act of Parliament, Jac. 6. par. 3. cap. 46. 1572. Every Minister who shall pretend to be a Minister of God's Word and Sacraments, is bound to give his assent and subscription to the Articles of Religion contained in the Acts of our Sovereign Lord's Parliament, and, in presence of the Archbishop, Superintendent or Commissioner of the Province, give his Oath, for acknowledging and recognoscing of our Sovereign Lord and his authority, and bring a testimonial in writing thereupon, and openly upon some Sunday, in time of Sermon or publick Prayer, in the Kirk where he ought to attend, read both the Testimonial and Confession, and of new make the said Oath within a Month after his admission, under the pain that every person that shall not do as is above appointed, shall ipso facto be deprived, and all his Ecclesiastical promotions and living shall be then vacant, as if he were then naturally dead, and that all inferior persons under Prelats be called before the Archbishops, Bishops, Superintendents and Commissioners of the Diocesses or Province, within which they dwell, as the Act bears.

Thirdly, All of the Clergy convened to this Assembly pretend themselves to be Ministers of God's Word and Sacraments, and have Benefices or other Ecclesiastical livings: yet nevertheless the most part of them have never in presence of the Archbishop, Bishop, Superintendent or Commissioner of the Diocess or Province, subscribed the Articles of Religion contained in the Acts of Parliament, and given their Oath for acknowledging and recognoscing our Sovereign Lord and his authority, and brought a Testimonial thereof: and therefore they are ipso facto deprived, and their places void, as if they were naturally dead; and consequently having no place nor Function in the Church, cannot be Commissioners to this Assembly: *hoc maxime attento*, that the said persons not only have never given their Oath for acknowledging his Majesties authority, nor can shew no Testimonial thereupon, as they are bound by the said Act; but also having as subjects comprehended in the representative Body of this Kingdom, Promised to acknowledge, obey, maintain, defend, and advance the life, honour, safety, dignity, Sovereign authority, and Prerogative Royal of his Sovereign Majesty, his Heirs and Successors, and privileges of his Highness Crown, with their Lives, Lands, and Goods, to the uttermost of their power, constantly and faithfully to withstand all and whatsoever persons, powers and estates, who shall presume, prease or intend any wise to impugn, prejudice, hurt or impair the same, and never to come in the contrary thereof, directly or indirectly in any time coming, at the Acts of Parliament, Jac. 6. Parl. 18. Cap. 1. Car. Parl. Cap. 1. *do propterea*.

And moreover, being obliged at their admission to give their Oath for performance of this duty of their allegiance, and to resist and declare on their Conscience, that the King is the lawful Supreme Governour, as well in matters Spiritual and Ecclesiastical as Temporal, and to assist and defend all Jurisdiction and Authority, belonging to his Majesty by the Act of Parliament, 1612. yet notwithstanding of the said Bands, Acts, and Promises, whereas by the said persons are so strictly bound to the performance of the premisses, his Majesty having ordained by Act of Council at Holy-rood-house, Sept. 24. 1638. and Proclamations following thereupon, that all his Majesties Lieges of whatsoever estate, degree or quality, Ecclesiastical or Temporal, should swear and subscribe the said Confession, together with a general Band for defending his Majesties Person and Authority, against all

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enemies within this Realm or without, have not only refused to subscribe the said band and Confession, but have in their Sermons and other Speeches, dissuaded, deterred, impeded and hindered others of the Lieges to subscribe the same, and publicly protested against the Subscription thereof: and thereupon cannot convene nor concur lawfully to the making up of the Body of an Assembly of the Kirk, as being deprived and denuded of all place and Function in the same.

A General Assembly was condescended to, out of his Majesties gracious Clemency and pious disposition, as a Royal favour to those that should acknowledge the same, and acquiesce to his gracious pleasure, and carry themselves peaceably as loyal and dutiful Subjects; which the Commissioners directed to this Assembly supposed to be of the number of those that adhere to the last Protestation made at *Edenburgh*, Sept. 1638. do not so account of, and accept, as appears by the said Protestation, whereby they protest, That it shall be lawful for them, as at other times, so at this, to assemble themselves notwithstanding any impediment or prorogation to the contrary; as also by continuing their Meetings and Table, discharged by authority, refusing to subscribe the band according to his Majesties and Councils command, for maintaining his Majesties Royal Person and Authority, protesting against the same, still insisting with the Lieges to subscribe the Band of mutual defence against all persons whatsoever; and remitting nothing of their former proceedings, whereby his Majesties wrath was provoked: thereby they are become in the same state and condition wherein they were before his Majesties Proclamation and Pardon, and so forfeit the favour of this Assembly, and liberty to be Members thereof. And others of his Majesties Subjects, may justly fear to meet with them in this Convention, for that by the Act of Parliament, *James 6. Parl. 15. Cap. 31.* Prelacies being declared to be one of the three Estates of this Kingdom, and by the Act of Parliament, *James 6. Parl. 8. Cap. 130.* all persons are discharged to impugn the Dignity and Authority of the three Estates, or any of them in time coming, under the pain of Treason. And whereas the King by his Proclamation declares Archbishops and Bishops to have voice in the General Assembly, and calls them to the same for that effect, as constantly they have been in use in all Assemblies, where they were present, as appears by many Acts of the General Assembly, ordaining them to keep and assist at the same, as in the Assembly at *Edenburgh*, December 15. 1566. At *Edenburgh*, March 6. 1572. At *Edenburgh*, May 10. 1586. and by a Letter written by the Assembly, March 6. 1573. to the Regent, earnestly desiring his own or his Commissioners presence, and the Lords of Council, and the Bishops at the Assembly: They notwithstanding, by the said Protestation, September 22. declared Archbishops and Bishops to have no warrant for their Office in this Kirk, to be authorised with no lawful Commission, and to have no place nor voice in this Assembly; and withal do arrogate to their Meetings a Sovereign Authority to determine of all questions and doubts that can arise, contrary to the freedom of the Assembly, whether in constitution and members, or in the matters to be treated, or in manner and order of proceeding: which how it doth stand with his Majesties Supremacy in all Causes and over all Persons, we leave it to that judg-

ment whereunto it belongeth, and do call God and man to witness, if these be fit Members of an Assembly, intended for the order and peace of the Church. Car. 14.

Fourthly, Giving, and not granting, that the persons foresaid directed Commissioners in name of the Clergy to this Meeting, were capable of that Authority, and that the said Presbyteries had the authority to direct Commissioners to the General Assembly; yet have they now lost and fallen from all such right, if any they had, in so far as they have deposed the Moderators, who were lawfully appointed to govern them, by the Bishops in their Synods, and elected others in their place, contrary to the Act of the Assembly at *Glasgow*, 1610. and Act of Parliament 1612. ordaining Bishops to be Moderators at these Meetings; and in their absence, the Minister whom the Bishop should appoint at the Synod. So these Meetings having disclaimed the Authority of Bishops, deposed their lawful Moderators, and chusing others without Authority, cannot be esteemed lawful Convocations, that can have lawful power of sending out Commissioners with Authority to judge of the affairs of this Church.

Fifthly, And yet doth the nullity of the Commissions, flowing from such Meetings, further appear in this, that they have associate to themselves a Laick ruling Elder (as they call him) out of every Session and Parish, who, being ordinarily the Lord of the Parish, or a man of the greatest authority in the bounds, doth over-rule in the Election of the said Commissioners, both by his authority and their number, being more than the Ministers, whereof some being ordinarily absent, and five or six, or so many of them put in list, and removed, there remain but a few Ministers to voice to the Election; and in effect the Commissioners for the Clergy are chosen by Lay-men, contrary to all order, decency, and custom observed in the Christian World, no wise according to the custom of this Church, which they pretend to follow: the Presbyteries formerly never associating to themselves Lay-Elders in the Election of the Commissioners to the General Assembly, but only for their assistance in Discipline and correction of manners, calling for them at such occasions as they stood in need of their godly concurrence, declaring otherwise their Meeting not necessary, and providing expressly that they should not be equal, but fewer in number than the Pastors, as by Act of Assembly at *St. Andrews*, April 24. 1582. (where Mr. *Andrew Melvill* was Moderator) doth appear. Like as these forty years by-gone and upwards, long before the re-establishing of Bishops, these Lay-Elders have not been called at all to Presbyteries. And by the Act at *Dundie*, 1597. (whereby it is pretended that Presbyteries have authority to send these Lay-Commissioners) it doth no way appear that those Lay-Elders had any hand in chusing of the Ministers: and this is the only Act of the Assembly, authorizing Presbyteries to chuse Commissioners to the General Assembly: nor have Lay-Elders sate ordinarily in Presbyteries upon any occasion these forty years, and upwards, nor ever had any place nor voice in the Election of Ministers for the General Assembly, and consequently those chosen by them to this Assembly have no lawful power nor Authority.

Sixthly

Anno 1638. *Sixthly*, Beside, the persons Ecclesiastical, pretended to be authorized Commissioners to this Assembly, have so behaved themselves, that justly they may be thought unworthy and incapable of Commission to a free and lawful Assembly.

1. For that by their seditious and railing Sermons and Pamphlets, they have wounded the Kings Honour and Sovereign Authority, and animated his Lieges to Rebellion, averring that all Authority Sovereign is originally in the collective Body, derived from thence to the Prince; and that not only in case of negligence, it is *Suppletive* in the collective Body, as being communicate from the Commonalty to the King, *Cumulative* not *Privative*: But also in case of male-administration, to return to the collective Body; so that *Rex excidit jure suo*, and that they may refuse obedience.

2. Next, they are known to be such as have either been schismatically refractory and opposite to good order settled in the Church and State; or such as having promised, subscribed, and sworn obedience to their Ordinary, have never made Conscience of their Oath; or such as have sworn and accordingly practised, yet contrary to their promise and practice, have refused, to the contempt of Authority, and disturbance of the Church; or such as are under the Censures of the Church of Ireland, for their disobedience to order; or under the Censures of this Church, or convened, at least deserving to be convened before the Ordinaries, or a lawful General Assembly, for divers Transgressions deserving deprivation: As first, for uttering in their Sermons, rash and irreverent Speeches in Pulpit against his Majesties Council and their proceedings, punishable by deprivation, by the Act of Assembly at *Edinburgh*, May 22. 1590. Next, for reproving his Majesties Laws, Statutes, and Ordinances, contrary to the Act of Assembly at *Pearth*, Maij 1. 1596. Thirdly, for expressing of mens names in Pulpit, or describing them vividly to their reproach, where there was no notorious fault; against another Act of the same Assembly. Fourthly, for using Applications in their Sermons, not tending to the edification of their present Auditory; contrary to another Act of the same Assembly. Fifthly, for keeping Conventions not allowed by his Majesty, without his knowledge and consent; contrary to another Act of the same Assembly. Sixthly, for receiving of people of other Ministers flocks to the Communion; contrary to Order, Acts of Assemblies and Councils. Seventhly, for intruding themselves into other mens Pulpits, without calling or authority. Eighthly, for usurping the authority to convent their Brethren, and proceed against them to the Censures of Suspension and Deprivation. Ninthly, for pressing the People to subscribe a Covenant, not allowed by authority; and opposing and withstanding the subscribing of a Covenant offered by his Majesty, and allowed by the Council: Beside many personal faults and enormities, whereof many of them are guilty, which in Charity we forbear to express. But hereby it doth appear, how unfit these persons are to be Members of a free and lawful Assembly.

Seventhly, Nor doth it stand with Reason, Scripture, or practice of the Christian Church, that Lay-men should be authorized to have decisive voice in a General Assembly. In that Act of *Dundy*, 1597. whereby these Elders pretend to have this place, there is no warrant expressed for them, to deliberate and determine. Their presence and assistance we approve, being allowed and

authorized by the Prince. The King's Majesties presence in person, or by his Delegates, we hold most necessary to see all things orderly and peaceably done; and that he have the chief hand in all Deliberations and Determinations. Nor do we refuse that any intelligent or moderate man may make remonstrance of his opinion, with the reasons of it, in that way that becometh him in a National Assembly, due reverence being kept, and confusion avoided. But that any Lay-man, except he be delegate by Sovereign authority, shall presume to have a definitive and decisive voice, we esteem it to be intrusion upon the Pastoral charge, and without warrant. May we not therefore intreat my Lord Commissioner his Grace, in the words of the Fathers of the fourth General Council at *Chalcedon*? *Mitte foras superfluos*. Nor will a pious Prince be offended with it; but with *Theodosius* the younger will say, *Illegitimum est, eum qui non sit in ordine Sanctissimorum Episcoporum Ecclesiasticis immisceri tractatibus*. — And *Pulcheria* the Empress commanded *Strategus*, *Ut Clerici, Monachi, & Laici vi repellerentur, exceptis paucis illis quos Episcopi secum duxerunt*. Upon this respect was *Martinus* in that Council of *Chalcedon* moved to say, *Non esse suum, sed Episcoporum tantum, subscribere*.

Eighthly, If these pretended Commissioners, both Lay and Ecclesiastical, were lawfully authorized, (as it is evident they are not) and for none other cause declinable, yet the Law doth admit that justly a Judge may be declined, who is probably suspect: And of all probabilities, this is the most pregnant, when the Judge, before he come to judgment, doth give sentence of these things he hath to judge. This made our Reformers protestation against the Council of *Trent* valid, and their not compeering justifiable, because Pope *Leo* 10. had pre-condemned *Luther*, as appeared by his Bull, dated 8 Junij 1520. renewed by *Paul* 3. dated in Aug. 1535. This was the cause why *Athanasius* would not give his appearance at some Councils, nor *Hosius* of *Cordoba*, nor *Maximus* Patriarch of *Constantinople*. But so it is, the most part, if not all of the said Commissioners directed to this Meeting, have precondemned Episcopal Government, and condemned, at least suspended obedience to the Acts of the General Assembly and Parliament concerning the five Articles of *Pearth*, have approved their Covenant as most necessary to be embraced of all in this Kingdom, and not only have given judgment of these things before hand, but by most solemn Oaths have bound themselves to defend and stand to the same; as doth appear by their Covenant, Petitions, Protestations, Pamphlets, Libels, and Sermons: and therefore by no Law nor Equity can these pretended Commissioners be admitted to determine in this Meeting, concerning these persons and points, which beforehand they have so unjustly condemned.

Ninthly, Further, with no Law or Reason can it subsist, that the same persons shall be both Judges and Parties. And we appeal to the Consciences of all honest men, if all, at least the greatest part of the pretended Commissioners, have not declared themselves Party to the Archbishops and Bishops of this Church: For in that they have declined the Bishops to be their Judges as being their Party, (as their Declinators, Petitions, Declarations and Protestations do bear) have they not *simul & semel, & ipso facto* declared themselves to be Party against Bishops; whom they have not only declined, but persecuted by their calumnies and reproaches

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reproaches vented by word and writ, in publick and in private, by invading their persons, opposing and oppressing them by strength of an unlawful Combination; for the subscribing and swearing whereof, they have by their own authority indicted and kept Fasts, not only in their own Churches, but where worthy men refused to be accessory to these disorderly and impious courses, they have (by aid of the unruly multitude) entered their Churches, usurped upon their charges, reading and causing to be read that unlawful Covenant; by threatening and menacing compelling some (otherwise unwilling) out of just fear to set their hands to it; by proceßing, suspending, and removing obedient and worthy Ministers from their places by the usurped authority of their Table and Presbyteries? And whereas by all Law and Justice, persons finding themselves wronged in judgment, have never been denied the remedy of declinatory and appellation; nevertheless not a few of these Presbyteries have proceeded against sundry worthy Ministers, who have declined and appealed from their judgments, without respect to this defence; by these means craftily intending to disable them to be Commissioners for the Church; directly or indirectly causing their stipends to be kept back from them: By which means not the least part of the subscribing Ministers have been gained to their Covenant.

But it is without example uncharitable and illegal, that under the pretext of Summons (the like whereof was never used, nor in the like manner against the most heinous Malefactors in the Kingdom) they have devised, forged, vented, and published a most infamous and scurrile Libel, full of impudent lies and malicious calumnies against the Archbishops and Bishops of this Church; and have first given out from their Table, the order prescribed in these subsequent Articles, which we have insert, that the World may be witness of the illegality and maliciousness of their proceedings.

I.

TO desire the Presbytery of every Bishop, especially where he keeps his Residence, as also the Presbytery where his Cathedral Seat is, to have a special care of this Bill and Complaint against the Prelats, and particularly against the Bishop of their Diocese.

II.

That some Noblemen (if any be within the Presbytery) some Gentlemen and Barons, some Ministers, and some Commons, who are not chosen Commissioners to the Assembly, in their own Name, and in Name of all other Covenanters or Complainers, either within the Presbytery, or Diocese, or whole Kingdom, who are not Commissioners to the Assembly, will adhere and assist in this Complaint, that they present this Bill to the Presbytery.

III.

That they who are Complainers have a particular care to fill up the Blanks left in the Bill, in the assumptions of the particular fautes committed by the Bishop of the Diocese, against these general Rules, Canons and Acts: or if these Blanks will not contain the same, that the Complainers draw up in a particular claim, all the particular fautes and transgressions of the Bishop of that Diocese, against these Rules,

Canons, and Acts, or any other Law of the Church or Kingdom, and present the same to the Presbytery with this general Complaint. And if they cannot get the particulars presently ready, notwithstanding they present without any delay, because of the scarceness of the time, this Complaint as it stands with the Blanks; and in the mean time, may gather any other particulars against the Assembly, to which this Complaint is to be referred.

IV.

That the Presbytery finding the Complaint important, and the General Assembly so approaching, refer the same to the General Assembly, by an Act of this reference insert in the Books of the Presbytery.

V.

That upon this reference of the complaint to the Assembly, the Presbytery admonish the Complainers apud acta, to be present at the said Assembly, for assisting and verifying of the said Complaint.

VI.

That the Presbytery ordain all their Pastors, out of Pulpit on a Sabbath-day before noon, to cause read publicly this whole Complaint and the Presbyteries reference to the Assembly, and so to admonish the Bishop of that Diocese, the Delinquent complainer upon, with the rest of his Colleagues, to be present at the General Assembly, to answer to the particular Complaint, both in the particular and general Heads thereof, given or to be given in; and to abide the censure and trial of the Assembly thereupon. And likewise, out of Pulpit to admonish all others who have interest either in the pursuing or referring this Complaint, to be present at the said Assembly.

VII.

That the Presbytery insert in their Presbytery-Books the whole tenour of this Complaint, both in the general and particular Heads thereof; and that they have a care to cause deliver by their ordinary Bearer, to the Bishop of the Diocese, a Copy thereof, and a Copy of an Act, referring the same to the Assembly, and summon him to compeer before the Assembly. And if he be within the Countrey, and cannot be personally apprehended, to affix a full Copy thereof upon each dwelling place, and upon the most patent door of the Cathedral Church and Episcopal Seat.

VIII.

That the Complainers within the Presbytery where the Bishop is resident, or hath his Cathedral, be careful to keep correspondence with those in other Presbyteries within their Diocese, who best can specify and verify their Bishops usurpation and transgressions, and who had particular Articles to gather particular Declarations and Informations of the same.

IX.

That some of these Complainers in their own name, and with Warrant and Power from the rest, without failing attend the Assembly with the general Complaint and particular verifications and specifications of the same.

X. Tho

X.

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That in case the Presbytery where the Bishop hath his residence, or where he hath his Cathedral and Episcopal Seat, refuse to receive this Complaint, or refer the same to the Assembly, or to admonish or cite the Bishop delinquent before the Assembly, to answer to the Complaint; that the Gentlemen and others who are Complainers to the Presbyteries, upon their refusal take Instrument in the hands of the Clerk of the Presbytery, or any Notary, and protest that their refusal of the ordinary care of Justice, procured (without doubt) by the Bishop of that Diocese delinquent complained of, the equivalent of Law and Reason, be a formal citation of him. Which Protestation they may affix upon the dwelling house of the said Bishop, or upon his Cathedral Church, or the prime Church within the Presbytery. And that they may deal with any other Presbytery within the Diocese, who is better disposed, and upon their receipt of the Complaint, will refer the same to the Assembly, and cite the Bishop in manner above expressed, to compeer before the said Assembly.

XI.

Item, Perhaps some Minister within the Presbytery may think some Heads of this Complaint not to be relevant in his Opinion, or know the Bishop not to be guilty of all the particular Heads contained therein: Yet he in Justice cannot refuse to refer the trial of the Relevancy and Probation thereof to the General Assembly; especially seeing the Relevancy and Probation of more or fewer Points against the Bishop of the Diocese is sufficient, and seeing the subsumption of every particular Head is against the Bishop of the Diocese, with his Colleagues.

XII.

Item, To desire the Presbytery, upon Complaints upon any persons within the same, against any scandalous Minister either in Doctrine or Life, either to judge the Complaint, or refer the same to the trial and censure of the General Assembly, and so to admonish and cite the Ministers complained upon, to compeer before the General Assembly for that end.

According to which Articles, upon Sunday, Octob. 28. they caused read the said Libel in all the Churches of Edinburgh notwithstanding my Lord Commissioner's command given to the Provost and Bailies to the contrary, except in Holyrood-house, where it was read the next Sunday, as it was in other Churches of the Kingdom; proceeding herein, 1. Against all Charity, which doth not behave it self unseemly, nor delighteth in the discovery of mens nakedness, nor to take up a reproach, nor backbite with the tongue; much less to write a Book against a Brother. 2. Against the order prescribed by the Apostle *not to rebuke an Elder, but to intreat him as a Father*: And by the Act of Parliament, Jam. 6. par. 8. discharging all persons to impugn or to procure the diminution of the authority and power of the three Estates, or any of them. 3. Against all lawful and formal proceeding, especially that prescribed by the Act of General Assembly at Perth, Martij 1. 1596. whereby it is ordained, That all Summons contain the special cause and crime, which the said Libel doth not; naming only general calumnies, reproaches and aspersions without instruction of any particular, but leaving these to

be filled up by malicious delation, after they have defamed their Brethren by publishing this Libel; *C. 17. 14.* as appears by the eighth and eleventh Articles of the said Instructions: And against the Order prescribed by the Assembly at St. Andrews, April 24. 1582. whereby it is enacted, *That in process of deprivation of Ministers, there be a libelled precept upon forty days warning, being within the Realm, and threescore days being without the Realm, to be directed by the Kirk and such Commissioners thereof, as elects and admits the person complained of, summoning them to compeer and answer upon the Complaint. And in case of their absence at the first Summons, the second to be directed upon the like warning, with certification, if he fail, the Libel shall be admitted to probation; and he shall be holden pro confesso.* Which form not being kept in a Summons inferring the punishment of deprivation, the same cannot be sustained by the order of that Assembly. 4. Against common equity, which admits Summons only by the authority of that Judge before whom the Delinquent is to compeer; whereby the Summons directed by the authority of these pretended Presbyteries, cannot sustain for compeerance before the General Assembly, nor could reference be made from the Presbytery to the General Assembly, the Parties never being summoned to compeer before the Presbytery, whereby either in presence of the Party, or in case of contumacy, the Complaint might be referred to the Assembly. That there was no citation before the reference, is clear by the said Instructions: And what a strange and odious form it is to insert such a calumnious Libel in the Presbytery Books, without citing of the Parties to answer thereto; and to cite Bishops before the General Assembly by the said Libel, by publishing the same at Churches, to which they had no relation, and were many miles distant, we leave it to the judgment of indifferent men. 5. Against all decency and respect due to men of their place, the said persons being men of dignity, and some of them of his Majesties most honourable privy Council, and known to be of blameless conversation, and to have deserved well, thus to be reviled and traduced, doth redound to the reproach of Church and State, and of the Gospel whereof they are Preachers. 6. Lastly, to omit many other informalities against their own Consciences, which we charge in the sight of God, as they must answer before his great and fearful Tribunal, if they suspect and know not perfectly, according to the judgment of Charity, them, whom they thus accuse, to be free of these Crimes wherewith they charge them, at least of many of them; as appears evidently by the eleventh Article of the said Instructions, having therein libelled the general, and have yet to seek the specification thereof, from the malice of their Neighbours, if so be they can furnish it. By which informal and malicious proceeding, it is most apparent, that our said Parties do seek our disgrace and overthrow most maliciously and illegally. And therefore we call Heaven and Earth to witness, if this be not a barbarous and violent persecution, that all circumstances being considered, hath few or none to parallel it since the beginning of Christianity; and if we have not just cause to decline the said pretended Commissioners as our Party.

Moreover, can these men expect, but in a lawful Assembly they were to be called and censured for their enorme Transgressions foresaid? And will any man think, that they can be Judges in their own Cause? It is alledged out of the Canon Law

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1638. Law against the Pope, that if the Pope be at variance with any man, he ought not to be Judge himself, but to choose Arbitrators. And this may militate against them; except they be more unruly than Popes. *Ludovicus Bavarus* and all the Estates of *Germany* with him, did plead this nullity against the sentence and proceeding of Pope *John 22.* and of his Council: And the Archbishop of *Cullen* 1546. did plead the nullity of *Paul 3.* his Bull of Excommunication, because he protested, that so soon as a lawful Council should be opened, he would implead the Pope as Party, being guilty of many things censurable by the Council.

Tenthly, But the late Protestation doth shew the Authors thereof to be no less injurious to our place and Authority, than they are over-weening of their own. For it is against reason and practice of the Christian Church, that no Preme, Arch-bishop, nor Bishop, have place nor voice deliberative or decisive in General Assemblies, except they be authorized and elected by their Presbyterial Meetings, consisting of preaching and ruling Elders (as they call them) and without warrant or example in the primitive and purest times of the Church.

This also doth infer the nullity of an Assembly, if the Moderator and President for matters of Doctrine, and Discipline, shall be neither the Preme, Archbishop, nor Bishop, but he who by plurality of Presbyters and Lay-mens voices shall be elected: Which happily may be one of the inferior Clergy, or a Lay-person, as sometimes it hath fallen out: Whereas canonically, according to the ancient practice of the Church, the Preme should preside, according to the constitution of the first Council of *Nice*, *Can. 6.* of *Antioch*, *Can. 9.* and of the *Imperial Law Novell. constit. 123. cap. 10.* and according to our own Law. For what place in Assemblies Archbishops and Bishops had in other Christian Nations, the same they had (no doubt) in *Scotland*, and yet still do retain, except by some municipal Law it hath been restrained, which cannot be shewn. For the restraint of their authority by the Act of Parliament 1592. is restored by the Act of Parliament 1606. and 1609. and all Acts prejudicial to their Jurisdiction abrogated. Neither doth that Act 1592. establishing General Assemblies, debar Bishops from presiding therein; nor the abrogation of their Commission granted to them by Act of Parliament in Ecclesiastical Causes, imply & infer the abrogation of that authority which they received not from the Parliament, but from Christ, from whom they received the spiritual oversight of the Clergy under their charge; whereto belongeth the Presidentship in all Assemblies for matters spiritual, always with due submission to the Supreme Governor: Which is so intrinsically inherent in them, as they are Bishops, that *hoc ipso* that they are Bishops, they are Presidents of all Assemblies of the Clergy; as the Chancellor of the Kingdom hath place in Council and Session, not by any Act or Statute, but *hoc ipso* that he is Chancellor. By Act of Parliament Bishops are declared to have their right in Synods and other inferior Meetings, but by no Law restrained nor debarred from the exercise of it in National Assemblies; and the Law allowing Bishops to be Moderators of the Synods, doth present a List in absence of the Metropolitan, to whom of right this place doth belong, as said is, out of which the Moderator of the General Assembly shall be chosen. For, is it not more agreeable to reason,

order, and decency, that out of Moderators of Synods a Moderator of the general Assembly should be chosen, then of the inferior Clergy subject to them? *Car. 14.*

As concerning that Act of the General Assembly 1580. whereby Bishops are declared to have no warrant out of Scripture; if corruption of time shall be regarded, the authority of that Assembly might be neglected no less then that at *Glasgow*, 1610. But it is ordinary that prior Acts of Assemblies and Parliaments give place to the posterior; for *Posteriora derogant prioribus*. And there past not full six years when a General Assembly at *Edinburgh* found, that the name of Bishops hath a special charge and function annexed to it by the word of God; and that it was lawful for the General Assembly to admit a Bishop to a Benefice, presented by the King's Majesty, with power to admit, visit, and deprive Ministers, and to be Moderators of the Presbyteries where they are resident, and subject only to the sentence of the General Assembly.

As for that Act at *Montrose*, let them answer to it that have their calling by that Commission. We profess that we have a lawful calling by the election of the Clergy, who are of the Chapter of our Cathedrals, and consecration of Bishops by his Majesties consent and approbation, according to the laudable Laws and ancient Custom of this Kingdom, and of the Church in ancient times, and do homage to our Sovereign Lord for our Temporalities, and acknowledge him *solo Deo minore*, next unto God in all Causes, and over all persons Spiritual or Temporal, in his own Dominions Supreme Governor. But now we may take up *Cyprian* his Complaint *Lib. 3. Ep. 14.* *Quod non periculum metuere debemus de offensa Domini, quando aliqui de Presbyteris nec Evangelij nec loci sui memores, sed neque futurum Dei judicium, neque prepositum sibi Episcopum cogitantes, quod nunquam omnino sub antecessoribus factum est, cum contumelia & contemptu prepositi, totum sibi vendicem? Atque utinam non prostrata fratrum nostrorum salute sibi omnia vendicarent. Contumelias Episcopatus nostri dissimulare & ferre possem, sicut dissimulari semper & petuli; sed dissimulandi nunc locus non est, quando decipiantur fraternitas nostra à quibusdam vestrum, qui dum sine ratione restituenda salutis plausibiles esse cupiunt, magis lapsi obsunt.*

Twelfthly, Lastly, it is most manifest by the premises, how absurd it is and contrary to all reason and practice of the Christian Church, that Archbishops and Bishops shall be judged by Presbyteries; and more absurd, that they should be judged by a mixt meeting of Presbyteries and Laicks, convening without lawful authority of the Church. How, and by whom they are to be judged, according to the Custom of ancient times, may be seen by the Council of *Chalcedon*, *Can. 9.* and *Concil. Milevit. Can. 22.* and *Concil. Carthag. 2. Can. 10.* Nor do we decline the lawful trial of any competent Judicatory in the Kingdom, especially of a General Assembly lawfully constitute, or of his Majesties High Commissioner, for any thing in life or doctrine can be laid to our charge: Only we declare and affirm, That it is against order, decency, & Scripture, that we should be judged by Presbyters or by Laicks, without authority and Commission from Sovereign authority.

For the Reasons forefaid, and many more, and for discharge of our duty to God, to his Church, and to our Sacred Sovereign, lest by our silence we betray the Churches right, his Majesties authority, and our own consciences, We for our selves, and

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1638. and in name of the Church of *Scotland*, are forced to protest, That this Assembly be reputed and holden null in Law Divine and Human, and that no Church-man be holden to appear before, assist or approve it; and therefore, that no Letter, Petition, Subscription, Interlocutor, Certification, Admonition, or other Act whatsoever proceeding from the said Assembly, or any Member thereof, be any wise prejudicial to the Religion and Confession of Faith by Act of Parliament established, or to the Church, or any Member thereof, or to the Jurisdiction, Liberties, Privileges, Rents, Benefices, and Possessions of the same, Acts of General Assembly, of Council and Parliament in favours thereof, or to the three Estates of the Kingdom, or any of them, or to us, or any of us, in our Persons or Estates, Authority, Jurisdiction, Dignity, Rents, Benefices, Reputation, and good Name: But on the contrary, that all such Acts and Deeds above-mentioned, and every one of them, are, and shall be reputed and esteemed unjust, illegal and null in themselves, with all that hath followed or may follow thereupon.

And forasmuch as the said Assembly doth intend (as we are informed) to call in question, discuss, and condemn things not only in themselves lawful and warrantable, but also defined and determined by Acts of General Assembly and Parliaments, and in practice accordingly, to the disgrace and prejudice of Reformed Religion, Authority of the Laws and Liberties of the Church and Kingdom, weakning his Majesties Authority, disgracing the Profession and Practice which he holdeth in the Communion of the Church where he liveth, and branding of Reformed Churches with the foul aspersions of Idolatry and Superstition; we protest before God and Man, That what shall be done in this kind, may not redound to the disgrace or disadvantage of Reformed Religion, nor be reputed a Deed of the Church of *Scotland*.

We protest that we imbrace and hold, that the Religion presently professed in the Church of *Scotland*, according to the Confession thereof, received by the Estates of this Kingdom, and ratified in Parliament the year 1567. is the true Religion bringing men to eternal Salvation, and do detest all contrary Error.

We protest, that Episcopal Government in the Church is lawful and necessary; and that the same is not opposed and impugned for any defect or fault, either in the Government or Governors; but by the malice and craft of the Devil, envying the success of that Government in this Church these many years by-past, most evident in planting of Churches with able and learned Ministers, recovering of the Church Rents, helping of the Ministers stipends, preventing of these jars betwixt the King and the Church, which in former times dangerously infested the same, keeping the people in peace and obedience, and suppressing of Popery, which, in respect either of the number of their Professors, or boldness of their Profession, was never at so low an ebb in this Kingdom as before these stirs.

We protest that, seeing these who for scruple of Conscience did mislike the Service-Book, Canons, and High Commission, which were apprehended or given forth to be the cause of the troubles of this Church, have now received satisfaction, and his Majesty is graciously pleased to forget and forgive all Offences by-past in these stirs, that all the Subjects of this Kingdom may live in peace

and Christian love, as becometh faithful Subjects and good Christians, laying aside all hatred, envy, and bitterness; and if any shall refuse so to do, they may bear the blame, and be thought the cause of the troubles that may ensue: And the same be not imputed to us, or any of us, who desire nothing more, than to live in peace and concord with all men under his Majesties obedience; and who have committed nothing against the Laws of the Kingdom and Church, that may give any man just cause of offence; and are so far from wishing hurt to any man, in his person or estate, notwithstanding all the indignities and injuries we have suffered, that for quenching this present Combustion, and settling peace in this Church and Countrey, we could be content (after clearing of our innocency of all things where-with we can be charged) not only to lay down our Bishopricks at his Majesties feet, to be disposed of at his Royal pleasure, but also, if so be it pleased God, to lay down our lives, and become a Sacrifice for this Attonement.

We protest in the sight of God, to whom one day we must give account, that we make use of this Declinator and Protestation out of the conscience of our duty to God and his Church, and not out of fear of any guiltiness, whereof any of us is conscious to himself, either of wickedness in our lives, or miscarriage in our callings; being content every one of us, for our own particular (as we have never shewn our selves to be otherwise) to undergo the lawful and most exact trial of any competent Judicatory within this Kingdom, or of his Majesties High Commissioner.

And we most humbly intreat his Grace to intercede with the King's Majesty, that he may appoint a free and lawful General Assembly, such as God's Word, the practice of the primitive Church, and Laws of the Kingdom to prescribe and allow, with all convenient speed, to the effect the present distractions of the Church may be settled. And if there be any thing to be laid to the charge of any of the Clergy, of whatsoever degree, either in life and manners, or doctrine, or exercise of his calling and jurisdiction, he may be heard to answer all accusations, and abide all trial, either for clearing his innocency, or suffering condign punishment, according to his transgressions; declining always this Assembly, for the causes above-written: Like as by these presents, we, and every one of us, decline the same, the whole Members thereof, and Commissioners foresaid directed thereto, and every one of them.

We protest, that this our Protestation, in respect of our lawful absence, may be received in the name of us under-subscribing for our selves, and in the name of the Church of *Scotland* that shall adhere to the said Protestation, and in the name of every one of them, from our welbeloved Dr. Robert Hamilton Minister at *Glasford*, to whom by these presents we give our full power and express mandate to present the same in or at the said Assembly, or where else it shall be necessary to be used, with all submission and obedience due to our gracious Sovereign and his Majesties High Commissioner; and upon the presenting and using thereof, acts and instruments to crave, and all other things to do that necessarily are required in such cases; firm and stable holding, or for to hold, what he, or any of them, shall lawfully do in the premises.

In witness whereof, as we are ready with our
Anno Blood, so with our Hand we have subscribed these
 1638. Presents, at the Palace of Holy-rood-house, New-
 castle, and Glasgow, the 16, 17, and 20th days of
 Novemb. 1638. & sic subscribitur;

Jo. Sancti Andrea Arch.
 Pa. Glasgow.
 Da. Edenburgen.
 Tho. Gallovidien.
 Jo. Rossen.
 Walterus Brechinen.

After these passages, there were read divers
 A Protestations at the Lord Commissioners
 instance, from several places against the lawfulness
 of this Assembly, both in regard of the Lay-
 elders present in it, and the Ministers Commis-
 sioners in it chosen by Lay-elders: One sent from ma-
 ny Ministers, and read publickly, doth here fol-
 low.

The Supplication and humble Re-
 monitance of the Ministers of
 the Church of Scotland, presented
 to his Majesties High Commis-
 sioner and General Assembly held
 at Glasgow in November 1638.

May it please your Grace,

And you right Noble, Right Worshipful, and
 A you most Reverend Brethren, convened by his
 Majesties Proclamation in this venerable National
 Assembly, to consult upon the most convenient ways,
 and to enact such Ecclesiastical Laws, as to your
 Wisdoms seems most expedient, for preserving of peace
 and truth in this Church, for which ends we from
 the bottom of our hearts (as feeling Members of the
 same) earnestly intreat him, who hath promised to
 be with his own to the end of the World, by his Spi-
 rit and Grace, so to direct and assist your Wisdoms,
 that by this long expected Meeting, glory may redound
 to his ever glorious Name, and peace to this rent
 Church, which all the Members thereof, with most
 earnest wishes, expect at your hands. For the pre-
 sent, we thought it our duty, as those whom it doth
 most clearly concern (our great Shepherd having com-
 mitted to our Charge a part of that Flock which he
 hath redeemed with his precious blood) to present un-
 to you our just fears which arise from the sudden in-
 croaching of the Laick (now called Ruling) Elders,
 in divers Presbyteries of this Kingdom, having chief
 hand in choosing of Commissioners there, lest they,
 with Commissioners thus elected, may bring upon the
 Neck of the Ministry and Church here, the heavy
 yoke of over-ruling Elders in all times coming, to the
 no small hurt of us and our Successors in the Gospel,
 except timely remedy be provided.

Our humble Supplication therefore to your Grace,
 and Members of this present Assembly, is, That all
 these Commissioners thus chosen by the voice of Laick
 Elders, and in whose Commissions they have had hand,
 may be removed, as men to whose voices and judg-
 ments we cannot submit our selves in matter of Church
 Government, for the just fears above exprest, they be-
 ing justly suspect Judges not to be admitted, and
 their Elections and Commissions void for Reasons fol-
 lowing:

First, There is no Law in this Kingdom whereby
 Laick Elders have any voice in choosing Commis-
 sioners to General Assemblies; the chusers therefore ha-
 ving no legal Power to elect, those that are chosen by
 such, can have no place nor voice in this Assem-
 bly.

Secondly, Albeit there have been heretofore, and
 before Churches were fully planted, a custom that Laick
 Elders did sit in Presbyteries, yet that custom hath
 been these thirty five years by-past, universally (and
 above forty years in most Presbyteries) interrupted;
 which Prescription is sufficient to make void any such
 Custom: So that it can be no sufficient warrant for
 them to sit and voice in Presbyteries now, much less
 to intrude themselves (as they have done in many
 Presbyteries) contrary to the minds and publick Pro-
 testation of the Ministry.

Thirdly, When Laick Elders had place in Pres-
 byteries, yet it was ordained that the voices should
 not be equal in number, with the voices of the Mi-
 nistry, as is to be seen in the Book of
 Discipline Chapter. But in this Elec-
 tion, their number were not only equal, but in most parts
 more, because out of every Parish there was a Laick
 Elder, and so at least equal in number; and in ele-
 ction of these Commissioners, against whose election we
 except, there was put upon the list six in some places, and
 in others four of the Ministers, who being removed, in
 their absence the choice was made when the Laick El-
 ders by six or four at the least exceeded the Ministers in
 number of voices, yea, in some Presbyteries the Laick
 Elders were twice so many in number; so that these
 Commissioners are mainly chosen by the Laity, and
 not by the Ministers, neither can we acknowledge them
 for ours.

Fourthly, These Laick Elders did of old only assist
 in Discipline, not meddling with points of Doctrine
 (suffering the spirit of the Prophets to be subject to the
 Prophets, according to the Apostolical Rule;) but now
 they intrude themselves to sit and voice in the Presby-
 teries in matters of Doctrine, and have given Com-
 mission to those whom we except against, to voice in this
 venerable Assembly, in Doctrine as well as in matters
 of Discipline; which Commissions are null, as pro-
 ceeding a non habente potestatem. For these and
 other most weighty causes, the Election of such Commis-
 sioners, and their place in this Assembly being so dan-
 gerous to the Church, threaten the same with the most
 intolerable yoke of bondage to be laid upon the neck of
 the Presbyteries by Laick over-ruling Elders, to the
 prejudice of the Liberties of the said Presbyteries, and
 whole Discipline of this Church. We could not, out
 of Conscience to God, our Callings, and Flocks, but
 make humble remonstrance of the same to your Grace
 and Members of this grave Assembly: Withal protest-
 ing, both in our own names, and in name of all the
 Ministry and Body of this Church that will adhere to
 this present Supplication, that all Sentences, Conclusi-
 ons, Canons, Statutes, and Ordinances, which shall
 be made in that Assembly wherein the foresaid Commis-
 sioners shall have determinative voices, to be void, null,
 and of no effect to oblige us or any of us to the obedience
 of the same: But if this our just Supplication be not
 admitted (which we hope and earnestly pray may be gra-
 ciously accepted) then this our Protestation may be of
 force against such Laws and proceedings that may fol-
 low thereupon. Thus hoping for your charitable con-
 struction of this our necessary duty in so eminent a
 danger of the Church, and humbly intreating these
 presents may be put upon Record, We rest.

And

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1638.

And when the Protestation of the Presbytery of *Glasgow* (which was a very strong one) begun to be read, the Principal of the Colledge there desired the forbearance of it for a time; to which the Moderator gladly yielded: But the Lord Commissioner, who had delivered it in with his own hands, pressed the reading of it out; which the Moderator refused, alledging that any man might withdraw his own Protestation, much more desire the forbearance of reading of it: To which the Lord Commissioner replied, That the Protestation was subscribed not only by the hand of the Principal, but the major part of the Ministers of that Presbytery, of whom many were Covenanters; that in all their names it was presented unto him, and therefore could not be recalled by any one of them, without the consent of the rest, praying him that it might be read out to the end; but all in vain; for no Justice could be had from them, especially in a point which so much concerned their reputation: For they conceived it would be a great blur to their business, if a Protestation (made by that Presbytery, in which was the seat of the Assembly) should be known: And therefore they would neither read it, nor did they deliver it back again, against all Rules both of Justice and Equity. After this Contest the Assembly for that night was dismissed.

The Lord Commissioner wondering that the Principal of the Colledge should in publick desire the forbearance of publishing the Protestation of the Presbytery of *Glasgow* in the Assembly, used means to know the reason of it; and found by the averment of persons of good credit upon their own knowledge, that the night before late at Ten of the clock, the Lord *Lowdan* and the Moderator, with divers others Covenanting Ministers, had been with the Principal, and told him, That the Presbyterian Protestation would make a great division among them; that unless he did withdraw it, he must never look to live quietly in *Glasgow*, nor any where in *Scotland*. That the Principal told them, it was presented to the Lord Commissioner, from whom it was not possible to recover it; that then by the same threatnings they adjured him to desire the forbearance of reading of it, if it should be tendered to the Assembly; that after they were parted from him, his Wife all in tears begged the like of him, affirming, that the Lord *Lindsey* had been with her, and sworn to her, that both he and his must be utterly ruined, if she could not prevail with him for re-calling that Protestation. This and many other passages heretofore mentioned, banishing quite out of the Lord Commissioners mind, and the minds of all his Majesties well-affected Counsellors there present, all hopes, not only of just and fair, but even of formal proceedings in that Assembly, where not so much as the shew and countenance of Justice was to be discerned, nor anything but the power and obstinate wilfulness of the Covenanters, and the unanswerable nullities of this Assembly, in regard both of the Members elected, and the manner of their Election, being thoroughly considered, and the Reasons of the Bishops declinator presented to the Lord Commissioner being seriously weighed, by which they did not decline the Judgment of a General Assembly lawfully constituted, but only of this Assembly, which was to be accounted far rather a Laical Convention, than Ecclesiastical, all the Members whereof had barred themselves from be-

ing Judges by their Solemn Oath of Combination for the rooting out of that Kingdom both the Bishops persons and callings; to whose sentence his or the Lord Commissioner could not deliver them over without betraying all courses of Justice, and denying to the Bishops that protection which cannot be denied by the King to any of his Subjects, viz. the benefit of the Laws of that Church and Kingdom. And besides, the Lord Commissioner having certain and unquestionable intelligence of the Covenanters unmoveable resolution, that although the Assembly should be continued, and all things which they desired (even to their own wishes) should be granted and effected, yet that the quietness and peace of that Kingdom should be never awhit the more settled or established, but that they were determined to choose at this Assembly certain Committees, who, under the name of Commissioners from the General Assembly, should keep up their Tables, and be chosen and continued from one Assembly to another, and so hold on the same rebellious courses which they have held ever since the first erection of their Tables, to the utter overthrow of his Majesties Royal authority, and the authority of the Lords of his Council, and Lords of the Session under him: And the Lord Commissioner well weighing his Majesties Instructions, according to which he was to carry himself in this Assembly, if he should find that these mischiefs and courses of Injustice could not be stopped, resolved the next day (according to his Majesties special commandment) in his Majesties name, and by his authority to dissolve that Assembly, whose aim was only to rob his Majesty of his Sovereign Power, and to put it in the hands of their Commissioners.

According to which resolution the Lord Commissioner the next day, being *Wednesday* the 28th of *November*, went betimes in the morning to the Church, and the Council (having warning over night) met him in the Chapter-house, where they sat in Consultation before they went to the Assembly: He did then impart to them the resolution he had to dissolve the Assembly, and did ask their advice for the manner of doing it: After hearing each of their advice severally, he was confirmed in his resolution. The reason why the Lord Commissioner held the Council in that place, was, because some of the Council, who were present, should have no time to communicate his resolution to the Covenanters, nor to consult with them about the hindering it; the Assembly being fully set before the Council came out, so that what had passed there, could not be communicated to them.

The first thing propounded there by the Moderator that day, was this: A day or two before, there were brought into the Assembly three or four great Volumes by their new Clerk, which he alledged were the Acts of the General Assembly from the very first Reformation of that Church, which, by the special Providence of God, and his own careful industry, had been recovered, else they had been lost for ever, to the invaluable loss of the purity of the Religion and Discipline established amongst them; for they had been thrown by for many years, until he by some strange accident had light upon them. After which Speech of the Clerk, the Moderator had desired them to choose a Committee to peruse these Books, and to report to the Assembly, Whether they conceived them to be the true and authentical Acts of the General Assemblies of the Church of *Scotland*.

T t t t 2

The

Anno
1638.

The day before this, these Committees had made their report that they had perused them, and had found them to be true and authentical Records, and delivered in Writing some Reasons of this their Opinion; which made the impartial Auditors wonder how in two days men could peruse, and make a judgment of such Volumes, which other men (who took themselves to be no Fools) thought could hardly be done in one Year: But that was all one, the Moderator this day put it to the question and voices, Whether they would allow the Copies of those Books of Assembly (which the Committees the day before had reported to be good and faithful Copies) to be reputed ever hereafter for the authentical Records and Registers of the Church of Scotland? The Lord Commissioner prayed them to forbear doing any thing suddenly in a business of so great importance; that nothing, especially if it were doubtful, could be made a publick Record of any Judicatory which was to oblige his Majesties Subjects, unless his Majesty first by his Advocate and Learned Counsel were satisfied of the authentical Authority of that Record; and therefore wished them to stay until that course might be taken, and before that time not to put it to voices: But all in vain, for presently they of the Assembly (without one contrary voice) concluded these Books to be authentical Registers, and so to be held and reputed for ever, without knowing what was in them: They were four Books, and very large, and confessed not to be the Originals, but Copies. The Lord Commissioner then remembring that at the Palace at *Holy-rood-house* he was denied the sight of the Books of the Assembly (the Covenanters having threatned the former Clerk of the Assembly, if he should let his Majesties Commissioner have the perusal of them) begun now to think, that there might be stuff enough in them against the King's Regal authority, and perhaps a great deal of it of their own devising; which caused the Lord Commissioner to enter into the Clerk of Registers hands a solemn Protestation against the validity of these Records, and against any of his Majesties Subjects being obliged by them, until such time as they should be perused and allowed by such as his Majesty should authorize by Commission for that purpose.

Next, The Moderator desired the Clerk to read certain answers, which upon the sudden had been drawn up (as he said) by certain Brethren to the Reasons contained in the Bishops Declinator which had been read the day before: And indeed, so soon as they were heard, it was easily believed that they were drawn up upon a sudden, without either fear or wit, being very poor and silly, stuffed full of citations out of their own Books of Discipline, which did allow Lay-elders; and by these Testimonies concluded the exception of the Bishops against Lay-elders, and Ministers, Commissioners chosen by them for having voice in the Assembly, to be invalid; which made some admire by what consequence it could be inferred, that because there had been Lay-elders in particular Church-Sessions, nay, and perhaps in Presbyteries, that therefore these Lay-elders either had, or must now have voices in the General Assembly, or in choosing the Ministers Commissioners to it: Yet the Moderator caused another Paper to be read in defence of Lay-elders, of the very same tedious stuff with the former: And, to magnifie those Books of Discipline, so often cited in both these Papers, the Moderator desired the whole Assembly

to hear himself read a long Latin Testimony, given in the *Syntagma* of the Confessions of the Reformed Churches, to the purity of the Discipline of the Church of Scotland. The Lord Commissioner called for the Book, and desired to see what he had read, and found it to be a private Testimony of one unknown, inserted by the Printer or setter out of that *Syntagma*, to make it sell the better, because it had some new thing in it; which made a good many laugh at that so much magnified Testimony. Then the Moderator, to take away that exception in the Bishops Declinator, that the Assembly was a declared Party (and therefore could not be their Judge) alledged, that the Remonstrants had made the same Objection against the Synod of *Dort*, but that it was repelled by all the Divines there present, and the invalidity of that exception declared by none better than by the Divines of *Great Britain*, whose judgment against that exception he then out of the publick Acts of that Synod did read: The Lord Commissioner told the Moderator, that he should have done well to have translated into *Scottish* that passage which he last read, and the former out of the *Syntagma*, that so many of the Lay-elders, who were to judge of the fitness of these citations, might understand him and them; which the Moderator passed over with a smile. One who stood by the Lord Commissioner, and had been present at the Synod of *Dort*, asked leave first of the Lord Commissioner, and then of the Moderator to speak, which being granted him by both, he answered the Moderators answer to the Bishops objection, thus: That the Bishops exception against them of the Assembly, as *pars adversa*, differed from that of the Remonstrants against the Synod of *Dort* two ways: First, in regard of the matter of it. For the Synod consisting of Divines, and the matters controverted being points of Divinity (and by some men thought to be fundamental points of faith, though they were not so) in which Scholars use not to be neutral, it was impossible for the Remonstrants to find Divines to be their Judges, if they would except against such Divines as had declared themselves to be of the one opinion or the other: But it was not so with Episcopacy in the judgment of the Members of this Assembly; for they could not hold the allowing or rejecting of Episcopacy to be a point of Doctrine, because points of Doctrine are not alterable; but the Church of *Scotland* in her positive Confession, *Article 21.* did hold Church Policy or Government alterable at the will of the Church; which opinion, whether he did allow or not, he was not then and there to declare: But sure in such points, which they themselves held alterable and indifferent at the will of the Church, being no points of Doctrine, there was no necessity of pre-declaring their judgment, especially after they meant to be Judges: Nay, there was a necessity of not pre-declaring their judgment against Episcopal Government, considering it stood now in force by Acts both of Church and Parliament; and therefore that the Declaration of their judgment against it, (even since they intended to be Judges of it, but before they were actually so) did bar them from being Judges of it at all. But secondly, and that upon which he principally insisted, was this: That the Bishops case in their exception against this Assembly, differed from that of the Remonstrants against the other Synod, in the manner of the Members of that Synods pre-declaration, and of the Members of this Assemblies pre-declaration. Many of the Members of that Synod had

Anno 1638. pre-declared themselves by Discourſing, Writing, Preaching, &c. but not by any judicial Act, nor by any Act equivalent to a judicial Act, ſuch as ſwearing againſt the other Tenet, binding themſelves by Oathes, Covenants, Combinations, Confederacies, Affociations againſt the abettors of it, all which being Acts analogical to judicial Acts, and being done by the Members of this Aſſembly againſt the Biſhops, abſolutely barred them from being Judges in the queſtion of theſe Biſhops perſons or calling. Some answer was made to this by the Moderator and others, which required no reply; and therefore received none, that which was answered being no way againſt that which had been delivered: For the Moderator conceiving that he who ſpoke, had affirmed that the five Articles treated of at the Synod of *Dort*, had been fundamental points of Faith (of which opinion the Speaker never was, nor is) fell upon a diſcourſe of fundamental and not fundamental points of Faith; affirming that the Synod of *Dort* had never determined the five Articles to be fundamental points of Faith, which the former Speaker knew very well to be true: And it made many auditors think, that the Moderator did deliver this only becauſe he would have ſomething to ſay; for they did conceive that he had been a man ſo rigid in theſe Tenets, that he had held them to be fundamental points of Faith: But whether he did or not, there were many Miniſters Members of the Aſſembly, who did hold them to be fundamental points, and moſt unchriſtianiſm and uncharitably had Preached, that the Remonſtrants Tenets did deſtroy the very foundation of Faith; and whoſoever ſided with them in the five Articles, could not poſſibly be ſaved. But now the other exception laid by him that ſpoke, and in which he conceived the ſtrength of his Speech principally to lie, *viz.* That by their ſwearing, and combining by a Covenant againſt the Biſhops (which was a plain pre-judging of them) they had barred themſelves from being their Judges; the Moderator was pleaſed to make no answer at all, though of all that was ſpoken it moſt principally required one. Another Miniſter, one of the graveſt and learnedeſt in the Aſſembly, did conceive that he which ſpoke had affirmed, that Councils and Synods were only Judges of points of Faith and Doctrine, but not of Government or other matters; and inſtanced in *Novatus* and *Donatus*, who by Councils and Synods had been cenſured in points of Schiſm; which no man ever denied, nor ever came within the compaſs of the thoughts or words of him that ſpoke. Here a Lay-Elder, who was a Lord, conceived that he who ſpoke had ſaid ſomething inſinuating that Lay-Elders had given voices in ſome Councils; Thereupon the perſon that ſpoke, unwilling to let that paſs, asked leave to tell his Lordſhip that he was miſtaken, and that if the L. Commiſſioner and the Aſſembly would give him leave, he would maintain it againſt any man in the Aſſembly, that neither the name nor thing of a Lay-Elder, was ever known to any General or Provincial Council; nay, not to any particular Church in the whole Chriſtian World, before *Calvin's* daies. To this no reply was made, ſave only by the Moderator, who firſt ſaid that it would be thought a ſtrange thing in *England*, if any of this Aſſembly ſhould ſtand up in the Convocation Houſe, and ſpeak againſt their Church Government: to which was answered by him that ſpoke, That he neither did ſpeak, nor would have ſpoken there, without leave asked and obtained; nor would he have

asked leave, if it had not been to have cleared a paſſage of the Synod of *Dort* urged by the Moderator, and in which he himſelf was intereſſed. And it ſeems here the Moderator was brought very low, by telling the party that his Father while he lived was of another opinion: to which the other answered, That that was a weak reaſon; for there were ſome Members of the Aſſembly then ſitting, whoſe Fathers had been Papists: And he who ſpoke did very much wonder that the Moderator ſhould think it ſtrange for him to differ from his Father in his judgment of theſe points of Eccleſiaſtical Government; for he did not apprehend it ſo great a matter for any man to differ from his Father in judgment, as to differ from himſelf: and he was ſure that the Moderator knew well enough that many Members of the Aſſembly, who were now fierceſt againſt Episcopall Government, within theſe few years had been as earneſt maintainers of it as any, and more ambitious and earneſt ſuitors for Biſhopricks than any other. The Moderator at laſt cut off all further conteſtation about theſe Lay-Elders, by affirming that the ſtate of the queſtion as it ſtood before them, was not whether Lay-Elders had ever been received in other Churches, but whether their Office and place in the Aſſembly was agreeable with the conſtitutions of the Church of *Scotland*; and ſo no more was ſpoke of it.

The Moderator from that Speech which was made for juſtifying the Biſhops exception againſt the competency of their Judges, *viz.* the Aſſembly, becauſe the Members of it had declared themſelves parties, took occaſion to ſpeak thus to the Aſſembly: Since we ſee both the competency and conſtitution of this Judicatory and aſſembly is thus openly impugned, it is high time to clear this point, of which none can be Judge but the Aſſembly it ſelf, and therefore I will preſently put it to voices, Whether this Aſſembly be the lawful and competent Judge of the Libel againſt the Biſhops, notwithstanding the reaſons contained in their Declinator.

This gave the Lord Commiſſioner the occaſion (which he neglected not) to do and declare that which by his Maſtieſties Special Commandment he had reſolved on; for he preſently made a Speech of a competent length, the ſum whereof was this: I ſhould perhaps have continued a little longer with you, if you had not ſet upon a point which doth inforce my deſerting you: You are now about to jeſtle the lawfulness of this Judicatory, and the competency of it againſt the Biſhops, whom you have cited hither; neither of which I can allow, if I ſhall diſcharge either my duty towards God, or loyalty towards my gracious and juſt Maſter. This is a day to me both of gladneſs and ſadneſs; Gladneſs, in that I have both ſeen this Aſſembly meet, which his Maſtieſties Subjects have been made believe was never intended by Him, and in that I ſhall now in his Maſtieſties name make good unto you all his moſt gracious offers in his laſt Royal Proclamation, which likewise his Maſtieſties Subjects were made believe would never be performed by Him: Of Sadneſs, in that you who have called ſo much for a free General Aſſembly, having one moſt free, in his Maſtieſties intentions, granted you, have ſo handled and marred the matter, that there is not the leaſt ſhadow of freedom to be diſcerned in this your Meeting: for the former, which is the diſcharge and performance of your Sovereigns gracious promiſes, let this Paper, which I deliver to the Clerk to be read, witneſs it to you all, which I am ſure you can not chuſe but receive with all thankfulneſs and due acknowledgment of his Maſtieſties Piety, Goodneſs, and Clemency,

ry, unless all Religion and goodness be quite banished
 Anno out of this Land: Here the Clerk publicly read the
 1638. Paper, which followeth:

THe King's Majesty being informed, that many
 of his good Subjects have apprehended, that by
 the introducing of the Service-Book and Book of Ca-
 nons, the in-bringing of Popery and Superstition hath
 been intended, hath been graciously pleased to discharge,
 like as by these he doth discharge the Service-Book and
 Book of Canons, and the practise of them or either
 of them: And annulleth and rescindeth all Acts of
 Council, Proclamations, and all other Acts and Deeds
 whatsoever, that have been made and published for
 establishing them, or either of them: And declareth
 the same to be null, and to have no force nor effect in
 time coming.

The King's Majesty, as he conceived, for the ease
 and benefit of his Subjects, established the High Com-
 mission, that thereby Justice might be Ministred, and
 the faults and errors of such persons as are made lia-
 ble thereto, taken order with and punished, with the
 more conveniency and less trouble to the people: But
 finding his gracious intentions therein to be mistaken,
 hath been pleased to discharge, like as by these presents
 he doth discharge the same, and all acts and deeds what-
 soever made for establishing thereof. And the King's
 Majesty being informed, that the urging of the five
 Articles of Perthes Assembly hath bred distraction in
 the Church and State, hath been graciously pleased to
 take the same to his Royal consideration, and for the
 quiet and peace of this Country, hath not only dispen-
 sed with the practise of the said Articles, but also dis-
 charged all and whomsoever persons from urging the
 practise thereof, upon either Laick or Ecclesiastical
 person whatsoever: And hath freed all his Subjects
 from all censure and pains, whether Ecclesiastical or
 Secular, for not urging, practising, or obeying them,
 or any of them, notwithstanding of any thing con-
 tained in the Acts of Parliament, or general Assembly
 to the contrary. And his Majesty is further contented,
 that the Assembly take the same so far into their con-
 sideration, as to represent it to the next Parlia-
 ment, there to be ratified as the Estates shall find
 fitting.

And because it hath been pretended, that Oathes
 have been Administred different from that which is
 conceived in the Acts of Parliament, his Majesty is
 pleased to declare by Me, that no other Oath shall be
 required of any Minister at his entry, than that which
 is set down in the Act of Parliament.

And that it may appear how careful his Majesty is,
 that no corruption or innovation shall creep into this
 Church, neither yet any scandal, vice, or fault of
 any person whatsoever (censurable or punishable by the
 Assembly) go unpunished, his Majesty is content to
 declare by Me, and assure all his good people, that ge-
 neral Assemblies shall be kept so oft as the affairs of this
 Church shall require.

And that none of Our good Subjects may have cause
 of grievances against the proceedings of the Prelates,
 his Majesty is content, that all and every one of the
 present Bishops and their Successours, shall be answer-
 able, and accordingly from time to time censurable
 according to their merits by the General Assem-
 bly.

And to give all his Majesties good people full as-
 surance, that he never intended to admit any alteration
 or change in the true Religion professed within this
 Kingdom, and that they may be truly and fully satis-
 fied of the reality of his intentions, and integrity of
 the same, his Majesty hath been pleased to require and
 command all his good Subjects to subscribe the Confes-
 sion of Faith and Band for maintenance thereof, and

of his Majesties Person and Authority formerly sign-
 ed by Our dear Father in anno 1580. and now like-
 wise requireth all those of this present Assembly to sub-
 scribe the same. And it is his Majesties will, that
 this be inserted and registred in the Books of Assembly,
 as a Testimony to Posterity, not only of the sincerity of
 his intentions to the said true Religion, but also of
 his resolution to maintain and defend the same,
 and his Subjects in the Profession thereof. Sub-
 scribitur

HAMILTON.

After the Reading whereof, Our Commis-
 sioner went on, and added: I have, you
 see, subscribed that Paper with mine own hand, and
 to make his Majesties Religion, Grace, Goodness, and
 the Zeal which he hath to settle the peace of this
 Church and Kingdom, known to all succeeding Genera-
 tions, I do require that it be entred into your ordina-
 ry Books of Assembly; but with this provision, That
 this my assent to the Act of Registring this his Ma-
 jesties Declaration, shall be no approbation of the law-
 fulness of this Assembly, or of any other Act made,
 or to be made in it, but that all Protestations, made
 or to be made against this Assembly in all other acts and
 proceedings thereof, shall stand in full force and effect:
 And of the delivery of this Paper, containing his
 Majesties gracious offers, into the hands of the Clerk of
 the Assembly, and of my requiring it to be registred in
 the Books of the same, as also of my Protestation
 against the lawfulness of this Assembly in all other
 Acts, I take publick Instruments in the hands of the
 Clerk of Our Sovereign Lord his Register, and re-
 quire him to make an Act thereof. Which being done
 the Moderator in a short Speech acknowledged his Ma-
 jesties special goodness in granting the particulars
 contained in the Paper, promising it should be Regi-
 stred in the Books of Assembly, and desired to go on
 with the business of the Assembly.

But the Lord Commissioner told them, he must
 go on with them no more; for now the sad part
 was behind, viz. That since they had brought Lay-
 Elders to give voices in this Assembly, a thing not
 practised before, or at least dis-used so long, that no
 man present had seen it; the Ministers sitting here as
 Commissioners were chosen by Lay-Elders, a thing
 never heard of before in this Church; all the persons
 having voices here, were before the Elections designed
 by the Tables at Edinburgh; all others by their ex-
 press directions barred; these few Commissioners sent
 hither, but not chosen according to their designation,
 were by their Cavils, made for that purpose, set aside,
 and not admitted to have voices; the Bishops cited hi-
 ther were to be judged by the very same persons who had
 pre-judged and condemned them at their Tables; he
 attested Heaven and Earth, whether this could be ima-
 gined to be any way a free Assembly, and therefore cal-
 led God to witness, that they themselves were the cause,
 and the only cause why this Assembly could not have
 that happy issue which his Majesty heartily wished; and
 why the Bishops could receive no censure from them, in
 regard of these their sinister proceedings: for how
 could any man expect Justice from them, who had de-
 nied it to his Majesty, in refusing voices to his Com-
 missioners Assessors, which was never denied to his Ma-
 jesties Royal Father, when he called far more Assessors
 than his Majesty did now? Much more to this purpose
 was delivered by the Lord Commissioner; upon all which
 he commanded and required them not to proceed any fur-
 ther in this Assembly, and declared that whatsoever
 they should say or do hereafter in it, he in his Ma-
 jesties name protested against it, and that it should

never oblige any of the King's Subjects, nor be repaired for an Act of General Assembly.

1638.

The Moderator with a Speech well penned, which he had in readiness whensoever the Assembly should be dissolved, seemed much to deplore the Lord Commissioners resolution for breaking up the Assembly; he attributed very much to the King's power in Ecclesiastical Causes and Assemblies, said many things of his Majesties power, quite contrary to much which they have since printed in their seditious Pamphlets and Protestations, and much more then was liked and approved by many of his Fellow-Covenanters: Towards the end of his Speech he affirmed, That his Majesty was Universal Bishop over all his Kingdoms, &c. which made the Lord Commissioner use means to have the Copy of his Speech, but it could not be obtained while it was fresh in the Auditors memories. Many days after the Lord Commissioner was gone from Glasgow, a Copy of it was sent him, but all that which concerned his Majesties Ecclesiastical Power, especially of his being Universal Bishop in his Kingdoms, was quite left out; by which it was plain, that (as it was before conjectured) he had displeased many of the Assembly, by giving more Ecclesiastical Power to his Majesty in that Speech, than they intended he should ever have. The conclusion of his Speech was, That as the Lord Commissioner had served his Master carefully and faithfully, in preserving his Privileges and Prerogatives, so they must needs likewise be faithful and careful in preserving the Privileges and Prerogatives of the Kingdom of the Son of God, which was his Church; That they should much grieve for his absence, whose presence had been so acceptable and comfortable to them, and who had carried himself among them with so much Wisdom and moderation, that they should have a great miss of him; with many more words, tending to the very high commendation of the Lord Commissioner.

After the Moderator, divers of the Lords spake much to vindicate the Covenanters from their prelimitations and sinister dealings in their Elections: But the Lord Commissioner presently choaked their confidence, with the production of two Papers, which they little supposed he had ever seen: They contained their secret instructions, with which the whole Tables were not acquainted, for they must then of necessity some way or other have come to the knowledge of all the Covenanters, very many of whom by these secret Orders were barred from being chosen Commissioners to the Assembly, as well as the Non-covenanters: And therefore they fearing to lose or displease such a considerable number of their own Party, did by these private Advertisements (contrived only by the chief Rulers of the Table, but never presented to the Tables themselves) take order that none who could fall within the suspicion of moderation, should be chosen Commissioner for the Assembly.

The one of these Papers was directed to one Lay-elder of every Presbytery, some special Confident of theirs, containing these Nine Articles ensuing.

1. **B**Ecause all projects and purposes will fail, if they be not pursued with constant diligence to the end, the Devil sleeps not, and we hear our Adversaries are busy, and our misery will be unexpressible great, and we || ludibrious if they shall prevail over us in a free General Assembly, for which we have been pleading so long; it were meet that so far as may be a new warning should be given, to stir up the best affected.

2. That every Nobleman be diligent with the Barons and Ministers nearest unto them, and that he write unto his best Acquaintance, who are far off.

3. That some one Minister and Gentleman in every Presbytery meet oft together, to resolve upon the particular Commissioners to be chosen, and use all diligence with the rest of the Ministers and Gentlemen that such may be chosen.

4. Because nothing will avail so much for our purpose, where the most part of the Ministers are distressed, as that the Gentlemen be present to vote in Presbyteries, it would be presently tried whether this be put in execution; and if the Minister be slow in urging it, the Gentlemen themselves to urge it, and put themselves in possession.

5. Our Adversaries in this cause are seeking their own ends, and will set our Friends on work to deal with us; all would be warned to shut their ears, and in this case to forget Parents, Brethren, and Friends, and without respect to any person, to do what may most conduce for our good ends.

6. Much will be pretended that the Bishops be limited, They will be harmless in time coming; and on the other hand, that Ministers having all in their power will prove unruly: But it would be seriously considered, first, That God's Ordinance (except that we will mock him, and be wiser in his errands than himself) should have place. Secondly, That Ministers will be constrained to keep themselves within bounds, if Gentlemen resort to the Presbyteries, Synods, and Assemblies. Thirdly, That this Order will both make Gentlemen more religious and more accomplished every way, and will make Ministers more diligent in their Studies and Calling, and take better heed to all their ways; which, no doubt, will (through the blessing of God) make this a flourishing Church and Kingdom, which otherwise, of all Nations will be most slavish, miserable, and contemptible to all our Neighbours, when they shall perceive how by our own silliness and treachery we have lost so fair an occasion of our liberty, both Christian and Civil.

7. That they linger not, they would be urged again to send their Commissioners to Edinburgh before the first of October; by this we shall know our own strength the better at our next meeting.

8. And the Gentlemen, at the least the greatest part of them, would be warned to be at Edinburgh the 20th of September; and that only the Gentlemen who are named Commissioners to the Presbytery, for choosing their Commissioners for the Assembly, with some to assist them, that day stay at home, and those to come away immediately after the Election.

9. That in every Presbytery there be a particular care taken of the informations against the Prelates for instructing our Complaints.

The other Paper was directed to some Minister of every Presbytery, in whom they put most special trust, containing these eight Articles ensuing.

Car. 14.
We desire the Reader to observe, that they were afraid of being overthrown in a free General Assembly, and therefore they took a course by these private instructions to prevent all freedom in the Assembly, and to make sure that none should be chosen a Member of it, but such of whom they were sure.

Anno
1638.

Private Instructions, August 27. 1638.

1. *These private Instructions shall be discovered to none but to Brethren well affected to the cause.*

2. *Order must be taken that none be chosen ruling Elders but Covenanters, and those well affected to the business.*

3. *That where the Minister is not well affected, the ruling Elder be chosen by the Commissioners of the Shire, and spoken to particularly for that effect.*

4. *That they be careful no Chapter-men, Chapel-men, or a Minister Justice of Peace, be chosen, although Covenanters, except they have publicly renounced or declared the unlawfulness of their places.*

5. *That the ruling Elders come from every Church in equal number with the Ministers, and if the Minister oppose, to put themselves in possession notwithstanding any opposition.*

6. *That the Commissioner of the Shire cause convene before him the ruling Elder of every Church chosen before the day of the election, and enjoin them upon their Oath, that they give vote to none but to those who are named already at the meeting at Edinburgh.*

7. *That where there is a Nobleman within the bounds of the Presbytery, he be chosen: And where there is none, there be chosen a Baron, or one of the best quality, and he only a Covenanter.*

8. *That the ablest man in every Presbytery be provided to dispute de potestate supremi Magistratus in Ecclesiasticis, præsertim in convocandis Conciliis, de Senioribus, de Episcopatu, de Juramento, de Liturgia, & corruptelis ejusdem.*

Now both these were so closely carried, that the rest of the Covenanting Ministers never suspected there had been any other instructions, save the two publick and avowed Papers before related; nor would they ever have suspected any such close and double dealing, but that when they came to their elections, they found for the most part the ablest and most experienced Ministers passed by, and only the rigidest & hottest men chosen; which made them (inquiring after the reason of it) come to hear of these private Instructions, at which they stormed exceedingly, but could not then help any thing. And now whether these two Papers do not contain prelimitations of the Assembly, a thing against which they most fearfully cried out, We leave it to the judgment of the Reader.

The Moderator and some Noblemen Lay-Elders, went about to clear themselves from the notice of these two Papers of the secret instructions, but could not do it: the Lord Commissioner when he delivered them to the Clerk to be read, told him, That surely they were Papers which he had seen before, and with which he was well acquainted: The former of these, to a Lay-Elder of every Presbytery, in which is that seditious Article, being the sixth in number (intimating their fear of the loss of their Civil Liberty as well as Christian) he acknowledged he had seen; but denied that he had seen the other. One of the principal Covenanting Lords affirmed, That these Instructions were not sent from the Tables, but that they might be some private advices from one friend to another; for proof whereof, he offered to produce the two Papers of publick Instructions which had been sent from their Tables, and which are set down before by Us in this Narration. To this the Lord Commissioner answered, That the sending of these publick instructions, of which all the

Kingdom had notice, was a weak argument to prove that they sent no other private ones; That he acknowledged these private instructions were not sent from their publick Tables, but he offered to prove that they were sent to the several Presbyteries by the direction of some of the principal Rulers of the Tables, who laboured by all means to conceal them from the rest of their Party, who they were sure would take offence at them: That they were sent from one friend to another by way of private advice, he declared to be impossible for these two reasons; First, because it could not be imagined that several men, writing to their private friends, should light upon the same words, and yet that the Copies of these instructions sent unto him his Majesties Commissioner from many parts of the Kingdom, very far distant one from another, were the very same: Secondly, because he and every man did find that all the elections now returned, were made throughout the whole Kingdom according to these private instructions, and in pursuance of them: And, that these private instructions were undoubtedly sent, besides the two Reasons last mentioned, it doth evidently appear:

First, Because it is well known, that they who had never yet let any thing slip which they thought was advantageous to them, would not have let this pass unquestioned, but would have required the Lord Commissioner to prove the truth of these secret instructions, which brought so great a scandal upon their proceedings if they were not forged; and so great a scandal upon him if they were: and therefore their not urging of him to make proof of them, doth clearly evince their guiltiness.

Secondly, The Lord Commissioner, though he was loth to nominate unto them those several Covenanters from whom he received Copies of these secret instructions, unless he were put to it; yet he hath upon his Honour protested unto his Majesty, that he received them only by the means of Covenanters, who found themselves aggrieved by these sinister dealings, and that he would justify the receipt of these Papers from them whensoever he shall be put to it, as he would have done in the Assembly if he had been urged thereunto; which he expected they would have done, but did not, because they knew there were divers Members of the Assembly there present, who were well acquainted with the truth of what he had delivered concerning these secret instructions.

Thirdly, Because in their protestation made against his Majesties last Proclamation, they have confessed some of them, which were not in either of their publick instructions, and which never came to the Lord Commissioners notice, but by these private Papers.

After this, first divers of the Lords, and then some of the Ministers, intreated the Lord Commissioner to stay, adding many words both to that purpose, and for justifying their proceedings. To the Lords the Lord Commissioner answered, That for many Months, only their Tables had been obeyed, but that his Majesties and the Council-Table had received no obedience at all; he was therefore now to try their obedience in this point, whether they would dissolve themselves at his Special Commandment. To the Ministers he replied, That one of the chief reasons which had moved the King to dissolve this Assembly, was, to vindicate them from the Tyranny of Lay-Elders, who as they had gone about to suppress the Bishops,

Anno shops, so now to oppress them; and, if his Majesty did not protect them, would undoubtedly prove, not only ruling but over-ruling Elders: And withal added, That if they would now depart he would be a suitor to his Majesty for the induction of a new free General Assembly, in which they might mend all the faults committed by them in their proceedings at this.

Here the Earl of *Argyle*, one of his Majesties Council and Assessors to Our Commissioner, desired to speak: his voice was low, his speech he directed to the Covenanters; the sum of it was, That he was surpris'd, and did not expect this sudden rupture, but that he was willing to say something, which was, That he held it fit the Assembly should consist of Lay-men as well as Church-men; because these two made up one complete body, exhorted them to stand by the Confession of Faith, as it was sworn in 1581. After he had done, the Lord Commissioner desired the Moderator to say Prayer, and so to dismiss the Assembly; which he was about to do, but was hindered by the Lords, who fell again with new persuasions to urge the Lord Commissioners stay with them: which he answered with so much expression of grief for their misdemeanors, which had necessarily enforced this rupture, that very many of the Assembly seemed to be much moved with it. When nothing could persuade his stay, at last some of the Lords told him, that fearing this rupture they had a protestation ready against what he had said and done, which they desired him to hear read; which so soon as the Clerk begun to read, the Lord Commissioner repeated his former protestation, adding, in express words, that in his Majesties name he dissolved the Court under the highest pains: and so came out with the Lords of the Council, leaving the Clerk reading their protestation. When he came to the Church-door, he found it shut, so that some of his company were glad to force it open.

No sooner was he gone, but the Lord *Areskyn*, eldest son to the Earl of *Marr*, stood up and made this wise speech, not without tears: My Lords, and the rest, my heart hath been long with you, I will dally no more with God, I beg to be admitted into your blessed Covenant, and pray you all to pray to God for me, that he would forgive me for dallying with him so long. Three others of meaner quality desired the same, and so all those four were presently admitted into their Covenant. These men, at least the Lord *Areskyn*, were resolved to enter into their Covenant long ago, but were reserved on purpose for doing of it at that hour, for the greater glory of their Covenant: For no sooner had they sworn, and the Moderator received them by the hand, but presently he desired the whole audience to admire God's approbation and sealing of their proceedings, that even at that instant, when they might have feared some shrinking and back-sliding because of the present rupture, He had moved the hearts of these men to beg admittance into their blessed Society.

Immediately after, divers stood up and spake, but all much about one, and to this sense: They had seen how careful and punctual the Lord Commissioner was, like a good servant, faithfully to serve his Master, and to observe his instructions (speaking withal much to his singular commendation;) how much more then ought they to be careful to be found faithful in following his instructions, who was Master, as to all themselves, so even

to him who was Our Commissioners Master? These Speeches being ended, two things were immediately put to the question: First, whether notwithstanding the Lord Commissioners departure and protestation they would adhere to their own protestation, and continue the Assembly. They all voiced affirmatively, except the Lord *Carnegie* Commissioner from the Presbytery of *Briehen*, Sir *John Carnegie* Commissioner from the Presbytery of *Arbroath*, two Ministers Commissioners from the Presbytery of *Strabogie*, the Lay-Elder and Ministers Commissioners from the Presbytery of *Peebles*, Dr. *Strang* Principal of the Colledge of *Glasgow*, Dr. *Baume* Commissioner from the University of *St. Andrew's*, with some others, who refused to sit with them any longer. The second was, whether the Assembly, though discharged by the Lord Commissioner, was competent Judge to the Bishops, and whether they would go on in their trial, notwithstanding the reasons contained in their Declinator: and this passed affirmatively without one contrary voice; and so for that night the Assembly was dismissed.

The Lord Commissioner after he had left the Assembly, that very night, though late, assembled the Council; none were absent except the Earl of *Argyle*, who made some excuse and pretence for his not coming, and the Lord *Almond*, who was then sick. Two things the Council resolved on; First, to write unto his Majesty a Letter of thanks for those gracious proffers, which his Majesty by his Commissioner had made at the Assembly. Next, to draw up a Proclamation for the dissolving of the Assembly. Their Letter here followeth:

Most Sacred Sovereign,

IN obedience to your Majesties Royal Commands, we have attended your Majesties Commissioner here at *Glasgow* since the seventeenth of this instant, and according to our bound duty in so exigent occasion, have not been wanting with our humble and best advices: And although we do remit the particular relation of what is past to his Graces self as best known to him; yet we cannot for truths sake be so silent, as not acknowledge to your Majesty, that never servant did with more industry, care, judgment and patience go about the discharge of so great a trust: And albeit the success hath not answered his desires, neither yet his extraordinary pains, and (as we may confidently affirm) most dexterous and advised courses taken to compass the just command of so gracious a King; yet his deserving herein merits to be remembered to posterity. And since your Majesty hath been pleased to renew to us your former act of Grace expressed in your Proclamation and Declaration anent the maintenance of the true Religion, and us in the defence and profession thereof; we do all in humility and hearty acknowledgment of so great goodness, return to your Majesty the offer of our Lives and Fortunes in defence of your Sacred person, and maintenance of your Royal Authority: and shall in all our actions approve our selves your Majesties most loyal Subjects and humble servants.

Sic Subscribitur

Traquair, Roxburgh, Marr, Murray, Lithgow,
Perth, Wigton, Kingorne, Tullibardin, Haddington,
Galloway, Annandail, Lauderdaile,
Uuuu Kin-

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Kinnoul, Dumfries, Southesk, Angus,
Elphinstoun, Naper, Dalzell, Hay, W. El-
phinstoun, Ja. Carmichael, Hamilton, Black-
hall.

From Glasgow, Nov.
28. 1638.

TO this Letter the Lord of Argyle refused to set his hand. Next morning the Proclamation was signed by the Lord Commissioner and Council, but the Earl of Argyle refused to sign it, as before he had done the Letter. The Proclamation here followeth:

CHARLES by the Grace of God, King of Scotland, England, France, and Ireland, Defender of the Faith. To Our Lovits

Heralds, Pursuivants, Our Sheriffs in that part conjunctly and severally specially constitute, greeting. Forasmuch as out of the Royal and Fatherly care which We have had of the good and peace of this Our ancient and native Kingdom, having taken to Our serious consideration all such things as might have given contentment to Our good and loyal Subjects: And to this end had discharged by Our Proclamation the Service-Book, Book of Canons, and High Commission, freed and liberate all men from the practising of the five Articles, made all Our Subjects both Ecclesiastical and Civil liable to the censure of Parliament, General Assembly, or any other Judicatory competent, according to the nature and quality of the offence: and for the free entry of Ministers, that no other Oath be Administrate unto them than that which is contained in the Act of Parliament: had declared all by-gone disorders absolutely forgotten and forgiven: and for the more full and clear extirpating all ground and occasion of fears of innovation of Religion, We had commanded the Confession of Faith, and band for maintenance thereof, and of authority in defence of the same, subscribed by our dear Father, and his Household, in anno 1580. to be renewed and subscribed again by our Subjects here: Like as for settling of a perfect peace in the Church and Commonwealth of this Kingdom, We caused indict a free general Assembly to be holden at Glasgow the 21 of this instant, and thereafter a Parliament in May, 1639. By which clement dealing, We looked assuredly to have reduced Our Subjects to their former quiet behaviour and dutiful carriage, whereto they are bound by the Word of God, and Laws both national and municipal, to us their native and Sovereign Prince. And albeit the wished effects did not follow, but by the contrary, by Our so gracious procedure they were rather emboldened, not only to continue in their stubborn and unlawful waies, but also daily add to their former procedures acts of neglect and contempt of authority, as evidently appeared by open opposing of Our just and religious pleasure and command, exprest in Our last Proclamation anent the discharge of the Service-Book, Book of Canons, High Commission, &c. protesting against the same, and striving by many indirect means to withdraw the hearts of Our good people, not only from a hearty acknowledgment of Our gracious dealing with them, but also from the due obedience to those Our just and religious Commands, notwithstanding We had been formerly so oft petitioned by themselves for the same. By their daily and hourly guarding and watching about Our Castle of Edinburgh, suffering nothing to be imported therein, but at their discretion; and openly stopping and impeding any importation of Ammunition, or other necessities whatsoever to any other of Our houses within that Kingdom: Denying to Us their Sovereign Lord that liberty and freedom, which the meanest of them assume to themselves, (an act without precedent or example in the Christian World,) By making

of Convocations and Council-Tables of Nobility, Gentry, Burrows, and Ministers within the City of Edinburgh, where, not regarding the Laws of the Kingdom, they, without warrant of Authority, convene, assemble, and treat upon matters, as well Ecclesiastical as Civil, send their injunctions and directions throughout the Countrey to their subordinate Tables, and either under-ministers appointed by them for that effect. And under colour and pretext of Religion exercising an unwarranted and unbounded liberty, require obedience to their illegal and unlawful procedures and directions, to the great and seen prejudice of Authority, and lawful Monarchical Government. And notwithstanding it was evidently manifest by the illegal and informal course taken in the Election of their Commissioners for the Assembly, whereof some are under the censure of the Church of Ireland, and some long since banished for open and avowed teaching against Monarchy, others of them suspended, and some admitted to the Ministry contrary to the form prescribed by the Laws of this Kingdom, others of them a long time since denounced Rebels, and put to the Horn, who by all law and unviolable custom and practick of this Kingdom, are, and ever have been incapable, either to pursue, or defend before any Judicatory, far less to be Judges themselves; some of them confined, and all of them by Oath and Subscription bound to the overthrow of Episcopacy. And by this and other their under-hand working, and private informations and persuasions, have given just ground of suspicion of their partiality herein, and so made themselves unfit Judges of what concerneth Episcopacy. And als it was sufficiently cleared by the peremptory and illegal procedures of the Presbyteries, who at their own hand by order of law, and without due form of process, thrust out the Moderators lawfully established, and placed others, whom they found most inclinable to their turbulent humours; associate to themselves for the choosing of the said Commissioners for the Assembly, a Laick Elder out of each Paroch, who being in most places equal, if not more in number than the Ministry, made choice both of the Ministers, who should be Commissioners from the Presbyteries, as also of a Ruling-Elder, being directed more therein by the warrants from the foresaid pretended Tables, than by their own judgments, as appears by the several private instructions sent from them, far contrary to the Laws of the Countrey, and lawable custom of the Church: by which doings it is too manifest, that no calm or peaceable procedure or course could have been expected from this Assembly, for settling of the present disorders and distractions: Yet we were pleased herein in some sort to blindfold Our own judgment, and over-look the said disorders, and patiently to attend the meeting of the said Assembly, still hoping that when they were met together, by Our Commissioner his presence, and assistance of such other well disposed Subjects who were to be there, and by their own seeing the real performance of all that was promised by Our last Proclamation, they should have been induced to return to their due Obedience of Subjects: But perceiving that their seditious disposition still increases, by their repairing to the said Assembly with great bands and troops of men, all boddin in fear of War, with Guns and Pistols, contrary to the Laws of this Kingdom, custom observed in all Assemblies, and in high contempt of Our last Proclamation at Edinburgh the 16. of this instant: As also by their peremptory refusing of Our Assessors, authorized by Us (although fewer in number than Our dearest Father was in use to have at divers Assemblies) the power of voting in this Assembly, as formerly they have done in other Assemblies; and by their partial, unjust, and unchristian refusing, and not suffering to be read the Reasons and Arguments given in by the Bishops and their Adherents, to Our Commissioner, why the Assembly ought not to proceed to the

the Election of a Moderator without them, neither yet to the admitting of any of the Commissioners of the said Commissioners from Presbyteries, before they were heard object against the same, though earnestly required by our Commissioner in our name. And notwithstanding that our Commissioner under his hand, by Warrant from us, gave in a sufficient Declaration of all that was contained in our late Proclamation and Declaration, the same bearing likewise our pleasure of the Registration of the same in the Books of Assembly for the full assurance of the true Religion to all our good Subjects, And yet not resting satisfied therewith, lest the continuance of their meeting together might produce either the like dangerous acts, derogatory to Royal Authority, we have thought good, for preventing thereof, and for the whole causes and reasons above-mentioned, and divers others importing the true Monarchical Government of this Estate, to dissolve and break up the said Assembly. And therefore

OUR will is, and we do discharge and inhibit all and whatsoever pretended Commissioners, and other Members of the said pretended Assembly, of all further meeting and convening, treating and concluding any thing belonging to the said Assembly, under the pain of Treason, declaring all and whatsoever that they shall happen to do in any pretended meeting thereafter, to be null, of no strength, force nor effect, with all what may follow thereupon: Prohibiting and discharging all our Lieges to give obedience thereto, and declaring them, and every one of them, free and exempt from the same, and of all hazard that may ensue for not obeying thereof. And for this effect we Command and Charge all the foresaid pretended Commissioners, and other Members of the said Assembly, to depart forth of this City of Glasgow within the space of twenty four hours after the publication hereof, and to repair home to their own Houses, or that they go about their own private Affairs in a quiet manner. With special provision always, that the foresaid Declaration, given in under our Commissioners hand, with all therein contained, shall notwithstanding hereof stand full, firm and sure to all our good Subjects in all time coming, for the full assurance to them of the true Religion. And our will is, and we Command and charge, that incontinent these our Letters seen, ye pass, and make publication hereof by open Proclamation at the Market Cross of Glasgow, and other places needful, wherethrough none pretend ignorance of the same. Given under our Signet at Glasgow the 29 of November, and of our Reign the fourteenth year. 1638.

Sic Subscribitur

HAMILTON,

Traquaire, Roxburgh, Murray, Linlithgow, Perth, Kingorne, Tullibardin, Haddington, Galloway, Annandail, Lauderdale, Kinnoull, Dumfreis, Southesk, Belheaven, Angus, Dalryell, J. Hay, W. Elphinstoun, J. Carmichael, J. Hamilton.

THIS Proclamation being very solemnly made with sound of Trumpets, and by Heralds, with Coats of Our Arms on their Backs, at the Market Cross of Glasgow, was received with a Protestation read in the same place by Johnston the then Clerk of the Assembly, assisted by the Lord Areskyn, and divers others, young Noble-men and Gentlemen. The Paper which Johnston read, was not, as it seemeth, that very Protestation which they Printed; for he read something out of a Paper to that purpose, and offered it by the name

of a Protestation to him who read his Majesties Proclamation, which Paper the Clerk of the Council offering to receive, Johnston refused to deliver it, saying, He must stay until it were written. By which it is evident, that they who at Glasgow protested against the King's Proclamation, did protest and desired their Protestation to be received, before it was Printed, as it is now Printed, and before they could so much as send to them in whose name it was made, to know whether they would adhere to it or not. But a Protestation against it they afterwards Printed, which here now we do subjoin, that the Reader may see how groundless and unwarrantable it is.

The Protestation of the General Assembly of the Church of Scotland, &c. Made in the high Kirk, and at the Market Cross of Glasgow, Nov. 28, and 29. An. 1638.

WE Commissioners from Presbyteries, Burghs, and Universities, now convened in a full and free Assembly of the Church of Scotland, indicted by his Majesty, and gathered together in the Name of the Lord Jesus Christ the only Head and Monarch of his own Church; And we Noblemen, Barons, Gentlemen, Ministers, Burgesses and Commons, Subscribers of the Confession of Faith, Make it known that where We his Majesties loyal Subjects of all degrees, considering and taking to heart the many and great innovations and corruptions lately by the Prelates and their adherents intruded into the Doctrine, Worship, and Discipline of this Church, which had been before in great purity to our unspeakable comfort established amongst us, were moved to present many earnest desires and humble supplications to his sacred Majesty for granting a free general Assembly, as the only legal and ready mean to try these innovations, to purge out the corruptions, and settle the order of the Church for the good of Religion, the Honour of the King, and the comfort and peace of the Kirk and Kingdom: It pleased his gracious Majesty, out of his Royal bounty, to direct unto this Kingdom, the Noble and Potent Lord, James Marquess of Hamilton, with Commission to hear and redress the just grievances of the good Subjects, who by many Petitions, and frequent conferences, being fully informed of the absolute necessity of a free general Assembly, as the only judicatory which had power to remedy those evils, was pleased to undergo the pains of a voyage to England, for presenting the piteous condition of our Church to his sacred Majesty; And the said Commissioner his Grace returned again in August last, with power to indict an Assembly, but with the condition of such Preliminations, as did both destroy the freedom of an Assembly, and could no waies cure the present diseases of this Church; which was made so clearly apparent to his Grace, that for satisfying the reasonable desires of the Subjects, groaning under the weariness and prejudices of long some attendance, He was again pleased to undertake another journey to his Majesty, and promised to endeavour to obtain a free General Assembly, without any Prelimitation, either of the constitution and Members, or matters to be treated, or manner, and order of proceeding; so that if any question should arise concerning these particulars, the same should be cognosced, judged, and determined by the Assembly, as the only Judge competent: And accordingly by warrant from our Sacred Sovereign returned to this Kingdom, and in September last, caused indict a free General Assembly to be holden at Glasgow, Novemb. 21. to the unspeakable joy of all good Subjects and Christian hearts,

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who

Anno
1638.

who thereby did expect the perfect satisfaction of their long expectations; and the final remedy of their pressing grievances: But these hopes were soon blasted: for albeit the Assembly did meet and begin at the appointed day, and hath hitherto continued, still assisted with His Graces personal presence, yet His Grace hath never allowed any freedom to the Assembly, competent to it by the Word of God, acts and practice of this Church, and his Majesties Indiction, but hath laboured to restrain the same, by protesting against all the acts made therein, and against the constitution thereof by such members, as by all Law, Reason, and Custom of this Church were ever admitted in our free Assemblies, and by denying his approbation to the things proposed and concluded, though most clear, customable, and uncontraveried.

And now since his Grace after the presenting and reading of his own Commission from our sacred Sovereign, and after his seeing all our Commissions from Presbyteries and Burghs produced and examined, and the Assembly constitute of all the Members by unanimous consent, doth now to our greater grief, without any just cause or occasion offered by us, unexpectedly depart and discharge any further meeting, or proceeding in this Assembly, under the pain of Treason; and after seven daies sitting, declare all Acts made, or hereafter to be made in this Assembly, to be of no force nor strength; and that for such causes as are either expressed in his Majesties former Proclamations, (and so are answered in our former protestations) or set down in the Declinator, and protestation presented in name of the Prelats (which are fully cleared in our answer made thereto) or else were long since proposed by the Commissioner his Grace in his eleven articles or demands sent unto us, before the indiction of the Assembly (and so were satisfied by our answers, which his Grace acknowledged, by promising after the receipt thereof to procure a free general Assembly, with power to determine upon all questions, anent the Members, manner, and matters thereof) all which for avoiding tediousness we here repeat not: Or otherwise the said causes alledged by the Commissioner, were proposed by His Grace, in the Assembly; such as first, that the Assembly refused to read the Declinator and Protestation exhibited by the Prelates, which nevertheless was publicly read and considered by the Assembly, immediately after the election of a Moderator and constitution of the Members, before the which, there was no Assembly established, to whom the same could have been read: Next, that ruling Elders were permitted to have voice in the election of Commissioners from Presbyteries, which was known to his Grace, before the indiction and meeting of the Assembly, and is so agreeable to the acts and practice of this Church, inviolably observed before the late times of corruption, that not one of the Assembly doubted thereof, to whom by the indiction and promise of a free Assembly, the determination of that question, anent the members constituent property, belonged.

And last, that the voices of the six Assessors, who did sit with His Grace, were not asked and numbered, which we could not conceive to be any just cause of offence, since after 39 National Assemblies of this reformed Church, where neither the King's Majesty, nor any in his name was present, at the humble and earnest desire of the Assembly, His Majesty graciously vouchsafed His presence either in His own Royal Person, or by a Commissioner, not for voting or multiplying of voices, but as Princes and Emperors of old, in a Princely manner to countenance that meeting, and to preside in it for external order; and if We had been honoured with His Majesties Personal presence, His Majesty (according to the practice of King James of blessed memory) would have only given his own Judgment in voting of matters, and would not have called others who had not been Cloathed with Commission from

the Church to carry things by plurality of voices.

Therefore in Conscience of our duty to God and his Truth, the King and his Honour, the Church and her Liberties, this Kingdom and her peace, this Assembly and her freedom, to our selves and our safety, to our Posterity, Persons and Estates, We profess with sorrowful and heavy, but loyal hearts, That We cannot dissolve this Assembly, for the reasons following.

1. For the reasons already Printed anent the necessity of convening a General Assembly, which are now more strong in this case, seeing the Assembly was already indicted by his Majesties Authority, did convene, and is fully constitute in all the Members thereof, according to the Word of God, and Discipline of this Church, in the presence and audience of his Majesties Commissioner, who hath really acknowledged the same, by assisting therein seven daies, and exhibition of His Majesties Royal Declaration, to be registrate in the Books of this Assembly, which accordingly is done.

2. For the reasons contained in the former Protestations made in name of the Noble-men, Barons, Burgeses, Ministers, and Commons, wherunto We do now judiciously adhere, as also unto the Confession of Faith and Covenant, subscribed and sworn by the Body of this Kingdom.

3. Because as We are obliged by the Application and Explication subjoined necessarily to the Confession of Faith subscribed by Us; So the King's Majesty, and his Commissioner, and Privy Council, have urged many of this Kingdom to subscribe the Confession of Faith made in Anno 1580. and 1590. and so to return to the Doctrine and Discipline of this Church, as it was then professed: But it is clear by the Doctrine and Discipline of this Church, contained in the Book of Policy then registrate in the Books of Assembly, and subscribed by the Presbyteries of this Church; That it was most unlawful in it self, and prejudicial to these Priviledges which Christ in his Word hath left to his Church, to dissolve or break up the Assembly of this Church, or to stop and stay their proceedings in constitution of Acts for the welfare of the Church, or execution of Discipline against offenders; and so to make it appear, that Religion and Church-Government should depend absolutely upon the pleasure of the Prince.

4. Because there is no ground of pretence either by Act of Assembly, or Parliament, or any preceding practice, whereby the King's Majesty may lawfully dissolve the General Assembly of the Church of Scotland, far less his Majesties Commissioner, who by his Commission hath power to indict and keep it, secundum legem & praxim: But upon the contrary, His Majesties Prerogative Royal, is declared by Act of Parliament, to be no waies prejudicial to the Priviledges and Liberties, which God hath granted to the spiritual Office-bearers, and meetings of this Church; which are most frequently ratified in Parliaments, and especially in the last Parliament holden by his Majesty himself: which Priviledges and Liberties of the Church, his Majesty will never diminish or infringe, being bound to maintain the same in integrity by solemn Oath given at his Royal Coronation in this Kingdom.

5. The Assemblies of this Church have still enjoyed this freedom of uninterrupted sitting, without or notwithstanding any contramand, as is evident by all the Records thereof; and in special by the general Assembly holden in Anno 1582. which being charged with Letters of Horning by the King's Majesty his Commissioner and Council, to stay their process against Mr. Robert Montgomery, pretended Bishop of Glasgow, or otherwise to dissolve and rise, did

Anno 1638. did notwithstanding shew their liberty and freedom, by continuing and sitting still, and without any stay, going on in that process against the said Master Robert, to the final end thereof: And thereafter by Letter to his Majesty, did shew clearly, how far his Majesty had been uninformed, and, upon misinformation, prejudged the Prerogative of Jesus Christ, and the Liberties of this Church, and did enact and ordain, That none should procure any such Warrant or Charge under the pain of Excommunication.

6. Because now to dissolve, after so many Supplications and Complaints, after so many reiterated Promises, after our long attendance and expectation, after so many references of processes from Presbyteries, after the publick indictment of the Assembly, and the solemn Fast appointed for the same, after frequent Convention, formal Constitution of the Assembly in all the Members thereof, and seven days sitting, were by this act to offend God, condemn the Subjects Petitions, deceive many of their conceived hopes of redress of the Calamities of the Church and Kingdom, multiply the Combustions of this Church, and make every man despair hereafter ever to see Religion established, Innovations removed, the Subjects Complaint respected, or the Offenders punished with consent of Authority, and so by casting the Church loose and desolate, would abandon both to ruin.

7. It is most necessary to continue this Assembly for preventing the prejudices which may ensue upon the pretence of two Covenants, whereas indeed there is but one, That first subscribed in 1580. and 1590. being a National Covenant and Oath to God; which is lately renewed by Us, with that necessary explanation, which the corruptions introduced since that time contrary to the same, enforced: Which is also acknowledged by the Act of Council in September last, declaring the same to be subscribed, as it was meant the time of the first subscription: And therefore for removing that shame, and all prejudices which may follow upon the show of two different Covenants and Confessions of Faith in one Nation, The Assembly cannot dissolve, before it try, find and determine, that both these Covenants, are but one and the self same Covenant: The latter renewed by us, agreeing to the true genuine sense and meaning of the first, as it was subscribed in Anno 1580.

For these and many other Reasons, We the Members of this Assembly, in our own name, and in the name of the Kirk of Scotland, whom We represent; and We Noblemen, Barons, Gentlemen, Ministers, Burgesses, and Commons before mentioned, do solemnly declare in the presence of the everliving God, and before all men; And protest,

1. That our thoughts are not guilty of any thing which is not incumbent to us, as good Christians towards God, and loyal Subjects towards our Sacred Sovereign.

2. That all the Protestations general or particular, proponed or to be proponed by the Commissioner his Grace, or the Prelats and their Adherents, may be presently discussed before this General Assembly, being the highest Ecclesiastical Judicatory of this Kingdom: And that his Grace depart not till the same be done.

3. That the Lord Commissioner depart not, till this Assembly do fully settle the solid peace of this Church, cognoscing and examining the corruptions introduced upon the Doctrine and Discipline thereof: And for attaining hereof, and removing all just exceptions which may be taken at our proceedings, we attest GOD the searcher of all hearts, that our intentions, and whole proceedings in this present Assembly, have been,

are, and shall be according to the Word of GOD, the Laws and Constitutions of this Church, the Confession of Faith; our National Oath, and that measure of light, which GOD the Father of Light shall grant us, and that in the sincerity of our hearts, without any pre-occupation or passion.

4. That if the Commissioner his Grace depart, and leave this Church and Kingdom in this present disorder, and discharge this Assembly, that it is both lawful and necessary for Us to sit still and continue in keeping this present Assembly, indicted by his Majesty, till we have tried, judged, censured all the by-gone evils and the introducers, and provided a solid course for continuing God's truth in this Land with purity and liberty, according to his Word, our Oath and Confession of Faith, and the lawful Constitutions of this Church; and that with the grace of God, We and every one of Us adhering hereunto, shall sit still and continue in this Assembly, till after the final settling and conclusion of all matters, it be dissolved by common consent of all the Members thereof.

5. That this Assembly is and should be esteemed and obeyed, as a most lawful, full and free General Assembly of this Kingdom: And that all Acts, Sentences, Constitutions, Censures and Proceedings of this Assembly, are in the self, and should be reputed, obeyed, and observed by all the Subjects of this Kingdom, and Members of this Church, as the Actions, Sentences, Constitutions, Censures, and Proceedings of a full and free General Assembly of the Church of Scotland, and to have all ready execution, under the Ecclesiastical pains contained, or to be contained therein, and conform thereto in all points.

6. That whatsoever inconvenience fall out, by impeding, molesting, or staying the free meeting, sitting, reasoning, or concluding of this present Assembly, in matters belonging to their Judicatory, by the Word of God, Laws and Practice of this Church, and the Confession of Faith, or in the observing and obeying the Acts, Ordinances, and Conclusions thereof, or execution to follow thereupon, That the same be not imputed unto us, or any of us, who most ardently desired the concurrence of his Majesties Commissioner to this lawful Assembly; But upon the contrary, that the Prelats and their Adherents, who have protested and declined this present Assembly, in conscience of their own guiltiness, not daring to abide any legal Trial, and by their mis-information have moved the Commissioner his Grace to depart and discharge this Assembly, be esteemed, reputed, and holden the disturbers of the Peace, and overthrowers of the Liberties of the Church, and guilty of all the Evils which shall follow hereupon, and condignly censured according to the greatness of their fault, and Acts of the Church and Realm: And to this end, we again and again do by these Presents cite and summon them, and every one of them, to compeer before this present General Assembly, to answer to the Premises, and to give in their Reasons, Defences, and Answers against the Complaints given in, or to be given in against them, and to hear probation led, and sentence pronounced against them, and conform to our former citations, and according to Justice, with certification as effects; Like as by these Presents we summon and cite all those of his Majesties Council, or any other, who have procured, consented, subscribed, or ratified this present Proclamation to be responsible to his Majesty and three Estates of Parliament, for their counsel given in this matter, so highly importing his Majesty, and the whole Realm, conform to the twelfth Act of King James 4. Parliament 2. And protest for remedy of Law against them, and every one of them.

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7. And lastly we protest, That as we adhere to the former Protestations all and every one of them, made in the name of the Noblemen, Barons, Gentlemen, Ministers, Burghes, and Commons; So seeing we are surprised by the Commissioner his Graces sudden departing, far contrary to his Majesties indiction, and our expectation, we may extend this our Protestation, and add more Reasons thereunto in greater length and number, whereby we may fully clear before God and man the equity of our intentions, and lawfulness of our proceedings: And upon the whole premises the foresaid persons for themselves and in name aforesaid, asked Instruments. This was done in the high Church of Glasgow in publick audience of the Assembly, begun in presence of the Commissioner his Grace, who removed and refused to hear the same to the end, the Twenty eighth day of November: and upon the Mercate Cross of Glasgow, the Twentyninth day of the said Month, the Year of God 1638. respective

The Reader shall not need to look after much reason in this Protestation; for if he do, he will be sure to lose his labour. Much is repeated in it, of that which hath been delivered in their former Petitions and Protestations; all which shall now be passed by, what is new in it, the Reader shall do well to cast his eye upon that, taking along with him this advertisement, That there is little or indeed nothing in it new, which is true. Towards the beginning you find the Protestation made, not only in the name of the General Assembly, but in the name of the Noblemen, Barons, Gentlemen, Ministers, Burghesses, and Commons, Subscribers of the Confession of Faith. Now how this Protestation could be made at Glasgow in their names, who at that time neither were acquainted, nor possibly could be acquainted, with what passed at Glasgow, being in the several parts of the Kingdom so far distant from it, and many parts having no Commissioners there, except those that were in the Assembly, we leave it to the Readers consideration. They affirm not many lines after, That it was made clear to the Lord Commissioner, that the Assembly which he meant to indict in August, was clogged with such prelimitations, that he undertook another Journey to his Majesty, and promised to endeavour to obtain a free General Assembly without any prelimitation, &c. All which is so far from truth, as nothing can be more; for he did never desire the Assembly to be prelimited; for they themselves by their instructions both publick and private did prelimitate it, he did only desire, that (according to the usual custom before Assemblies) some previous meeting and consultation might be held concerning the forms of the Assembly; which might very well have been forgot, there having been no Assembly held for many years before. Again, in the last words, at the end of the first Section, one would wonder how any man could have the boldness to affirm, That this their Assembly was constituted of such Members, as by all law, reason, and custom of that Church were ever admitted in their free Assemblies, since they in their own Conscience do know, that there is no Law extant for Lay-elders having voice in General Assemblies. And if there be no Law for it, we appeal to the judgment of every man indued with reason, whether there can be any reason found for it, and whether if such a Proposition were to be propounded, and to pass into a Law, he would give his voice unto it if he had power so to do, That Lay-men (especially

many of them, being ignorant and mechanical persons) should sit in the highest Ecclesiastical Judicatory, and by their voices determine points of Faith, and other highest points of Doctrine, and to inflict the highest censures of the Church, even excommunication and deprivation, not only of Ministers, but of Bishops, especially when in an Assembly the number of the Lay-voices shall be equal, or very near equal, to those of the Clergy; so that it may fall out, that the voices of the Lay-men, having the voices but of twenty or thirty Clergy-men concurring with them in opinion, may carry the determination of the highest point of Doctrine against the rest of the Clergy, and those perhaps the holiest, ablest, and most learned, though their number exceed a hundred. Sure if such a Proposition were to be past into a Law, few voices would be found to enact it; and therefore if there be no law for it already (as undoubtedly there is none) they might have done well not to have talked of reason for it: And that which they aver of the custom of that Church, is as untrue as what they said either of Law or Reason. For, said the King, we demand if there have been never a free Assembly in Scotland these last forty years? Sure they will confess there hath been; and yet in none of these, Lay-elders chosen by and sent from Presbyteries, had voices in these Assemblies: Nay, since the first Reformation, hath there been any free General Assembly in that Kingdom? No question they will say there hath; and yet We challenge them to name but any one Assembly before this, in which the Ministers chosen Commissioners to it from the several Presbyteries, were chosen by the voices and suffrages of Lay-elders: So that for that point it is impossible they should alledge either Law, Reason, or Custom, or so much as any one instance; and yet the Elections of all the Ministers present at this Assembly were carried by the voices of Lay-men, and in many places in despite of the Ministers.

A little after the beginning of the second Section they do affirm that which they themselves do know not to be so; for when they say that the Lord Commissioner did unexpectedly depart and discharge any further meeting or proceeding in this Assembly, how can that stand with the words of the Earl of Rothes, who when he Lord Commissioner was rising and departing out of the Assembly, told him, that his departure and discharging of the Assembly was a thing not unlooked for, but expected by them; and therefore they were provided for him, and had a Protestation ready written against his discharging of the Assembly, which he desired him to hear (as is before mentioned?) But the Lord Commissioner refusing, the Clerk presently begun to read it, and his Majesties Commissioner and Council at their departure left them reading it; and after his departure it was read out to the end, and presently put to voices, whether all the Members of the Assembly would adhere to it; and the very Title-page of their Protestation affirmeth, That it was first read in the high Church, and afterward at the Market-Cross of Glasgow. Besides, the Moderator made a Speech to the Lord Commissioner upon his departure, which none of the Auditors did conceive to be extemporary; for when it was compared with any other Speeches of his, delivered at any other time of the Assembly, it was agreed that it was so much better penned or premeditated and delivered than any of the rest of his Speeches, that certainly it was provided against the Lord Commissioners departure; and yet these men protest, that the Commissioners departure and discharging of the Assembly

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That which immediately after they add; That *they have fully cleared in their answer to the Bishops Declinator all the Arguments contained in it against the Assembly, as also those Propositions made by the Lord Commissioner in his 11 Articles or Demands, sent unto them before the induction of the Assembly, and that the Lord Commissioner acknowledged so much,* is all of equal untruth with the former; for neither have they satisfied the Bishops Reasons propounded in their Declinator, nor gave they any satisfaction to the Lord Commissioner his eleven Articles or Demands: And that the Commissioner acknowledged that he had received satisfaction to them, is so manifest an untruth, as they themselves do know there is no colour for it. They affirm within a few lines after, that *the Kings Commissioner did know, before the induction of the Assembly, that ruling Elders were to have voices in the Election of Commissioners from Presbyteries.* He did know it indeed, but could not tell how to help it; and so soon as he did know it, which was immediately before the induction of the Assembly, he did sharply expostulate it with them, and assured them, that it would induce a nullity upon the Elections made to the Assembly; That his Majesty would never allow any for Members of the Assembly who were so chosen; That he had notice of this their intention by the complaints of many covenanting Ministers, who were resolved to protest against all such Elections; but that he did know of any such Elections with approbation of them, cannot be charged upon him. And whereas they say, that *these Elections are agreeable to the Acts and practice of that Church,* they have received already a sufficient challenge to make that good, which undoubtedly they cannot: And where they add, that *not one of the Assembly doubted thereof,* it is well known that some of the Ministers of *Edinburgh*, and many more Ministers of the Assembly did grieve at it, but did not know how to remedy it.

The whole third Section is so derogatory to his Majesties Royal Authority, and indeed doth so unworthily debase the authority of Monarchs, as it is not to be answered any way but by Justice: For it giveth no more power to his Majesty, if he had been present and sitting at the Assembly at *Glasgow*, then *Thomas Paterson* a Taylor of *Edinburgh* had, who sat Commissioner there.

After, they subjoyn some Reasons for their Protestation: In the first, they affirm that the Assembly was constituted by the Word of God; but they do not prove it, and sure never will. Then they affirm, that the Lord Commissioner acknowledged the lawfulness of their *Assembly, by assisting therein seven days;* but they conceal that he solemnly protested, and entred his particular Protestation against every thing they said or did in it; and if he who protesteth against a thing, may be said to acknowledge the lawfulness of it, then it may be that they themselves do acknowledge the Justice and Equity of all his Majesties Proclamations, and his power and authority in discharging of this Assembly, notwithstanding all their Protestations made against these. And for the Lord Commissioner his exhibition of his *Majesties Royal Declaration to be registred in the Books of this Assembly,* let the Reader remember the Protestation before mentioned, which the King's Commis-

ner made when he did so, and that scruple is quickly removed.

Their second and third Reasons are of their own fancies: They have lately sworn so, and to that sense they have explicated their Covenant, therefore it must so: But they did wrong in both, and therefore none must follow them in either, for every Oath unlawfully taken is unlawfully kept.

Their fourth Reason hath not one true word in it; for there is Law for the King's authority to dissolve the Assembly, there being an express Act of Parliament which giveth his Majesty the sole power of indicting of an Assembly, viz. the first Act of the 21. Parliament of his Royal Father: And sure, *ejusdem est destituere cujus est instituere,* whosoever hath the power of indicting hath the power of dissolving. They add that there is no preceeding practice for it. We wonder they can or dare affirm it: Did not his Majesties Royal Father discharge that Assembly at *Aberdene*? And when some few turbulent Ministers did notwithstanding hold it, were they not convented before the Lords of his Council for it? Who undoubtedly had punished them most severely, if by their declining of the Councils authority, and appealing to a General Assembly, they had not fallen into an act of Treason, and so by the Council were turned over to the Judges in criminal Causes; before whom, by a Jury or Assise, they were found guilty of Treason, for that act of declining his Royal Father and his Councils authority, all which we touched a little before. And that by claiming power to indict or dissolve the Assemblies of the Church, his Majesty does infringe the privilege and liberties of the Church, or do any act not consistent with the Oath which he took at his Coronation in that Kingdom, as is suggested in this fourth Reason, is most falsely and most seditiously affirmed, only for drawing away of the hearts of his good Subjects from him and his Government. The Act of Parliament for his Majesties sole power of indicting Assemblies here followeth.

A ratification of the Acts and Conclusions set down and agreed upon in the General Assembly of the Church, kept in Glasgow in the Month of June 1610. together with an explanation made by the Estates, of some of the Articles of the same.

CHAP. I.

THE Act is long, and hath many Branches, we only recite two: First, it confirms that *Act of the Assembly, which acknowledgeth the induction of the General Assembly of the Church, so appertain to his Majesty by the Prerogative of his Royal Crown:* And in the last Branch of the Act, *Our Royal Father and the three Estates do annul and rescind the 114. Act of the Parliament held in Anno 1592. which did give some power to the General Assembly, in some cases, of themselves to indict a new Assembly.*

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Their fifth Reason containeth an instance of an Assembly that would not stay a Proceſs which they had intended againſt Archbiſhop *Montgomery* the Archbiſhop of *Glaſgow*, nor yet diſſolve it ſelf, notwithstanding they were charged by his Maſties Royal Father and his Council with Letters of Horning and Rebellion to do one of the two: An excellent argument, Becauſe one Aſſembly did wickedly, and that which they could not do, they muſt do ſo likewiſe; as if many years hence, an Aſſembly being charged by one of his Maſties Succeſſors to diſſolve, ſhould not obey, but alledge for their defence, That this Aſſembly of *Glaſgow* would not diſſolve it ſelf, notwithstanding the Members thereof were charged by his Maſty to do ſo under pain of Treason; as if one unjuſt act could juſtifie another. But they ſhould do well to remember, that thoſe who did but offer to hold an Aſſembly at *Aberdene*, after it was diſcharged by his Royal Father, were firſt convented before his Council, and afterwards ſeverely puniſhed for it.

In their ſixth Reason there is no reaſon to be found.

In their ſeventh Reason they alledge, that they cannot riſe until they have found his Maſties Covenant and theirs to be all one. If by their Covenant they mean the Confeſſion of Faith and Covenant annexed, which was firſt enjoyned by his Maſties Royal Father, and twice afterwar'd by his Authority renewed, then they needed not to have ſit one hour longer for finding of that; for any man that can read may find the words and ſyllables of both, to be the very ſame without the leaſt alteration: But if by their Covenant they do underſtand their explications, additions, and głoſſes which deſtroy and corrupt the very text of the firſt Covenant, then certainly they ſhould not have riſen yet, nor could have riſen until the end of the World; for they will never find that theſe corrupt głoſſes, and apocryphal additions of their own, can conſiſt with his Maſties Royal Father his Confeſſion and Covenant, upon which they pretend they ground their own. Beſides, as ſhall preſently appear, they have diſcharged all men to ſubſcribe the Confeſſion and Covenant commanded by his Maſties authority; which may be ſuppoſed they would not have done if they had found them to be one; and therefore if they be men of their words, they ſhould have ſate ſtill and not riſen yet, becauſe as yet they have not found them to be one.

After their ſeven Reaſons, they add ſeven Proteſtations of the ſame piece with their Reaſons: The firſt, third, fourth, and fifth are not worth the reading, for they contain nothing but their uſual Tautologies, and taking the ſacred Name of God in vain. In the ſecond, and latter end of their ſixth Reason, there is ſo much boldneſs expreſſed, as could never have been expected from any men who had been acquainted with the names of King, Law, Authority, or Government: For who ever heard that Subjects durſt require their Kings Commiſſioner not to depart out of the Aſſembly, when he himſelf had pleaſed, although he had not been commanded by the King ſo to do? What greater command could they have laid upon the meaneſt Member of the Aſſembly than this, by which they affronted the Lord Commiſſioner, and in him his Maſty and his authority? But their citation of the Council, who ſigned the Proclamation, to appear as Offenders before his Maſty and the three Eſtates of Parliament, (which by the way may be wonder'd how they can

be made up without Biſhops) and to answer the Subſcription of the King's Proclamation as a crime, is a boldneſs that calleth more for admiration than refutation. They cite for this their doing the twelfth Act of the ſecond Parliament of his Maſties Royal Progenitor *James* the fourth. It may be wondered that in his days there ſhould be any warrant found for the allowing the Members of a General Aſſembly in any thing, in whoſe time a General Aſſembly had no exiſtence: But when the Act is lookt into, we may wonder much more; for there is not ſo much as any word to be read there, which can be drawn to any ſhow of conſtruction that way. That Act attributeth rather too much to Privy Counſellors, than diminiſheth them; ſo that upon peruſal of the Act, his Maſty was almoſt inforced to excuſe them, and lay the fault upon the Printer, who had miſtaken the citation, until he remembered that in their citations both of other Acts of Parliament, and many paſſages of holy Scripture, they are as far out as in this, hoping (belike) that the Reader would never peruſe them. That which they affirm about the middle of the ſixth Proteſtation, that the Prelats moved the Lord Commiſſioner to diſſolve the Aſſembly, his Maſty did aver upon his own knowledge to be far otherwiſe; for he did it by his ſpecial commandment, when none of the Prelats were near him to give him any ſuch advice. Their ſeventh Proteſtation is uſual with them, and therefore now not to be taken notice of.

And now when the Reader hath peruſed both his Maſties Proclamation for the diſſolving of that Aſſembly, and their Proteſtation againſt that Proclamation, and hath well weighed all the precedent firſt violences, and then juglings for their obtaining of ſuch perſons only to be elected, as ſhould be ſure to ſtand for ſuch concluſions as they had reſolved upon at their Tables at *Edenburgh*, we do leave it to the judgment of every man to conſider, whether his Maſty could any longer continue that Aſſembly without indangering his own Royal authority, which they intended to ſupplant, and betraying into the hands and power of their ſworn and combined enemies the Biſhops of that Church, who never declined, nor yet do decline the trial of a General Aſſembly lawfully conſtituted.

They did long call for a free General Aſſembly; his Maſty granted them one moſt free on his part, and in his intentions: But as they have handled and marred the matter, let God and the World judge whether the leaſt ſhadow or footſtep of freedom can in this Aſſembly of theirs be diſcerned by any man who hath not given a Bill of divorce both to his natural light, that is, his Underſtanding, and to his connatural light, that is, his Conſcience. It is a great error to conceive, that liberty and limitation are deſtructive one of another: For that freedom which admitteth no bounds and limits, is not liberty but licentiouſneſs: When therefore they talked of a free General Aſſembly, his Maſty took it as granted that they meant not an Aſſembly in which every one both in the neceſſary preparations preceding it, and in the neceſſary proceedings in it, might ſay and do what he would; but ſuch an Aſſembly, in which no man having intereſt, ſhould be barred either in the proceedings to it, or proceedings in it, of that liberty which the Laws or Cuſtoms of that Kingdom and Church in which that Aſſembly was convoked, do allow him: Which two bounds whoſoever ſhall tranſgreſs, though they pretend liberty and freedom, yet in all

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1638. all true intendment and construction, they must be taken either for professed and common, or clandestine Enemies to the freedom of that Assembly. What wresting and wringing was used in their last Protestation made at *Edenburgh*, to charge the King's gracious Proclamation with prelimitations, is known; and it was detested by many even of their own Covenant: Whether their courses, especially in the Elections of the Members of this Assembly, were not only prelimitations of it, but strong bars against the freedom of it, and such as did utterly destroy both the name and nature of a free Assembly, inducing upon it many and main nullities, besides the reasons contained in the Bishops Declinator, let these few particulars declare.

First, Whereas they refused so much as to hear from his Majesties Commissioner of any precedent Treaty for repairing and right ordering of things before the Assembly, alledging that it could not be a free Assembly where there was any consultation before, either concerning the chusers, or those to be chosen, or things to be discussed in the Assembly, but that all things must be treated of upon the place, else the Assembly must needs be prelimited. Whether they did not transgress in all these particulars, is easie to be discerned? For besides these instructions, which it may be are not come to his Majesties knowledge, his Majesty hath seen, and his Commissioner at the Assembly did produce four several papers of instructions, sent from them, who call themselves the Table, all of them containing prelimitations, and such as are repugnant not only to that which they called the freedom, but to that which is indeed the freedom of an Assembly. Two of these papers were such as they were content should be communicated to all their Associates, viz. that larger paper sent abroad to all Presbyteries, before or about the time of his Majesties indiction of the Assembly; and that lesser paper for their meeting first at *Edenburgh*, then at *Glasgow* some few days before the Assembly, and for chusing of Assessors: These two papers his Majesties Commissioner delivered not into the Assembly, because they did publicly avow them: But their other two papers of secret instructions were directed, not from the Table publicly, but under-hand, from such as were the prime Leaders of the rest. The one of them was delivered or sent only to one Minister of every Presbytery whom they trusted most, and was only to be communicated to such as he might be confident of, and was quite concealed from the rest of the Ministers, although Covenanters: The other paper was directed only to one Lay-Elder of every Presbytery, to be communicated as he should see cause, and to be quite concealed from all others. These are the two papers, which before you heard were delivered by the Lord Commissioner into the Assembly, and they did contain directions, which being followed (as they were) did banish all freedom from this Assembly; as doth appear before, by the reading of the papers themselves.

The second: Some Presbyteries did chuse their Commissioners before the Assembly was indicted, and therefore those Commissioners could not lawfully have any voice there.

The third: Neither Lay-elder, nor Minister chosen Commissioner by Lay-Elders, could have voice in the Assembly, because such Elections are not warranted by the Laws of that Church and Kingdom, nor by the practice and custom of either; for even that little which seemeth to make for their Lay-Elders, is only to be found in these

Books, which they call the Books of Discipline, which were penned by some private men, but never confirmed either by Act of Parliament, or Act of General Assembly; and therefore are of no Authority. And yet in these Elections they did transgress even the Rules of these Books, there being more Lay-elders who gave voices at every one of these Elections; then there were Ministers; contrary to their Books of Discipline, which require that the Lay-Elders should always be fewer. But say there were an Ecclesiastical Order or Law for these Lay-Elders, yet the interruption of that Order for above forty years, maketh so strong a prescription in that Kingdom against it, as that without a new reviving of that Law by some new Order from the General Assembly, it ought not again to have been put in practice: For if his Majesty should put in practice and take the penalties of many disused Laws, without new intimation of them, it would be thought by his Subjects hard usage.

The fourth: In many Presbyteries these Lay-Elders disagreed wholly in their Election from chusing those Ministers whom their own Fellow-Ministers did chuse, and carried it from them by number of voices, although in all reason the Ministers should best know the abilities and fitness of their Brethren.

The fifth: These men elected as Lay-Elders to have voices in this Assembly, could not be thought able and fit men, since they were never Elders before, all or most of them being newly chosen; some of them were chosen Lay-Elders the very day before the Election of the Commissioners to the Assembly, which sheweth plainly they were chosen only to serve their Associates turn.

The sixth: Since the institution of Lay-Elders by their own Principles is to watch over the manners of that people in that Parish wherein they live, how can any man be chosen a Ruling Elder from a Presbytery, who is not an inhabitant within any Parish of the Precinct of that Presbytery? And yet divers such, especially Noblemen, were chosen as Lay-Elders Commissioners from Presbyteries, within the Precincts whereof they never were inhabitants, against all sense or reason, even upon their own grounds.

The seventh: They can shew neither Law nor Practice for chusing Assessors to the Ruling-Elders, without whose consent they were not to give voice to any thing in the Assembly.

The eighth: The introducing of Lay-Elders is a burthen so grievous to the Ministers, as that many Presbyteries did protest and supplicate against them, and many Presbyteries (though they were in a manner forced to yield to it then) yet did protest against it for the time to come.

The ninth: In the Election of Commissioners to this Assembly, for the most part the fittest men were passed by, and few chosen who ever were Commissioners at any Assembly before: The reason was, they conceived that new men would not stand much for their own Liberty in an Assembly, of the Liberties whereof they were utterly ignorant: Besides, some were chosen who were under the censures of the Church, some who were deprived by the Church, some who had been expelled out of the University for reading to their Scholars against Monarchical Government, some who had been banished out of that Kingdom for their seditious Sermons and behaviour, some who for the like offences had been banished out of *Ireland*, some who were then ly-

Anno 1638. ing under the sentence of Excommunication, some who then had no ordination or imposition of hands, some who had lately been admitted to the Ministry, contrary to the standing Laws of that Church and Kingdom, and all of them were chosen by Lay-Elders. Now what a scandal were it to the Reformed Churches, to allow this to be an Assembly, which did consist of such Members, and so irregularly chosen?

The tenth: Divers Members of this Assembly, even whilst they sat there, were Rebels, and at the King's Horn; and so by the Laws of that Kingdom incapable of sitting as Judges in any Judicatory.

The eleventh: Three Oaths were to be taken by every Member of this Assembly: The Oath to the Confession of Faith lately renewed by his Majesties commandment, the Oath of Allegiance, the Oath of Supremacy, any of which three Oaths whosoever shall refuse, cannot sit as a Judge in any Court of that Kingdom; and yet none of all these three Oaths were sworn by any Member of this Assembly.

Besides these nullities of this Assembly, what indecency and rudeness was to be discerned in it? Not so much as the face of an Ecclesiastical Meeting to be seen, not a Gown worn by any Member of it, unless it were by one or two Ministers who lived in the Town, the appearance in a manner wholly Laical; amongst the Members of it were seven Earls, ten Lords, forty Gentlemen, one and fifty Burgesses; many of them in coloured Clothes, and Swords by their sides, all which did give voices not only in very high points of Controversie (which we are sure very many of them did not understand,) but also in the sentences of Excommunication pronounced against the Bishops and others: Nay and more, all things in the Assembly carried by the sway of these Lay-Elders, insomuch that all the time which the Lord Commissioner stayed in the Assembly, it was a very rare thing to hear a Minister speak; for there was one Earl and one Lord who spake far more than all the Ministers, except the Moderator. And in the Assembly every thing which was put to voices, was so clearly discerned to have been resolved amongst themselves before by a palpable pre-agreement, that it was very tedious to the Auditors to hear the List of the Assembly called, when the conclusion of it was known to them all, after the hearing of his voice, who was first called; which made some present to envy no Member of the Assembly but one, whose fortune it was ever to be first called, his name being set down first in the List; his name was Master *Alexander Carse* Minister of *Polwart*, one of the Commissioners from the Presbytery of *Dunee*: For if the Acts of this Assembly should come out in Latin, and be thought worth any thing in the Christian World, and withal it should be expressed that the List of the Members of it was called to the passing of every Act, and his name should ever be found to be the first, there was never a Father nor Bishop, whose name is in any of the Greek or Latin Councils, so famous as this man should now be: For he would be taken for a man of an unparallel'd judgment both for soundness and profoundness, from whose judgment not one of the whole Assembly (except one, and that but once) did ever swerve in the least particular; for as he begun, all the rest did constantly follow.

All these things being well considered, what hope could be conceived of any good, either for the Church or Kingdom, from an Assembly thus miserably constituted? And therefore his Majesty resolved to dissolve it, as knowing that it would make that Church and Kingdom ridiculous to the whole World, especially to the Adversaries of the Protestant Religion; that it would both grieve and scandalize all the other Reformed Churches, and make his Justice to be universally traduced, if he should have suffered the Bishops his Subjects, in that which concerned their Callings, their Reputations and Fortunes, to be judged by their sworn Enemies thus prepared against them.

After the Lord Commissioners departure from *Glasgow*, they still continued their Assembly notwithstanding his Majesties dissolving it by Proclamation under pain of Treason: And then immediately the Earl of *Argyle*, who indeed all this while had been the heart of their Covenant, begun to declare himself openly to be the head of it; for he presently adjoyned himself to them, sat continually with them in the Assembly, although he were no Member of it, nor had suffrage there, but sat only as their chief Director and Countenancer, and indeed like his Majesties Commissioner.

It was not to be expected that after his Majesty had dissolved the Assembly, they would observe any greater moderation in their proceedings than they had done before: Nor did they indeed; for all things passed in a huddling confusion, nothing argued publickly, but every particular referred to some few Committees, who were the most rigidest they could pick out of the whole pack. What they resolved on, was propounded presently to the Assembly, swallowed down without further discussing; Mr. *Alexander Carse* was called up, what he said first all the rest said the same. In one hour they declared six General Assemblies to be null and void, though two of them were then and are still in force by several Acts of Parliament, and divers Acts of the other four are ratified and confirmed by Parliament. In another hour they condemned, upon the report of a few Ministers, all the *Arminian* Tenets (as they call them) and, under that name, many things received by all the Reformed Churches: A strange way, to condemn the *Arminian* Tenets without defining what those Tenets were. In another hour, they deprived the Archbishop of *St. Andrews*, the Bishops of *Galloway* and *Brachen*, and so at other times all the rest of the Bishops, many of whom they likewise excommunicated: Where it is observable, that in the printed Acts of this their (now after his Majesties dissolving of it) pretended Assembly, the Acts of the depositions of the Bishops bear no such odious crimes, as they had made the people believe they were guilty of in that infamous Libel which they caused to be read in the Pulpits against them; for proof whereof we have caused one of their sentences of deposition to be here inserted, whereby it may be seen that not so much as one witness was examined, nor offered to be produced against them for any one of those fearful crimes with which they were slandered in the Libel, but were only deposed for their obedience to Acts of Parliaments and General Assemblies.

1638.
Sentence of Deposition against
Mr. John Guthrie pretended Bishop of Murray; Mr. John Grahame pretended Bishop of Orkney; Mr. James Fairly pretended Bishop of Lismoir; Mr. Neil Campbell pretended Bishop of Isles.

THe General Assembly, having heard the Libels and Complaints given in against the foresaid pretended Bishops, to the Presbytery of Edinburgh, and sundry Presbyteries within their Diocese, and by the saids Presbyteries referred to this Assembly to be tried, the saids pretended Bishops being lawfully cited, oftentimes called, and not compeering, proceeded to the cognition of the Complaints and Libels against them; and finding them guilty of the breach of the cautions agreed upon in the Assembly at Montrose, Anno 1600. for restricting of the Minister voter in Parliament, from incroaching upon the Liberties and Jurisdictions of this Kirk, which was set down with certification of deposition, infamy, and excommunication; and especially for receiving Consecration to the Office of Episcopacy, condemned by the Confession of Faith, and Acts of this Kirk, as having no warrant nor fundament in the Word of God; and by vertue of this usurped power, and power of the High Commission, pressing the Kirk with novations in the worship of God; and for their refusal to underlye the trial of the reigning slander of sundry other gross transgressions and offences laid to their charge: Therefore the Assembly, moved with zeal to the glory of God, and purging of this Kirk, ordains the saids pretended Bishops to be deposed, and by these presents doth depose them, not only of the Office of Commissioner to vote in Parliament, Council, or convention in name of the Kirk; but also of all functions, whether of pretended Episcopal or Ministerial calling: And likewise in case they acknowledge not this Assembly, reverence not the Constitutions thereof, and obey not the sentence, and make not their repentance, conform to the order prescribed by this Assembly, ordains them to be excommunicated, and declared to be of these whom Christ commandeth to be holden by all and every one of the faithful as Ethnicks and Publicans: And the sentence of Excommunication to be pronounced upon their refusal, in the Kirks appointed, by any of these who are particularly named to have the charge of trying their repentance or impenitency, and that the execution of this sentence be intimate in all the Kirks within this Realm, by the Pastors of every particular Congregation, as they will be answerable to their Presbyteries and Synods, or the next General Assembly, in case of negligence of the Presbyteries and Synods.

IN another hour they declared Episcopal Government to be inconsistent with the Laws of that Church and Kingdom, and so abolished it for ever, though it did then, and doth still stand confirmed by many Acts both of Parliaments and Assemblies: They deprived the Ministers, whose hands were at the Protestations against Lay-Elders and Elections made by them: Some Ministers they deprived for *Arminianism*; a course never heard of in any place where any rule of Justice was observed, that a Mini-

ster should be deprived for holding any Tenet which is not against the Doctrine of that Church wherein he liveth, and that before it be prohibited and condemned by that Church: Now there is nothing in the Confession of that Church against these Tenets. At the Synod of *Dort* no man was censured for holding any Doctrine against the conclusions of it, before the Synod had determined against them, nor was he to be censured for any thing he had preached or printed, before that Synod did tender unto him their Canons to be subscribed: But at *Glasgow* no such course was taken, but Ministers were deprived without so much as ever being once asked the question, whether they held any such opinion; or if they did, whether they would now recall their opinions, and conform their Judgments to the judgment of the Assembly in these points. Some of their Ministers being asked the question, With what Conscience or Justice they could deprive their Brethren for holding opinions not condemned by that Church, who perhaps after their Church had condemned them, out of their love to the peace of their Church would have forborn any further meddling with them? They returned this weak answer, That these Tenets were condemned by that Church under the general name of Popery: But they could make no answer when it was told them, That certainly these Tenets could not be counted Popish, concerning which, or the chief of which, as learned Papists as any in the World, viz. the Dominicans and Jesuits did differ as much as the Protestants did; and that those who do adhere to the *Augustan* Confession, did hold that side of these Tenets which the *Arminians* do hold; and yet they were very far from being Papists, being the first Protestants; and therefore it was against all sense to condemn that for Popery, which was held by many Protestant Churches, and rejected by many learned Papists. But all would not serve; they would deprive Ministers for holding them, before they themselves had condemned them. In the deprivation of one of these Ministers there did fall out a memorable passage, which was this: The Moderator of the Assembly, after the sentence of a Ministers deprivation, was pleased to move this learned question to the Assembly, Whether, if this deprived Minister should baptize a Child, the Child must not be baptized again? But he was presently taken off by one of his Brethren, who it seemeth was much ashamed of such a question, and told him, That they did never re-baptize those who had been baptized by Popish Priests; and so all further talk of it was hushed. What conclusions were to be expected from an Assembly whose Moderator moved such an ignorant and gross question, is easily to be conjectured.

And the weakness of their Conclusions would easily appear, if all their several Acts were printed; but because the Reader shall be able to make some judgment of them, We have here caused an Index of the Titles of their Acts to be inserted, by which may be seen what they hold.

Anno

1638.

*An Index of the principal Acts of the
Assembly at Glasgow, 1638.*

Sundry Protestations betwixt the Commissioner his Grace and the Members of the Assembly.

Master *Archibald Johnstone* his admission to be Clerk, and his production of the Registers of the Church, which were preserved by God's wonderful providence.

An Act disallowing any private conference, and constant assessor to the Moderator.

The Act ratifying the authentickness of the Registers, with the Reasons thereof.

The Act registrating his Majesties will, given in by his Commissioner.

The Act bearing the Assemblies Protestation against the dissolution thereof.

The Act deposing Master *David Michel* Minister at *Edinburgh*.

The Act deposing Master *Alexander Glaidstounes* Minister at *Saint Andrews*.

The Act annulling the six late Assemblies holden at *Linlithgow* 1606, and 1608, at *Glasgow* 1610, at *Aberdene*, 1616, at *Saint Andrews*, 1617, at *Perth*, 1618, with the Reasons of the nullity of every one of them.

The Act declaring the nullity of the Oath exacted by Prelats from Intrants [id est, Such as are instituted to Benefices.]

The Act deposing Master *John Creichtone* Minister at *Paisley*.

The Act condemning the Service Book.

The Act condemning the Book of Canons.

The Act condemning the Book of Ordination.

The Act condemning the High Commission.

The sentence of deposition and excommunication of the sometime pretended Bishops of *Saint Andrews*, *Glasgow*, *Rosse*, *Galloway*, *Brichen*, *Edinburgh*, *Dumblane*, *Aberdene*.

The sentence of deposition against the sometime pretended Bishops of *Murray*, *Isles*, *Argyle*, *Orkney*, *Cathness*, and *Dunkell*.

The large Act clearing the meaning of the Confession of Faith made Anno 1580. as abjuring and removing Episcopacy.

The Act declaring the five Articles to have been abjured and to be removed.

Sentence of deposition against Master *Thomas Forrester*.

Sentence of deposition against Master *William Ahannan*.

Sentence of deposition against Master *Robert Hamilton* Minister at *Glasford*.

Sentence of deposition against Master *Thomas Muckney*.

Act anent the Presbytery of *Auchterardours* present seat at *Aberuskene* for the time.

A restoring Presbyteries, provincial and general Assemblies to their constitution, of Ministers and Elders, and their power and jurisdiction contained in the Book of Policy.

Act erecting Presbyteries in *Argyle*.

Act referring to the Presbyteries the consideration of their Meetings.

Act concerning the Visitation of particular Kirks, Schools, and Colledges.

Act against Non-residents.

Act concerning the planting of Schools in the Country.

Act concerning the power of Presbyteries admission of Ministers, and choosing of their Moderators.

Reference to the Presbyteries anent the competency of Parochioners and Presbyteries.

Act concerning the entry and conversation of Ministers, ratification of the Act 1598.

Act of reference to Presbyteries concerning the defraying of the expences of the Commissioners.

Act of reference concerning repressing of Popery and Superstition.

Act of reference to the Presbyteries concerning the more frequent celebration of the Lords Supper.

Act of reference concerning Markets on *Monday* and *Saturday* within Burrows.

Act against the profanation of the Sabbath for want of afternoons Exercise.

Act against the frequenting the company of excommunicate persons.

Act setting down the Roll of Provincial Assemblies, and some orders thereanent.

Act of reference against milnes and salt pans.

Act anent the order of receiving the repentance of any penitent Prelats.

Act anent the excommunicating of the Ministers deposed, who do not obey their sentence.

Act against those who speak or write against the Covenant, this Assembly and Constitutions thereof.

Act of reference anent the voicing in the Kirk Sessions.

Act condemning || Chapters, Archdeacons, preaching Deacons, and such like Popist trash.

Act against the obtruding of Pastors upon People.

Act against marriage without Proclamation of Banns.

Act against funeral Sermons.

Act anent the trial of expectants; [that is, such as are not possessed of any Benefice.]

Act anent the admission of Master *Archibald Johnstone* to be Advocate, and Master *Rob. Dalgleish* to be Agent for the Kirk.

Act anent the transplantation of Master *Alexander Henderson* from *Lenchairs* to *Edinburgh*.

Act of reference to the Presbyteries and Provincial Assemblies, to take order with Salmon-fishing.

Act of transporting Master *Andro Cant* from *Pitligo* to *Newbottle*.

Act condemning all Civil Offices in the persons of Ministers separate to the Gospel, as, to be Justices of Peace, sit in Session or Council, to vote or ride in Parliament.

Act concerning a Commission for complaints about *Edinburgh*.

Another Commission to sit at *Jedburgh*.

Another Commission to sit at *Irwin*.

Another Commission to sit at *Dundee*.

Another Commission to sit at the *Channeries* and *Forres*.

Another Commission to sit at *Kircubright*.

A Commission for visitation of the Colledge of *Aberdene*.

A Commission for visitation of the Colledge of *Glasgow*.

Act against Salmon fishing, and going of milnes on the Sabbath day.

Act

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Act appointing the Commissioners to attend the Parliament, and Articles which they are to represent in name of the Kirk to the Estates.

Act ordaining the Commissioners from Presbyteries and Burrows presently to get under the Clerks hand an Index of the Acts, and hereafter a full extract of them, which they are bound to take back from the Assembly to the Presbyteries and Burrows.

Act ordaining the Presbyters to intimate in their several Pulpits the Assemblies explanation of the Confession of Faith, the Act against Episcopacy, the Act against the five Articles, the Act against the Service-Book, Book of Canons, Book of Ordination, the High Commission, the Acts of Excommunication and Deposition against some Prelats, and Act of deposition only against some others of them.

* A pretty Act, that we must print nothing concerning Ecclesiastical Policy and Government, unless Johnstons will give us leave. † A most traitorous Act; for the very terms and words of it contain High Treason.

* An Act discharging Printers to print any thing either anent the Acts or the proceedings of this Assembly, or any Treatise which concerns the Kirk, without a warrant under Master Archibald Johnstons hand, as Clerk to the Assembly, and Proctor for the Kirk, and that under the pain of all Ecclesiastical censure to be intimate with other Acts.

Act ordaining the Covenant subscribed in February now to be subscribed with the Assemblies Declaration.

† Act discharging all subscription to the Covenant subscribed by his Majesties Commissioner and the Lords of Council.

Act ordaining all Presbyteries to keep a solemn thanksgiving in all Parishes, for Gods blessing, and good success in this Assembly, upon the first convenient Sabbath.

Act against those who are malicious against this Church, decliners or disobeyers of the Acts of this Assembly.

Act warranting the Moderator and Clerk to give out Summons upon relevant Complaints, against Parties to compeer before the next Assembly.

Act renewing the priviledges of yearly General Assemblies and oftner, *pro ne nata*, and appointing the third Wednesday in July next in Edinburgh for the next General Assembly.

Act that none be chosen ruling Elders to sit in Presbyteries provincial, or General Assemblies, but those who subscribe the Covenant, as it is now declared, and acknowledges the constitution of this Assembly.

|| Act to transport Master Rob. Blair from Air to St. Andrews.

Act for representing to the Parliament the necessity of the standing of the Procurators place for the Kirk.

There are many less principal Acts omitted, so the Index is not fully perfect.

A. Johnstoun.

[This Blair is he who was expelled the University of Glasgow by the Professors there, many years since, for teaching his Scholars, in his Lectures upon Aristotle, that Monarchical Government was unlawful. Now for this man to be made by them Professor of Divinity in the prime University of that Kingdom, whether his Majesty could be ought to indure it, we leave to the Reader to judge.]

BY these it is easie to be discerned what conclusions, tending to Sedition and Rebellion, and the overthrow of the Laws both of Church and Kingdom, were agreed upon; what false, nay and what foolish positions there were established; For instance, had it not been enough to have removed Episcopal Government, the five Articles

of Perth, and the other pretended innovations, if they had been furnished with lawful power so to do? No, but they will have it concluded, that all these were abjured in the Confession of Faith when it was first sworn; which no reasonable man can believe, and which they themselves did allow in many not to abjure when they first swore their Covenant, and to which many Ministers, Members of this Assembly, had sworn at their admission into their Benefices, according to the Acts of Parliament, and Acts of General Assembly provided in that case; And so by swearing that these things were abjured in the first Confession, they make them profess that they had perjured themselves in taking the other Oath of their Conformity to these pretended innovations: Upon which Rock one Minister of the Assembly finding himself to be set fast, when that Act was voiced unto which declared Episcopal Government, and the five Articles of Perth to have been abjured formerly, and so to be for ever removed: Mr. Robert Baylie voiced thus, *Removed but not abjured*, to the great scandal of the rest of the Assembly, he being reputed for one of the ablest men in it: But the Act was drawn up in these terms, *Abjured and removed*, by the voices of all the Assembly, except his alone, who, knowing that all the Acts were particularly to be read and voiced to again, had drawn up a Supplication to the Assembly in the name of those Ministers, who before had conformed themselves to the five Articles of Perth, for a mitigation of that Act, at least that it might receive a publick hearing and arguing; which the rest having knowledge of, when that Act came to be read and voiced to again, one of the Lords, who was a Lay-Elder, perswaded with the Clerk, that in calling the List this Minister his name should be omitted, and so the Act passed without so much as asking of his voice, who had his supplication ready when he should be called upon by his name, but perceiving that the omission of his name was purposely done, he durst stir no more in it, for fear of publick envy, and some private mischief which might be done unto him; And yet you must think this was a most godly and free Assembly.

Towards the end of their Assembly, they divided themselves into several Committees, which should after their rising see all their Acts put in execution; a thing never heard of before in that Church. The Moderator concluded with thanks to God for their good success, and then to the Nobility and the rest for their great pains, and last of all with a Speech to the Earl of Argyll, giving him thanks for his presence and Council, by which they had been so much strengthened and comforted: The Lord Argyll answered him with a long Speech; First, intreating all present not to misconstrue his too late declaring himself for them, protesting that he was alwaies set their way, but had delayed to profess it so long as he found his close carriage might be advantageous to their cause; but now of late, matters had come to such a height, that he found it behoved him to adjoin himself openly to their Society, except he should prove a Knave, (this was, as we are informed, his own word): Then he went on and exhorted them all to Unity, wishing all, but especially the Ruling-Elders and Ministers, to keep a good correspondence; intreating all the Ministers to consider what had brought the Bishops to ruine, *viz.* Pride and Avarice, and therefore willed them to shun these two Rocks if they would escape Shipwrack.

The

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The Lord who delivered this Speech, delivered indeed the true meaning and sense of the Covenanters: For it was neither the Bishops bringing in the pretended innovations, nor their suspecting them to be guilty of the odious crimes expressed against them in their Libel, which incensed this and the other Covenanting-Lords against the Bishops, but their fear of their daily rising in dignity and place, which in this Speech is called Pride in them; and their fear that the Bishops might recover out of their hands by Law some of the Church-Lands belonging to their Churches, which in this Speech is called Avarice in the Bishops. In the mean time, whether it be not pride in these Lords to envy any mans rising in the Church and Common-wealth, according to that worth and sufficiency which his Prince shall find in him, and whether it be not Avarice in them, not to endure that other men should legally seek to recover their own from them, shall be left to the judgment of the indifferent Reader. But for this revolted Lord who made this Speech, and professeth in it, That if he had now not adjoined himself to them, he should have proved a Knave, his Majesty gave this Testimony of him, That at his last being here in England (at which time his Majesty had good reason to mis-doubt him) he gave his Majesty assurance that he would test fully satisfied, if his Majesty would perform those things which he hath made good by his last gracious Declaration (in which he hath granted more than he did at that time promise) so that the King had little reason to expect his adjoining himself to them, who had given him so great assurance to the contrary, besides that assurance which he gave to the Lord Commissioner when he was in Scotland. And now if by his own Confession he carried things closely for the Covenanters advantage, being then one of the Lords of the secret Council, and that in the end he must openly join with them or be a Knave; what he hath proved himself to be by this close and false carriage, let the World judge.

The Lord Commissioner, after he had by his Majesties Commandment dissolved the Assembly, hearing that they who remained still at Glasgow under the name of an Assembly, went about to put such a sense upon that Confession of Faith and Band annexed, which his Majesty lately had commanded to be renewed, as agreed best with those corrupt glosses and false interpretations, which by their own Covenant they had put upon it, as if Episcopal Government had now by the King's Commandment been abjured; and so did begin to magnifie his Majesties Covenant, and resolved to declare it to be all one with their own, though they had in their Pulpits called it the depth of Satan, and had assured their followers, that it could not be sworn unto without perjury, and that even after that Act of Council, upon which they did ground their interpretation, he having perused the King's instructions which required him not to suffer the Confession of Faith to be sworn in any sense, which might not consist with the Laws of that Church and Kingdom then in force; thought it convenient to Print a Declaration of his Majesties clear meaning and intention in requiring that Oath; which, so soon as it was published, made them quite change their minds, and prohibit the subscription to his Majesties Covenant, which they had immediately before so much extolled: The Lord Commissioners Declaration is here re-printed, together with their Printed answer to it, because (saith his Majesty) *We are confident both by Our own Judgment, and the Judgment of others who have perused them both, that the*

five Reasons contained in Our Commissioners Declaration stand yet unshaken for any thing delivered in their answer unto them; and that as strongly as the Divines of Aberdene's first Queries, Replies and Duplies do. Our Commissioners explanation follows. Car. 12.

An Explanation of the Oath and Covenant.

Whereas some have given out that by the Act of Council, which explaineth the Confession of Faith lately commanded to be sworn by his Majesty, to be understood of the Confession of Faith, as it was then professed and received, when it was made, and that in that Confession, defence both of the Doctrine and Discipline then established is sworn, at which time Episcopal Government being (as they say) abolished, it must needs follow, that the same Government is by this late Oath abjured.

And understanding that even amongst those who continue together still at Glasgow, under the name of a pretended and unlawful General Assembly, this Objection is held to be of some moment, and used by them to the great disturbance of the peace of this Church and Kingdom, and to the great disquieting of the minds of such his Majesties good Subjects as have taken the said Oath, and yet never meant nor do mean to abjure Episcopal Government; and to perswade others, that if they shall take the same Oath thus explained by the said Act of Council, by so doing they must likewise abjure the said Government:

We James Marquess of Hamilton, his Majesties High Commissioner, wondring that any such scrupulous mis-construction should be made of his Majesties gracious and pious intentions, and being desirous to remove all doubts from the minds of his Majesties good Subjects, and to keep them from being poisoned by such as by forced and forged inferences would make them believe, that they had actually by taking that Oath sworn that which neither virtually nor verily they have sworn, or ever intended to swear, or was required by authority to be sworn by them, either directly or indirectly; considering that all Oathes must be taken according to the mind, intention, and commandment of that authority which exacteth the Oath; and that we, by Special Commandment from his Sacred Majesty, commanded the said Oath to be administered, we do hereby freely and ingenuously profess and declare our mind and meaning herein, as we have constantly heretofore done since our coming into this Kingdom about this employment, viz. That by any such words or act of Council we never meant or intended that Episcopal Government should be abjured, nor any thing else which was established by Acts of Parliament, or Acts of the Church of this Kingdom which are now in force, and were so at the time of the taking of the said Oath.

Nor indeed could we have any other intention or meaning, being clearly warranted and expressly commanded by his Majesties instructions, to exact the said Oath, and take order that it should be sworn throughout the Kingdom in that fair and lawful sense, and none other: Neither in this point did we deliver our own words, or his Majesties mind ambiguously or doubtfully, so as any other sense, to our thinking, could be picked or wrung out of either the one or the other; for

we

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1638. we do attest the Lords of the Council, whether we did not to many, or all of them upon several occasions in conference with them ever since our coming into this Kingdom, constantly declare unto them, that his Majesties resolution was not to suffer Episcopal Government to be abolished: We attest all the Lords of Session, whether before our tendering of that Oath to them, or their Lordships taking of it, we did not fully and freely declare to them, that his Majesties mind in commanding us to see this Oath taken, & our own mind in requiring them to take it, was only to settle and secure the Religion and Faith professed in this Kingdom, but was not to be extended to the abjuring of Episcopal Government, or any other thing now in force by the Laws of this Church and State at the time of administering this Oath, which their Lordships, being the reverend and learned Judges of the Laws, knew well could not be abjured; after which perspicuous predeclaration of our mind, their Lordships undoubtedly in that same sense and none other took the said Oath?

And now, good Reader, having heard his Majesties mind and intention, and in pursuance of them the mind of his Majesties High Commissioner concerning this Oath, the reasons to repel the former Objection seem to be needless (the known mind of the Supreme Magistrate who urgeth an Oath, being to be taken for the undoubted sense of it;) yet forasmuch as that Objection hath of late been mainly urged for alienating the minds of many of his Majesties good Subjects, and well affected to that Government, from adhering unto it, be pleased to know, that the former Objection hath neither show nor force of reason in it, and that by the said Oath and that explanation set down in the Act of Council, Episcopal Government neither was, nor possibly could be, abjured, and that for many reasons, but especially these five, which we having seen and approved, have caused to be here inserted, and leave them to thine impartial consideration.

First, God forbid it should be imagined that his Majesty should command his Subjects to take an Oath which in it self is absolutely unlawful; but for a man to swear against a thing which is established by the Laws of Church and Kingdom in which he liveth (unless that thing be repugnant to the Law of God) is absolutely unlawful, until such time as that Kingdom and Church do first repeal these Laws; and therefore Episcopal Government, not being repugnant to the Law of God, nay, being consonant unto it, as being of Apostolical institution (which shall be demonstrated, if any man please to argue it) and standing fully established, both by Acts of Parliament, and Acts of General Assembly at the time when this Oath was administered; to abjure it before these Acts be repealed, is absolutely unlawful, and against the Word of God: and it is to be hoped no man will conceive that his Majesty meant to command a thing absolutely unlawful. And if it should be said, as it is said by some, (who not being able to avoid the force of reason, do betake themselves to pitiful shifts and evasions) that these Acts of Parliament and Assembly, establishing Episcopal Government, were unlawfully and unduly obtained; certainly if they have any reasons for this their bold assertion, which is of a more dangerous consequence than that it ought to be endured in any well settled Church or Commonwealth; these reasons may be presented lawfully to these Judicatories to entreat them to re-

duce the saids Acts, if there shall be strength and validity found in them: But to hold, that until such time as these Judicatories shall repeal the saids Laws, they either ought to be, or can possibly be abjured, is a wicked position, and destructive of the very foundation of Justice both in Church and Commonwealth.

Secondly, It cannot be imagined that this Oath should oblige the now takers of it farther than it did oblige the takers of it at first: for Doctrine and Points of Faith it did oblige them then, and so doth it us now, perpetually, because these Points in themselves are perpetual, immutable, and eternal: But for Points of Discipline and Government, and policy of the Church, that Oath could bind the first takers of it no longer than that Discipline and Government should stand in force by the Laws of this Church and Kingdom, which our Church in her positive Confession of Faith Printed amongst the Acts of Parliament, *Artic. 20, 21.* declareth to be alterable at the will of the Church it self, and so repealable by succeeding Acts, if the Church shall see cause. When a King at his Coronation taketh an Oath to Rule according to the Laws of his Kingdom, or a Judge at his admission sweareth to give judgment according to these Laws, the meaning of their Oaths cannot be that they shall Rule or Judge according to them longer than they continue to be Laws: but if any of them shall come afterwards to be lawfully repealed, both King and Judge are free from Ruling and Judging according to such of them as are thus lawfully repealed, notwithstanding their Original Oath. Since therefore if the first takers of that Oath were now alive, they could not be said to have abjured Episcopal Government, which hath been since established by Laws of this Church and Kingdom, especially considering that this Church in her Confession holdeth Church Government to be alterable at the will of the Church; certainly we repeating but their Oath, cannot be said to abjure that Government now, more than they could be said to do it if they were now alive and repeating the same Oath.

Thirdly, How can it be thought that the very Act of his Majesties commanding this Oath should make Episcopal Government to be abjured by it, more than the Covenanters requiring it of their associates, in both Covenants the words and Syllables of the Confession of Faith being the same? Now it is well known that many were brought in to subscribe their Covenant, by the solemn protestations of the contrivers and urgers of it, that they might subscribe it without abjuring of Episcopacy, and other such things as were established by Law, since the time that this Oath was first invented and made; and the three Ministers in their first answers to the *Aberdene Queries* have fully and clearly expressed themselves to that sense, holding these things for the present not to be abjured, but only referred to the trial of a free General Assembly: And likewise the adherers to the last Protestation against his Majesties Proclamation, bearing date the ninth of September, in their ninth Reason against the subscription urged by his Majesty do plainly aver, that this Oath urged by his Majesty doth oblige the takers of it, *To maintain Perth Articles, and so maintain Episcopacy.* Why therefore some men swearing the same words and syllables should have their words taken to another sense, and be thought to abjure Episcopal Government, more than others who have taken the same Oath in the same words, must needs

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needs pails the capacity of an ordinary understanding.

Fourthly, It is a received Maxim, and it cannot be denied, but that Oathes Ministered unto us must either be refused, or else taken according to the known mind, professed intention, and express command of Authority urging the same: A proposition, not only received in all Schools, but positively set down by the adherers to the said protestation *verbis in the place above cited*. But it is notoriously known even unto those who subscribed the Confession of Faith by his Majesties commandment, that his Majesty not only in his Kingdoms of England, and Ireland, is a maintainer and upholder of Episcopal Government according to the Laws of the said Churches and Kingdoms, but that likewise he is a Defender, and intends to continue a Defender of the same Government in his Kingdom of Scotland, both before the time, and at the time when he urged this Oath: as is evident by that which is in my Lord Commissi-
 oner his Preface, both concerning his Majesties instructions to his Grace, and his Graces expressing his Majesties mind, both to the Lords of Council, and to the Lords of Session, and the same likewise is plainly expressed and acknowledged by the adherers to the said Protestation in the place above cited: their words being these; *And it is most manifest that his Majesties mind, intention, and commandment, is no other but that the Confession be sworn, for the maintenance of Religion, as it is already or presently professed (these two being co-incident altogether one and the same, not only in our common form of speaking, but in all his Majesties Proclamations) and thus as it includeth, and continueth within the compass thereof, the foresaid novations and Episcopacy, which under that name were also ratified in the first Parliament holden by his Majesty.* From whence it is plain, that Episcopacy not being taken away or suspended by any of his Majesties Declarations, as these other things were which they call novations; it must needs both in deed, and in the judgment of the said Protesters no waies be intended by his Majesty to be abjured by the said Oath. Now both the major and that part of the minor which concerneth Episcopal Government in the Church of Scotland, being clearly acknowledged by the Protesters; and the other part of the minor concerning that Government in his other two Kingdoms being notoriously known, not only to them, but to all others who know his Majesty, how it can be imagined that his Majesty by that Oath should command Episcopacy to be abjured, or how could any one to whom his Majesties mind concerning Episcopal Government was known, honestly or safely abjure it, let it be left to the whole World to judge; especially considering that the Protesters themselves in that place above cited, by a dilemma, which we leave to themselves to answer, have averred, that when that Act of Council should come out, yet that it could not be inferred from thence that any such thing was abjured.

Fifthly, and lastly, If the explanation in that Act of Council be taken in that not only rigid but unreasonable and senseless sense which they urge, yet they can never make it appear, that Episcopal Government at the first time of the administering of that Oath was abolished; The very words of that Confession of Faith, immediately after the beginning of it, being these, *Received, believed, defended by many and sundry notable Kirks and Realms, in chiefly by the Kirk of Scotland, the King's Majesty and three Estates of this Realm, as God's Eternal*

truth and only ground of our Salvation, &c. By which it is evident, that the subscription to this Confession of Faith is to be urged in no other sense than as it was then believed and received by the King's Majesty, and the three Estates of this Realm at that time in being; and it is well known, that at that time Bishops, Abbots and Priors made up a third Estate of this Realm, which gave approbation to this Confession of Faith: and therefore it is not to be conceived, that this third Estate did then abjure Episcopacy, or that Episcopacy was at the first swearing of that Confession abolished. But say that at that time it was abolished by Acts of General Assembly, yet was it not so by any Act of Parliament, nay by many Acts of Parliament it was in force, because none of them was repealed; some whereof are annexed in the sheet immediately after these reasons, which we pray the Reader carefully to peruse and ponder: and at the very time of the taking of this Oath, and after, Bishops, whose names are well known, were in being. Now it is to be hoped that in a Monarchy, or any other well constituted Republick, that damnable Jesuitical Position shall never take place, That what is once enacted by a Monarch and his three Estates in Parliament, shall ever be held repealed or repealable by any Ecclesiastical national Synod.

By all which it is evident, that the explanation of that Act of Council so groundlessly urged, can induce no man to imagine that by the Confession of Faith lately sworn by his Majesties commandment, Episcopal Government, which then did, and yet doth stand established by Acts of this Church and Kingdom, either was, or possibly could be abjured.

And having now (good Reader) heard his Majesties mind in his instructions to us, our mind in requiring in his Majesties name this Oath to be taken, and these few reasons of many, which do evidently evince the inconsequence of that sense, which without any show of inference is put upon it by those who would go on in making men still believe, that all which they do or say is grounded upon Authority, though they themselves do well know the contrary; we suppose that all they who have taken this Oath will rest satisfied that they have not abjured Episcopal Government; and that they who shall take it, will take it in no other sense.

Which timely warning of ours, we are the more willing to give, because we are given to understand, that even they who were wont to call the takers of this Oath (notwithstanding of that explanation by Act of Council) perjured and damned persons, and in their Pulpits called the urging of it the depth of Satan, do now mean to take it themselves, and urge others to take it in that sense which they make men believe (though wrongfully) that Act of Council makes advantageous to their ends.

But we do in his Majesties name require, that none presume to take the said Oath, unless they be required so to do by such as shall have lawful authority from his Majesty to administer it unto them; being confident, that none either will or can take the said Oath or any other Oath in any sense, which may not consist with Episcopal Government, having his Majesties sense, and so the sense of all lawful authority fully explained to them.

HAMILTON.

That

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THat Episcopal Jurisdiction was in force by Acts of Parliament, and no waies abolished nor suppressed in the year 1580. nor at the time of the Reformation of Religion within the Realm of Scotland, doth evidently appear by the Acts of Parliament after mentioned.

First, By the Parliament 1567. cap. 2. whereby at the time of Reformation the Popes Authority was abolished, it is enacted by the said Act, *That no Bishop, nor other Prelate in this Realm, use any Jurisdiction in time coming by the Bishop of Romes Authority.* And by the third Act of the same Parliament, whereby it is declared, *That all Acts not agreeing with Gods Word, and contrary to the Confession of Faith approved by the Estates in that Parliament, to have no effect nor strength in time to come.* Whereby it is evident, that it was not the Reformers intention to suppress Episcopacy, but that Bishops should not use any Jurisdiction by the Bishop of Rome his Authority; and seeing they did allow Episcopacy to continue in the Church, that they did not esteem the same contrary to Gods Word and Confession aforesaid: as appears more clearly by the sixth Act of the said Parliament, which is ratified in the Parliament 1579. cap. 68. whereby it is declared, *That the Ministers of the blessed Evangel of Jesus Christ, whom God of his mercy hath now raised up amongst us, or hereafter shall raise, agreeing with them that now live in Doctrine or Administration of the Sacraments, and the people of this Realm that profess Christ as he is now offered in his Evangel, and do communicate with the holy Sacraments, as in the Reformed Kirk of this Realm they are publicly administrate, according to the Confession of the Faith, to be the only true and holy Kirk of Jesus Christ within this Realm; Without any exception by reason of Policy and Discipline, declaring only such as either gain-say the Word of the Evangel according to the heads of the said Confession, or refuse the participation of the holy Sacraments as they are now ministrated, to be no members of the said Kirk so long as they keep themselves so divided from the Society of Christ's body.* Whereby it is manifest, that it was not the said Reformers mind to exclude any from that Society by reason of Discipline, and that they did not at that time innovate or change any thing in that Policy they found in the said Kirk before the Reformation.

This is likewise evident by the Oath to be Ministred to the King at his Coronation, by the eighth Act of the said Parliament, whereby he is to swear *to maintain the true Religion of Jesus Christ, the Preaching of his Holy Word, and due and Right Ministration of the Sacraments now received and Preached within this Realm, and shall abolish and gain-stand all false Religion contrary to the same; without swearing to any innovation of Policy and Discipline of the Kirk.*

Secondly, It doth evidently appear by these subsequent Acts of Parliament, that by the municipal Law of this Realm Archbishops and Bishops was not only allowed in the Kirk, but also had Jurisdiction and Authority to govern the same.

First, By the 24. Act of the said Parliament, whereby all Civil Priviledges granted by our Sovereign Lords Predecessors to the Spiritual Estate of this Realm, are Ratified in all points after the Form and Tenor thereof. And by the 35. Act of the Parliament 1571. whereby all and whatsoever Acts and Statutes made of before by our Sovereign

Lord and his Predecessors anent the freedom and liberty of the true Kirk of God, are ratified and approved.

Secondly, By the 46. Act of the Parliament 1572. whereby it is declared, that Archbishops and Bishops have the authority, and are ordained to convene and deprive all inferior persons being Ministers, who shall not subscribe the Articles of Religion, and give their Oath for acknowledging and recognoscing of our Sovereign Lord and his Authority, and bring a Testimonial in writing thereupon within a Month after their admission.

Thirdly, By the 48. Act of the same Parliament, whereby it is declared, that Archbishops and Bishops have authority at their Visitations to design Ministers glebes.

Fourthly, By the 54. Act of the said Parliament, whereby Archbishops and Bishops are authorized to nominate and appoint at their Visitations, persons in every Parochin for making and setting of the Taxation, for upholding and repairing of Kirks and Kirk-yards, and to convene, try, and censure all persons that shall be found to have applied to their own use the Stones, Timber, or any thing else pertaining to Kirks demolished.

Fifthly, By the 55. Act of the Parliament 1573. whereby Archbishops and Bishops are authorized to admonish persons married, in case of desertion, to adhere, and in case of disobedience, to direct charges to the Minister of the Parochin to proceed to the sentence of Excommunication.

Sixthly, By the 63. Act of the Parliament 1578. whereby Bishops, and where no Bishops, are provided, the Commissioner of Diocesses, have authority to try the Rents of Hospitals, and call for the Foundations thereof.

Seventhly, By the 69. Act of the Parliament, 1579. whereby the Jurisdiction of the Kirk is declared to stand in Preaching the Word of Jesus Christ, correction of manners, and Administration of the Holy Sacraments; and yet no other authority nor Office-bearer allowed and appointed by Act of Parliament, nor is allowed by the former Acts; but Archbishops and Bishops intended to continue in their authority, as is clear by these Acts following.

1. By the 71. Act of the same Parliament, whereby persons returning from their Travels are ordained, within the space of twenty daies after their return, to pass to the Bishop, Superintendent, Commissioner of the Kirks where they arrive and reside, and there offer to make and give a Confession of their Faith, or then within forty daies to remove themselves forth of the Realm.

2. By the 99. Act of the Parliament 1581. whereby the foresaids Acts are ratified and approved.

3. By the 130. Act of the Parliament 1584. whereby it is ordained, that none of his Majesties Lieges and Subjects presume or take upon hand to impugn the Dignity and Authority of the three Estates of this Kingdom, whereby the Honour and Authority of the King's Majesties supreme Court of Parliament, past all memory of man, hath been continued, or to seek or procure the innovation or diminution of the power and Authority of the same three Estates, or any of them in time coming under the pain of Treason.

Anno 1638. 4. By the 131 Act of the same Parliament, whereby all judgments and jurisdictions as well in Spiritual as Temporal Causes, in practice and custom, during these twenty four years by-past not approved by his Highness and three Estates in Parliament, are discharged: and whereby it is defended, That none of his Highness Subjects of whatsoever quality, estate, or Function they be of, Spiritual or Temporal, presume, or take upon hand to convocate, convene, or assemble themselves together for holding of Councils, Conventions, or Assemblies, to treat, consult, or determine in any matter of estate, Civil or Ecclesiastical (except in the ordinary judgments) without his Majesties special commandment, or express licence had and obtained to that effect.

5. By the 132 Act of the said Parliament authorising Bishops to try and judge Ministers guilty of Crimes meriting deprivation.

6. By the 133 Act of the same Parliament, ordaining Ministers exercising any Office beside their calling to be tried and adjudged culpable by their Ordinaries.

7. By the 23 Act of the Parliament 1587. whereby all Acts made by his Highness, or his most noble Progenitors anent the Kirk of God, and Religion presently professed, are ratified.

8. By the 231 Act of the Parliament 1597. bearing, That our Sovereign Lord and his Highness Estates in Parliament, having special consideration of the great Priviledges and Immunities granted by his Highness Predecessors to the holy Kirk within this Realm, and to the special persons exercising the Offices, Titles, and Dignities of the Prelates within the same; which persons have ever represented one of the Estates of this Realm in all Conventions of the said Estates; and that the said Priviledges and Freedoms have been from time to time renewed and conserved in the same integrity wherein they were at any time before: So that his Majesty acknowledging the same to be fallen now under his Majesties most favourable protection, Therefore his Majesty with consent of the Estates declares, that the Kirk within this Realm, wherein the true Religion is professed, is the true and holy Kirk: And that such Ministers as his Majesty at any time shall please to provide to the Office, Place, Title, and Dignity of a Bishop, &c. shall have vote in Parliament, sick-like and als freely as any other Ecclesiastical Prelate had at any time by-gone. And also declares, that all Bishopricks vaicking, or that shall vaick, shall be only disposed to actual Preachers and Ministers in the Kirk, or such as shall take upon them to exerce the said Function.

9. By the 2 Act of the Parliament 1606. whereby the ancient and fundamental Policy, consisting in the maintenance of the three Estates of Parliament, being of late greatly impaired and almost subverted, especially by the indirect abolishing of the Estate of Bishops by the act of annexation: Albeit it was never meant by his Majesty, nor by his Estates, that the said Estate of Bishops, being a necessary estate of the Parliament, should any waies be suppressed; yet by dismembring and abstracting from them of their livings being brought in contempt and poverty, the said Estate of Bishops is restored, and redimegrate to their ancient and accustomed Honour, Dignities, Prerogatives, Priviledges, Lands, Teindes, Rents, as the same was in the Reformed Kirk, most amply and free at any time before the act of annexation; rescinding and annulling all acts of Parliament made in prejudice of the said Bishops in the premises, or any of them, with all that hath followed, or may follow thereupon, so the effect they may peaceably enjoy the honors, dignities, priviledges, and prerogatives competent to them or their estate since the Reformation of Religion.

10. By the 6 Act of the 20 Parliament, declaring that Archbishops and Bishops are redimegrate to their former Authority, Dignity, Prerogative, Priviledges and Jurisdictions lawfully pertaining and shall be known to pertain to them, &c. *Car. 14.*

11. By the 1 Act of the Parliament 1617. ordaining Archbishops and Bishops to be elected by their Chapters, and no other waies, and consecrate by the rites and order accustomed.

This is the Explanation, and now followeth their answer, which needeth no reply, for that there is nothing in it that hath weakened any thing contained in the five reasons. Only, where there is any new or dangerous Position of theirs, or any other thing which may seem with any show fit to be observed, you shall find it noted upon the Margin, as it here ensues, according to his Majesties large Declaration, p. 337.

An Answer to the Profession and Declaration made by James Marques of Hamilton, his Majesties High Commissioner, at Edinburgh, Anno 1638. in December.

THIS ancient Kingdom, although not the most flourishing in the glory and wealth of the World, hath been so largely recompenced with the riches of the Gospel, in the reformation and purity of Religion from the abundant mercy and free grace of our God towards us, that all the reformed Kirks about us, did admire our happiness. And King James himself of happy memory, gloried that he had the honour to be born, and to be a King in the best reformed Kirk in the World. Those blessings of pure Doctrine, Christian Government, and right frame of Discipline we long enjoyed, as they were prescribed by God's own Word; who as the great Master of his Family, left most perfect directions for his own economy, and the whole Officers of his house: till the Prelates, without calling from God, or warrant from his Word, did ingyre themselves by their craft and violence upon the house of God. Their crafty entry at the beginning was disguised under many cautions and caveats, which they never observed, and have professed since, they never intended to observe, though they were sworn thereto. Their waies of promoting their course were subtil and cunning: as in abstracting the Registers of the Kirk, wherein their Government was condemned; in impeding yearly General Assemblies, whereunto they were subject and comptable; and generally in enfeebling the power of the Kirk, and establishing the same totally in their own persons: whereby in a short time they made such progress, that being invested in the prime places of estate, and arming themselves with the boundless power of the High Commission, they made themselves Lords over Gods inheritance: and out of their greatness, without any show of order or Counsel, without advice of the Kirk, but at their own pleasure enterprised to alter and subvert the former doctrine and discipline of this Kirk, and introduce many fearful corruptions and innovations, to the utter overthrow of Religion; and to make us no less miserable than we were happy before. These pressing grievances did at length awake the good Subjects to Petition his Majesty and his Council for redress. And albeit at last, after many reiterated supplications and long attendance,

Anno 1638. his Majesty hath been graciously pleased to grant a free Assembly; yet in the beginning by the credit of the *Prelates*, and their commodity of access, his Royal ear was long stopped to our cries, and we discharged under the pain of Treason to meet for making any more remonstrances of our just desires.

In this distress none other mean, nor hope of redress being left, we had our recourse to God, who hath the hearts of all Kings and Rulers in his hand; and therefore taking to our heart, that God had justly punished us, for the breach of that national Covenant, made with God, in Anno 1580. We thought fit to reconcile our selves to him again, by renewing the same Covenant. And so in obedience to his * Divine Commandment, conform to the practice of the godly in former times, and according to the laudable example of our religious Progenitors, warranted by Acts of Council, we again renewed our Confession of Faith of this Kirk and Kingdom, as a real testimony of our fidelity to God, in bearing witness to the truth of that Religion whereunto we were sworn to adhere in Doctrine and Discipline, of our loyalty to our Sovereign, and mutual union among our selves in that cause. Which Confession, with a sensible demonstration of God's blessing from Heaven, was solemnly sworn and subscribed, by persons of all ranks, throughout this Kirk and Kingdom, with a necessary explanation and application for excluding the innovations and corruptions introduced in the Religion, and Government of this Kirk, since the year 1580. that so our Oath to God might be clear for maintenance of the Doctrine and Discipline then professed and established, and according to the meaning of that time.

The happy effects of this our resolution and doing, have been wonderful: And since that time God's powerful hand in the conduct of this business hath evidently appeared. For after some time, upon the continuance of our groans and supplications, our gracious Sovereign was pleased to send into this Kingdom, The noble Lord James Marquess of Hamilton, &c. with Commission to hear and redress our heavy grievances: who after many voyages to his Majesty, and long Conferences and treating with us, needful to be related in this place, did in end, by commandment from his Majesty, indict a free General Assembly to be holden at Glasgow the 21 of November last, and proclaimed a Parliament to be holden at Edinburgh the fifteenth of May next to come, for settling a perfect peace in this Kirk and Kingdom: And further to give full assurance to the Subjects, that his Majesty did never intend to admit any change or alteration in the true Religion, already established and professed in this Kingdom: And that all his good people might be fully and clearly satisfied of the reality of his Royal intentions for the maintenance of the truth and integrity of the said Religion, his Majesty did injoin and command all the Lords of his Privy Council, Senators of the Colledge of Justice, and all other Subjects whatsoever, to renew and subscribe the Confession of Faith formerly subscribed by King James of blessed memory and his household in Anno 1580. and thereafter by persons of all ranks, in Anno 1581. by ordinance of the Council, and Acts of the General Assembly, and again subscribed by all sorts of persons in Anno 1590. by a new Ordinance of Council, at the desire of the General Assembly, with a Band for maintenance of the true Religion, the King's person, and each of other in that cause: as the Proclamation of indiction, being dated at Oatlands,

the 9 of September, published at the Market-Cross of Edinburgh, the 22 of the said Month, more fully propoerteth.

Upon the hearing of which Proclamation, These who were attending at Edinburgh, and expecting a gracious answer of our former desires, as out of bounden duty they did with all thankfulness acknowledge his Majesties gracious favour: So out of zeal to God and Religion, they did protest, that they who had by the late Covenant and Confession condescended more specially to the innovations and errors of the time, could not after so solemn a specification, return to an implicit and more general Confession enjoined, conform to a Mandat, apparently discrepant from the genuine meaning of the Confession, and wanting both Explication and Application, and did most humbly and earnestly desire the Lords of his Majesties Council, that they would not, in regard of the former reasons, press upon the Subjects the subscription of this Covenant, but that they might be pleased to forbear their own subscribing of it, in respect of the inconveniences might result upon their subscribing thereof, in an ambiguous sense; but their Lordships not having subscribed that Confession, containing our former explanation, and being required by his Majesties Commissioner, to subscribe the Confession, as it was drawn up, and presented to them, without our explanation, with a general Band for maintenance of the Religion in Doctrine and Discipline now presently profest, and of his Majesties person, lest these words (*now presently*) repeated in this year 1638. should infer any approbation of these innovations, introduced since the year 1580. whereof many did justly complain, after deliberation for removing of this scruple and prejudice, and clearing of their own meaning; they caused make an Act of Council that their swearing and subscribing of the Confession of Faith was according to the Tenor and date the 2 of March 1580. according as it was then profest within this Kingdom: whereupon they rested satisfied, being confident that the general Assembly then indicted, would remove any doubt and differ which might arise anent the meaning and interpretation of the Confession of Faith, and clear what was profest in the year 1580. Yet some having subscribed that Covenant in different senses, others forbearing to subscribe the same, as some of the Lords of Session, till the Assembly should declare the genuine and true meaning of the Confession, upon whose interpretation, as of the only competent Judge, they might acquiesce, and rest satisfied: which now after accurate tryal of the Acts of General Assemblies, and mature deliberation, is fully cleared, and explained in this last General Assembly by God's mercy, and his Majesties gracious favour of indiction, holden at Glasgow: as the Act made thereupon doth proport: whereby Episcopal Government, amongst many other innovations is found upon undeniable evidences of truth and declared to be condemned and abjured in this Kirk, in Anno 1580. There is notwithstanding published in name of his Majesties Commissioner a Declaration, tending to dissuade his Majesties Subjects from receiving the explanation of the Confession made by this Assembly, and affirming that the Confession subscribed by the Council, doth no waies exclude Episcopal Government, nor any thing else established by Laws standing in force, the time of the taking of the said Oath, the ninth of September last; notwithstanding the foresaid Act of Assembly, which

Anno 1638. as the decree of our Mother Kirk ought to be received and revered by all her Children, and Act of Council, whereof the words are so clear, as they cannot admit any mental reservation, which is acknowledged by such of the Councillors then present and subscribers, whose hearts God hath touched, to make the sense of their Oath to God, preponder with them above all other worldly respects and fears.

THis Declaration containeth five Arguments, with a bundle of Acts of Parliament, quoted and drawn up by some persons, whom we know not; but seen and approved by the Commissioner: whereby his Grace endeavoureth to evince his conclusion, that *Episcopal Government was not abjured by the Council, nor the Covenant, 1580.* Which is so repugnant to the Acts of the Kirk, the Act of Council, and all reason, that we are confident, the same will make no impression in the judgment of any well affected Christian, as shall be evident by our following answers, which we offer to the Readers consideration, after he hath first expended these Generals.

1. This Declaration is only made by his Majesties Commissioner, * and not

Four general considerations of the Declaration.

* The Lords of Council did take and were to take this Oath as well as any other in the known sense of the King who commanded it, and therefore any Act of Council for their explanation was unnecessary, and it is unjustly affirmed that this Declaration or Explanation was made by the L. Commissioner, for it was made by the King, and but published by him at his Majesties Commandment, as is plainly expressed in the Title of it.

by the Lords of Secret Council, who should be fittest Interpreters of their own act, and whose act should be the ample expression of their meaning, else acts of Council, by possibility of admitting the variable commentary of intentions, will lose all force and vigour in themselves. And yet it is evident that the Councillors have not only actually sworn to maintain the Religion and Discipline established in *Anno 1580.* When Episcopacy was condemned; but likewise intended to do so: because they have distinguished and opposed between the Religion presently professed, 1638. mentioned in the Proclamation, and the Religion professed in *Anno 1580.* mentioned in their act; and by that opposition of *now* and *then*, they reject the one, and swear the other: otherwise they needed no Declaration: which notwithstanding accompanies their subscriptions, and is acknowledged by the Commissioner in the second line, to be an act explaining the Confession, for obedience whereof all those who have subscribed that Covenant, have done the same.

2. Albeit his Majesty did not conceive any difference between the Religion, Doctrine and Discipline now professed, from that which was in *Anno 1580.* (wherewith his Majesty can hardly be acquainted, without perusing the records of Assemblies) yet his Majesties Real intention was to maintain the Confession of Faith professed in *Anno 1580.* because his Royal design by that commandment was to maintain true Christian Religion in purity (wherunto Episcopacy by this Kirk was ever judged and condemned as prejudicial) and to remove the fears of his Majesties good Subjects, complaining of by-gone innovations, and apprehending greater changes: which ends are only obtained by subscription of the Confession as it was *Anno 1580.* and no wise

* But when shall they be proved to be contrary to the Word of God?

by maintaining the Religion now presently professed; because the corruptions now presently received in this Kirk, are the grounds of our just complaints, as being * contrary to the Word of God, and foresaid Confession in *Anno 1580.*

3. We must distinguish between Oathes, tendered

by the first framers of the Confession, * the whole * They Kirk, who have power to interpret and explain the same, and Oathes required, to be renewed by the supreme Magistrate the King's Majesty, who as *custos utriusque tabulae*, and a true * Son of the Kirk, ought to receive the true meaning of the Kirk, and cause it to be received of those whom God hath subjected to him.

feffion was, but by one Mr. John Crag, and commanded by the Authority of King James he did advise with the Church concerning it, but they received it from him, not he from them.

* That the supreme Magistrate should as the Son of the Church only receive the meaning of the Church, and cause it to be received by his Subjects, is not only the Jesuitical tenet, but their very words and syllables, and as they are alledged here very false, for the greatest part of this confession containeth not matters of Faith, but of Government, Discipline and Ceremonies: besides this Confession was first enjoined by King James and his Council before it was approved by the Church: how then King James, if he were now living, should receive the meaning of it from the Church after he had subscribed it, and commanded his household to do so; or His Majesty should now receive the meaning of it from the General Assembly after it was subscribed by his own commandment, we cannot apprehend.

And we are confident that his Majesty, in his just and pious disposition, will never take away the benefit of that holy national Oath, and Confession of Faith subscribed by his Majesties Father of blessed memory 1580. and now lately renewed again, and solemnly sworn by the Subjects of this Kingdom, upon the pretence of any intentions repugnant to the true sense of that Confession: which even as it is subscribed by the Council, doth never import that his Majesty was framing or administering any new Confession or Oath, but only enjoining to renew the old Confession 1580. and therefore unquestionably should be taken in the true meaning of that time. 4. If there were any real opposition betwixt his Majesties Proclamation and the act of explanation made by his Majesties Commissioner and Council, * Yet the last must be observed and preferred before the first, because the first is his private will, the second his publick and judicial will. *Et posterior derogat priori, publica privata.*

And albeit we do not now express that the Council did subscribe the Confession of Faith in obedience to a Mandat, where there was any contrariety, repugnancy, or ambiguity betwixt the Mandat and the Confession it self, which was commanded, yet the Council making an Act that they did subscribe it as it was professed 1580. and declaring publicly that this was their own meaning, both they and such of his Majesties Lieges, who did subscribe in obedience of their charge, are obliged to observe *rem juratam*, & the real matter of the Oath (more than the mind and Mandat of the prescriber) especially seeing it is no new Confession, but the renewed Confession of the whole Kirk of Scotland; The meaning whereof cannot be declared nor interpreted by any, but the whole Kirk of Scotland who now upon unanswerable reasons, have clearly found that Episcopal government, was then abolished and abjured: It followeth by good consequence, that the Council did both virtually and verily swear, yea intend to swear the abjuration of Episcopacy, which is found by that confession 1580. and the discipline of the Kirk then established, to be a corrupt government in this Kirk, of human invention, wanting warrant from the Word of God, tending to the overthrow of this Kirk: So that any Declaration in the contrary hereof is *protestatio contraria facto*, and the reasons thereof cannot be forcible, to brangle the resolution of any judicious well affected Christian, if he will patiently read and ponder, without pre-occupation, these following answers to the five reasons infer in that Declaration.

The

Anno 1638.
Answer to the first Reason.
** The last part of the first Reason is quite omitted, though in it lieth the principal Explanation of this first Reason.*

The first alledged Reason is this, That his Majesty could not command an Oath absolutely unlawful: But it is absolutely unlawful to swear against any thing established by the Laws of the Kirk and Kingdom, if the same be not repugnant to the Word of God, or repealed by posterious Laws*.

The last part of the first Reason is quite omitted, though in it lieth the principal Explanation of this first Reason.

To this we answer, *first*, The King's Majesty by commanding his Subjects to renew the Confession of Faith for maintaining the Doctrine and discipline profest in *Anno 1580.* hath commanded them to abjure whatsoever is found by the competent Judge to be introduced since that time repugnant thereto, albeit by the corruption of times it were countenanced with some Law intervening.

Secondly, The Lords of Council and Session and other Subjects have subscribed the Confession of Faith as it was 1580. not only without any restriction of it to the present Laws, but in a direct opposition to what is presently established by returning from the present corruptions in the Profession, *tanquam termino à quo*, to the Profession 1580. *tanquam terminum ad quem*: Which a† great part of Counsellors and other Subjects have declared to be their meaning.

† Now many of them have determined so?
They know that they are not comparable in number to those who have determined the contrary.

Thirdly, Episcopacy is found by the Kirk of Scotland in many Assemblies to be an office unwarranted by the Word of God, unlawful and repugnant thereto: So that the abjuration thereof in this Kirk is lawful and necessary.

Fourthly, Episcopacy was never restored by any Assembly of this Kirk, nor these Assemblies wherein it was condemned, repealed, without the which the same could not be established by a Parliament, whose power doth no more reach to the placing Officers originally in the Kirk, than the Kirks power to the making States-men in the Common-wealth.

Fifthly, The Laws which any ways contribute to the introduction of Episcopacy, do only extend to civil privileges, and were always protested against by the Kirk, as contrary to the national Covenant of this Land.

Sixthly, If any Assembly can be pretended to countenance Episcopacy or other Corruptions, it sufficeth to say that the same with all the Acts thereof is declared to have been null and void *ab initio* for undeniable reasons, as the Act at more length propoerts.

Seventhly, The breach of our National Covenant by introduction of Corruptions thereby abolished, hath undoubtedly in high measure offended God: And therefore at the renovation of that Covenant again with God, we ought not only to abjure all these innovations, but hereafter should be careful not to be relapse in our offence.

Eighthly, In no Covenant Episcopacy is expressly or *specific* abjured, before all Ecclesiastical Laws favouring the same was repealed, and declared null, but only virtually and generally, as being formerly abjured in *Anno 1580.* And as the trial hereof was referred to the Assembly, as the only Judge competent, so now when the Assembly hath declared and found Presbyterian Government to have been approved, and Episcopal Government con-

demned, abolished and abjured in *Anno 1580.* and in lieu of perceiving that Episcopacy is of an Apostolick institution, have clearly seen that it is justly condemned in our Kirk, as the invention of man wanting warrant or fundament in the Word of God, tending to the overthrow of this Kirk, Therefore albeit Episcopacy had been abjured expressly in the renovation of this Confession commanded by his Majesty, it was not unlawful, but most necessary and incumbent to us all, who are tied by that National Covenant against that unlawful Hierarchical Government, albeit we had never renewed the same: But we are falsely calumniate to have condemned the name of a Bishop, even as it is used in Scripture, which the Act of Assembly it self sufficiently refutes; by allowing St. Paul's Bishops, to wit, Pastors of a particular Flock, and condemning only all other Bishops brought in without the warrant of Scripture.

The second Reason in the Declaration is, That the Oath for preserving the Discipline and Government of the Kirk, cannot oblige after the alteration and change of that Discipline and Government: And seeing the Discipline and Government of the Kirk is not only alterable, but changed in this Kirk, we are not tied by that Oath, after the alteration.

Whereunto we answer, 1. That it is true, that policy and order in Ceremonies is temporary and may be changed, as is meant in that Article of the Confession cited in the Declaration: But a Bishop, or his Office, or the government of God's House, cannot be called a Ceremony, nay, they will be loth to be vilified by that appellation: But if it be a Ceremony, they are of no Apostolick constitution, as is mentioned in the first Reason: So that if they be lawful Governours in God's House, warranted by his Word, they are not alterable; and so this second Reason militates not for them, if their Office be changeable, and accounted among alterable Ceremonies; They are well exploded from our Kirk; and may be so by that second Reason of the Declaration.

2. One cause of general Councils is, for constituting a good order and policy in Ceremonies; which is grounded upon the last verse of the Fourteenth Chapter of the first to *Corinthians*, *willing that all things be done decently and in order*, wherein the Lord giveth not power to institute new Officers in his Kirk, but commandeth his own Officers to exerce their functions by his commandments without indecency, or confusion, in the variable circumstances thereof, to be determined according to the present occasions of edification.

3. In the Fifteenth Chapter of the same Confession of Faith, all mens inventions in matters of Religion are condemned: And in the Nineteenth Chapter, Ecclesiastical Discipline uprightly ministered as God's Word prescribeth. *Matth. 18. 1 Cor. 5.* is set down as the third essential and unchangeable mark of the true Kirk of God; and so is not of that nature with temporary, changeable Ceremonies; though unwarrantably ranked with them in the Declaration.

4. It is evident at our first Reformation what Policy was perpetual, and what Ceremonies changeable; for in the first Book of Policy, compiled that same year with the Confession, in the ninth Head is expressed a twofold Policy of the Kirk: The one absolutely necessary in all Kirks, the other not necessary, but changeable; such as, what day of the week Sermon should be, and the like;

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like; whereof they established no order, but permitted every particular Church to appoint their own policy, as they thought most expedient for edification; if parity of reason will make Episcopacy of this nature, let all men judge.

5. Our Confession speaketh of an order in Ceremonies; which cannot be appointed for all Ages, as is before said. But when they speak of the Office-bearers in the Kirk, they acknowledge according to the truth, that *Christ* himself appointed an ordinary constant government of his Kirk by his four ordinary Office-bearers, the *Pastor, Elder, Doctor, and Deacon*, to administrate the same perpetually; as is set down in the first Book of Discipline, and in the Treatise before the *Psalms*, which was drawn up at that same time, and allowed by the same persons. Like as in the year of God, 1560. when that Confession was made, and in the year 1567. when it was ratified, and by continual Acts of Assembly, and by the second Book of Discipline: The government of *Christ's* Kirk by these four ordinary Office-bearers, is set down as founded only upon the Word of God, as constant, unchangeable, and perpetual; and as that holy Discipline without which God's Word cannot be preserved; so that the intruding of any other Officer in God's House was accounted an offence against the Lord of the House.

6. By our Oath we are obliged to continue in obedience of Discipline as well as Doctrine, because they are both grounded on the Word of God, without the warrant whereof, all Traditions that are brought in are abjured, and the Discipline of the Kirk of *Scotland* is set down in the Book of Policy, as grounded on God's Word, and commanded to continue to the Worlds end, whereunto we have sworn, and cannot without perjury to God, gainsay it, like as the Assembly ordains the Discipline of the Kirk to be subscribed as such, and the Act of Parliament 1592. ratifieth the Discipline of the Kirk, as a privilege granted by God, whereunto the King's Prerogative cannot be prejudicial.

7. It carrieth no show of argument or face of probability, that the Kirk and Reformers of Religion which condemneth all other ordinary Officers in the Kirk, but these four appointed by *Christ*, did mean under the name of variable Ceremonies, to comprehend and admit Episcopacy, which frequently they condemn, as an invention of man, without the warrant of God's Word, tending to the overthrow of the Kirk and purity of Religion.

8. || The *Prelates* themselves will not grant Episcopacy to be reckoned in

|| Because in the XXI Article cited, the word *Ceremony* is used, therefore they would infer that this reason supposeth Episcopal Government to be but a Ceremony: But weakly; for the reason consisteth in the word *Policy*, which they take no notice of, and Episcopal Government being a part of Ecclesiastical Policy, they hold the one alterable, (as all they do who adhere to that XXI Article) must needs hold the other so to: Nor can it be inferred from any thing in this reason that Episcopal Government is maintained by it to be alterable, but that they themselves, and that XXI Article do hold it to be so.

deriveth its extraction from Divine Apostolick, at the least Ecclesiastical, perpetual and necessar in-

stitution, as is averred in the first Reason; and so should ever be unchangeable.

9. This Kirk hath ever condemned all such as held the Discipline and Policy thereof, to be indifferent and changeable; and in particular in Anno 1581. which is the year of the subscription of the Confession of Faith, and Book of Policy, Mr. *Robert Montgomery* is accused and condemned for that Doctrine.

10. In the Assembly 1596. upon the King's Majesties Proposition, and demand that it might be lawful for him to reason or move doubts, in any point of the external Policy, Government, or Discipline of the Kirk, which are not answered affirmative or negative in the Scripture. The Assembly concluded, That it might be lawful for his Majesty, or his Commissioner, to propound any point to the General Assembly in matters of external Government, alterable, according to the Circumstances, providing it be done in right time and place, *Animo edificandi, non temandi*: But as for the essential Discipline, in the Book of Policy, * the same Assembly desireth the King's Majesty to declare before his Estates, that he never intended to prejudice the same.

11. Albeit it were granted that Discipline were changeable, yet now seeing by the King's Majesties own consent, we have sworn to maintain the Discipline of the Kirk of *Scotland*, as it was 1580. we are obliged strictly, *interposito juramento*, to abide by that Discipline *specificè*; at least till it be lawfully changed by the Kirk of *Scotland*, in her free General Assembly, which can never be presupposed: Because *in rei veritate*, the Discipline, as well as the Doctrine, is acknowledged and sworn to, as unchangeable, wherein we must continue all the days of our life, and defend the same according to our power, under the penalty of procuring deservedly upon our selves, all the curses contained in God's Word.

12. The Doctrine of the Kirk of *Scotland*, condemned Episcopal, and re-established Presbyterian Government perpetually; which we have acknowledged by joyning our selves in the assertory part of our Oath, unto the Kirk of *Scotland* in Doctrine as well as in Discipline, and in the promissory part thereof by swearing to continue in the obedience of the Discipline, as well as Doctrine; to shew that Discipline as well as Doctrine is not variable, nor so sworn to by us; But as an immutable Law and Constitution, which we are obliged to maintain perpetually.

The third Reason is that we, who subscribe the Covenant, acknowledged that Episcopacy was not abjured thereby, which is qualified by two instances.

First, That the Ministers in their Answers to the *Quæres of Aberdene*, expressed themselves in that sense, holding these things for the present not to be abjured, but only to be referred to the trial of a free General Assembly.

Next, That it is averred in our last reasons against the Subscription urged by his Majesty, that this Oath, required by his Majesty, doth oblige the takers of it, to maintain *Pearth* Articles, and Episcopacy.

This needeth no Answer, if the preceding narration, and the whole passages of the business were considered and known; for in the application of our Covenant, we did not expressly & *specificè*, abjure Episcopacy, but only generally and virtually, by abjuring whatsoever was abjured in the Confession, 1580. which we found to be a strong Band, lying upon us to bind us straitly to the obedience

Car. 14.

* The Assembly desired it, but did ever his Majesties Royal Father do so?

Answer to the third Reason.

Anno 1638. dience of the Discipline then established: Wherein because there had intervened some alterations, we permitted justly the trial thereof to the Kirk, whether *Episcopacy, Pearth Articles*, and other Innovations were not condemned and abjured by the said Oath, which now the Assembly after careful search and examination of the Records have clearly found. This is the true meaning and substance of the Answer made to the *Quarres of Aberdene*, and ought also to be the ingenuous meaning of the Councillors, who by their Act declared they subscribed the Confession 1580. as it was then professed; which is consonant to our general Application, and which being now declared by their mother Kirk, they ought to reverence and obey.

2. For the second instance: It is true that when the Council was urged to subscribe the Confession 1580. conform to the warrants bearing (that they should maintain the Religion now presently profest) we justly feared that the same being subscribed in 1638. would comprehend *Episcopacy, Pearth Articles*, and all other corruptions introduced since 1580. And therefore both in our written Reasons against that subscription, and in our speeches at the Council Table, and to sundry Councillors in private, we dehorted them upon that reason from that subscription; which was the true cause why the Council being convinced with that reason, made their explanatory Act, declaring that they subscribed the Confession according to the meaning 1580. and as it was then profest, for removing of that doubt.

† We do hereby any man living to produce from any Jesuit, or the greatest Patron of Equivocation yet ever heard of, 3. † Albeit by the meaning of the prescriber of an Oath, the swearer were tacitly bound to maintain *Episcopacy, Five Articles of Pearth*, and suchlike, yet according to the premitted considerations, he is more obliged to the reality *rei jurate*, which is now declared and found to abjure *Episcopacy, &c.* nor to the meaning of the prescriber or his own either, being contrary to the explanation of the Sovereign Judge competent.

of such a wicked position as this, That the swearer is neither bound to the meaning of the exacter of the Oath, nor to his own meaning who takes the Oath, but to the reality of the thing sworn, as it shall be afterward explicated by the competent Judge: For then no man can tell what he sweareth, when he sweareth; if the declaration of the competent Judge shall come after, it were to be wished that he who set down this Proposition, had set his hand to it, that the world might take notice of him for an ignorant Fool, and an arrant Knave: In the mean time, till *Johnston* find out another, he must be taken for the man, because his hand is at this foolish Pamphlet.

Answer to the fourth Reason. The fourth Reason is Syllogistically urged thus: It cannot be denied but that Oaths ministred unto us, must either be refused, or else taken according to the known mind, professed intention, and expresse command of Authority urging the same. But it is notoriously known, that his Majesty, not only in his Kingdoms of *England and Ireland*, is a maintainer of *Episcopal Government*, but likewise is a defender, and minds to continue a Defender thereof in his Kingdom of *Scotland*. And therefore the Oath being taken, and not refused, must be sworn conform to his Majesties known meaning. The minor is confirmed from our own Assertions.

To this it is answered, 1. That in contradictory Oaths, || the swearer is more obliged to the true meaning of the Oath, clearly exprest therein, then either to his own meaning, or any sense of the prescriber, being contrary thereunto. Expect

ally in this case, where there is no new Oath which may receive any new meaning, but the renovation of the old Oath, which can admit no new destructive sense: But must be sworn conform to the genuine original first mending.

2. That Oath was justly refused by us upon that ground of discrepance amongst many others; and such like, was not received by the Council, till they declared their meaning by Act *sumul & semel* with their subscription.

3. We do not meddle with the Kirks of *England or Ireland*, * but re-

commends to them the pattern shewn in the Mount: All our arguments and proceedings being for the Kirk of *Scotland*, where, from the time of her more pure Reformation than of her Sister Kirks, *Episcopacy* hath ever been abolished, till the latter

* They do not meddle with the Church of *England*, but yet in all their Writings declare that the Government of the Church of *England* is against the Word of God, and the pattern shewed in the Mount: And that their new fancied Government, contained in their imaginary Books of Discipline, is only according unto it.

times of corruption. So that though his Majesty hath hitherto maintained *Episcopacy* in *Scotland*, because his Majesty wanted the means to be informed of the Acts of this Kirk, yet we know that God hath so richly replenished his Royal breast, with such Justice and Piety, that when his Majesty shall receive perfect information, we are confident that He will never desire any change or alteration in our ancient Kirk Government and Discipline; especially now when his Majesty hath caused the maintenance thereof to be religiously sworn.

The fifth and last Reason is, That we can never make it appear, that *Episcopal Government*, at the first time of administering the Oath was abolished; the very words of that Confession of Faith, immediately after the beginning of it, being these; *Received, believed, and defended by many and sundry notable Kirks and Realms, but chiefly by the Kirk of Scotland, the King's Majesty, and three Estates of this Realm, as Gods eternal truth, and only ground of our salvation.* Whereupon is inferred that Bishops, Abbots and Priors, made up, at that time a third Estate of this Realm, which gave approbation to the Confession of Faith; and therefore this third Estate did not abjure *Episcopacy*. And albeit it had been abolished by Acts of Assembly, yet it was not so by Act of Parliament, but in force by many of them standing unrepealed, which are annexed to the Reasons. Which being the Acts of a Monarch, and his three Estates, are never repealable by any Ecclesiastical National Synod.

For answer hereunto, 1. It doth appear and is manifest by the Registers and Acts of Assembly, that before the subscription of the Confession at the time thereof, and thereafter: That *Abbots, Priors, and Bishops* were so clearly, evidently, and expressly condemned in this Kirk, That the best Wits of this Age, opposers of *Episcopacy*, cannot yet require one syllable to be added for farther assurance, and the most able maintainers thereof could not pick any quarrel to the clearness of the expression.

2. The Clause cited in the Reason, is only anent the Doctrine, and not anent the Discipline, which thereafter is determined, and the *Hierarchy* detested; and the Discipline of the Kirk sworn unto.

3. Albeit that Clause were of Discipline, yet it maketh nothing for Bishops except by inference, that they are comprehended under the name of the third Estate; which cannot be so understood, for

Anno 1638. for collections by way of inference or *ex consequenti*, cannot be adduced against the expresse acts of the time; wherein the makers signifie their minds in clear terms, & *apertissime dicendo*, leaveth no place to presume the contrary, especially in this Kingdom, where these expressions of *stylus curie* are carefully observed without change; which may be seen in the same case by many Parliaments, where it is * notour that no *Prelate* was present, or allowed: And yet the Acts proportioning to be made by his Majesty and three Estates, are interpreted by the quoter as made by the *Prelates* with others.

* But it is most notorious that at those Parliaments which

were holden when the Confession of Faith was first sworn unto, Bishops had voices and were present, and so then Episcopal Government could not be abjured; for proof whereof, we refer the Reader to the Parliament Roll inserted at the end of this Answer.

4. Episcopacy was abolished not only by Acts of Assembly, but there is no standing Laws for Episcopal Government, but some against the same, as shall be evident in the Answer made to the Acts of Parliament, subjoyned hereto: But if there be any Acts of Parliament standing for Episcopacy, the King's Majesty, his Commissioner, the Council, the collective Body of the Kingdom, hath actually renounced the same by returning to the Doctrine and Discipline, 1580. whereunto Episcopacy is contrary; which God-willing may also be inacted at the next Parliament, proclaimed to be holden by his Majesty in May 5. The Acts of the Assembly, and the Book of Policy in the first and tenth Chapter, putteth clear marches between Civil and Ecclesiastical Jurisdiction; making every one independent in matters properly belonging to their own

† Let any Kingdom which is acquainted with Parliaments consisting of a Monarch and his three Estates, digest this Proposition, and then the Parliament can be no more the highest Court of the Kingdom.

Judicatory, and every one subject to the other in matters properly belonging to that other. † So that as the Assembly cannot make Civil Laws, nor repeal them, nor impede the Parliament from making or repealing Civil Laws, no more can the Parliament make Ecclesiastical Laws originally, nor repeal, or hinder the lawful Assemblies to repeal the same. For albeit Acts of the Assembly are, and may be ratified in Parliament, that is, only that the Civil Sanction may concur with the Ecclesiastical Constitution, but will not

|| A most false Position: As if the Convocation in England, or the General Assembly in Scotland, had power to reconcile the two Kingdoms to the Church of Rome, to reduce Popery into them, and to restore to the Church all the Abbey-lands, notwithstanding many Acts of Parliaments in both Kingdoms to the contrary.

stop the Assembly to recall their own Act; which being adnulled by them, the || Civil ratification and sanction falls *ex consequenti*. For to maintain that the Kirk may not repeal her own Acts, ratified once in Parliament, is so derogatory to Christ's Prerogative and Ordinance, to the liberty of the Kirk, and freedom of the Assembly, to the nature, end, and reason of all Ecclesiastical Jurisdiction, (as we have more largely cleared in the Protestation, Septemb. 22. last) that we believe few or none will be of that opinion. All these five Objections, and many more, was agitate and discussed in the Assembly, before the Act anent Episcopacy was made.

Conclusion.

And seeing the General Assembly of the Kirk of Scotland, indicted by his Majesty now holden at Glasgow, which is the only Judge competent and fit interpreter to remove and explain all doubts, arising upon the Confession of Faith, hath after long, religious, and mature declaration,

exponed the same, and clearly found that Episcopal Government in this Kirk, amongst other corruptions, is abjured by the Confession of Faith, as the same was profest within this Kingdom, hath discharged all subscription to the Covenant, subscribed and interpreted by his Majesties Commissioner, hath commanded the Covenant subscribed in February, with the application, to be now subscribed according to her present determination: Therefore we trust that the knowledge hereof, will be a sufficient warning to all good Christians and Patriots, that they subscribe not the one, and that they subscribe the other, according to the genuine and true meaning thereof, declared by the Kirk allennerly, and of no contrary incompatible sense, as they would eschew the crime and danger of a contradictory Oath; and we would most humbly and earnestly beg of his Sacred Majesty, from the bottom of our hearts, that his Majesty would be graciously pleased to command, that the same may be so subscribed, conform to the declared explanation of the Kirk, which would prove the greatest happiness and joy that ever befell these disconsolated Subjects of this Nation, who (though unjustly branded with many calumnies) yet never have, nor ever shall swerve from our loyalty due to the Lord's anointed: But would readily imbrace any occasion to imploy our lives and fortunes for his Majesties service and honour; who (we heartily pray God) may long and happily ring over us.

* There is annexed to this Declaration a quotation of sundry Acts of Parliament, to prove that Episcopal Government was not abolished in the year 1580. whereunto albeit there is no necessity of answer, seeing the meaning of the Kirk of Scotland in her

Anent Acts of Parliament.
* For the Cavils here made against the Acts of Parliament, cited in the explanation, they will be sufficiently confuted, if the Reader will take the pains to read the Acts; for then he shall easily discover that these exceptions are not only weak, but none at all.

Confession of Faith, is only to be sought from her self, and the Registers of her Assemblies, and not from the Parliament, yet the same shall be specially answered in the order that they are alleged, after these two Generals are offered to the Reader his consideration.

1. After the Reformation of this Kingdom, the Kirk was still wrestling against all corruptions, and especially against Episcopacy. But though they clearly and frequently condemned the same, yet the power of the Enemies of Reformation withstood them long: So that her own Policy could not be obtained, ratified expressly & *specificè* in Parliament, till the year of God 1592. which abrogateth all those preceeding Acts, alleged in the contrary.

2. That Acts of Parliament can no more make Ecclesiastical Offices, nor give Ecclesiastical Priviledges, nor the Acts of Assembly can establish Civil Offices of Estate, or grant to them Civil Priviledges; each Judicatory being properly confined within their own spheres.

But before the Acts of Parliament be particularly marked and cited, there be two Reasons prefixed: The one taken from some Acts of Parliament 1567. cap. 2, 3, 6. and cap. 68. Par. 1579. the other from the Oath ministred to the King, at his Coronation. For the Act of Parliament 1567. bearing that no Bishop nor other Prelate in this Realm, use any Jurisdiction in time coming by the Bishop of Rome's Authority; It is evident hereby that Episcopacy is altogether condemned, as all other Prelacy was; for before that time they had

Anno
1638. had no Jurisdiction but from the Pope; and therefore being discharged to execute that, they are discharged by the Act to execute any at all. That this is the true meaning and scope of that Act, is manifest, because the Kirk in the Book of Common Order, and in the first Book of Discipline, at that same time acknowledgeth no other ordinary Office-bearers appointed by Christ in *Ecclesia constituta*, but the *Pastor*, *Doctor*, *Elder*, and *Deacon*; and in her Assemblies at that same time, was still censuring these who were called or designed *Bishops* by reason of their benefices, as is instructed by the Acts printed before the Book of Discipline. And therefore in the Act of Council 1560. made in the same year by these same persons, ratifying the first Book of Discipline, they provided only that *Bishops*, *Abbots*, *Priors*, &c. being Protestants, brook their Revenues during their life times; they sustaining Ministers in the mean time.

2. In the Year 1566. which precedes that Parliament, the Kirk of this Kingdom approved the Confession of *Helvetia*; wherein the parity of Ministers is preferred as God's Ordinance, warranted by his Word, to *Episcopacy*, as an human consuetude.

3. Because at that time the Queen had restored the Archbishop of St. *Andrews*, therefore the Kirk supplicated the Nobility of the Kingdom, against that restitution, which they condemn as the curing of the Head of the Beast once wounded within this Land. Wherein they expressly ground themselves upon the said Act of Parliament, being before made in the Year 1560. as a certain abrogation of the Archbishops authority.

4. In the second Book of Discipline, Chap. 11. the Kirk useth the same Act of Parliament as an abrogation of the Papistical Kirk, and Papistical Jurisdiction, and thereby of Episcopal Jurisdiction and Power.

5. The Kirk thereafter in the same Chapter declareth their uniformity of this meaning by urging the Act of Parliament, 1567. printed amongst the black Acts, and renewed in the Parliament holden 1579. (which immediately followeth the Act here cited) declaring that no other Ecclesiastical Jurisdiction shall be used within this Realm, but that which is and shall be in the Reformed Kirk, and floweth therefrom: And they urge that none under the abused titles in Papistry, of *Prelates*, &c. attempt to claim the benefit of any Act of Parliament, having no Commission of the reformed Kirk within this Realm, whereby our Kirk declared all *Episcopal* Jurisdiction to be *Papistical*; which is the true meaning of the word, his *Hierarchy* in the short Confession. For their Jurisdiction could flow from none other but from the Pope, seeing it flows not from the Kirk, but was abolished and condemned by them, as is clear by the Registers of the Assembly.

6. The Acts do abolish all *Papistical* Jurisdiction; and therefore all *Episcopal* Jurisdiction, because *Episcopal* Policy and Jurisdiction is *Papistical*; as is acknowledged by many, and specially by Doctor *Poklington*, Chaplain to the Bishop of *Canterbury*, who deduceth a continual lineal succession from *Peter*, through the whole *Popes*, unto the present Archbishop of *Canterbury*; and by the Quoter himself, who alledgeth (albeit falsely) that this Kirk retained the *Papistical* Policy and Government.

7. Where it is said in the Reason, that our Kirk did not innovate any thing in that Policy

which they found in the Kirk before the Reformation; the same is controlled by the Book of *Common Prayer*, first Book of Discipline, and Acts of the Assemblies.

And for the sixth Act, 1567. and the 68th Act, 1579. the same doth not only not mention *Bishops*, but declareth the true Kirk to consist only of Ministers of the Gospel then living, and these who thereafter should rise, agreeing with them, in doctrine and administration of the Sacraments, and the People, as the Members thereof, which directly excludeth *Bishops*, against whom the doctrine and practice of this Kirk, continually sounded, especially at that time: For in the Government of this Kirk by weekly meeting of Ministers, Elders, and Reformed Towns from the Year 1560. to the Year 1576. (except the interim of the pretended Convention at *Leith*, 1572.) and from the Year 1575. to the Year 1581. the Assemblies for the most part were employed in abolishing the Corruptions of *Episcopacy*, and in establishing the settled Policy which was agreed upon 1578. in the second Book of Discipline: In the which Acts of Assembly, and Book of Discipline, is set down at large the Doctrine of the Kirk of *Scotland*, anent that Discipline, as grounded and well warranted in the Word of God, and against *Episcopal Jurisdiction*, as an unlawful invention: So that *Episcopacy* being contrary to the Doctrine of the Kirk of *Scotland*, 1579. the *Bishops* disagreeing from the Ministers of the Evangel then living, in doctrine and in the use and administration of the Sacraments, are declared by the said Acts to be no Members of this Kirk, and the same Acts cited for them, do sufficiently evince that *Episcopacy* was still condemned, notwithstanding all opposition made in the contrary.

As for the Kings Oath, the same containeth no mention of *Bishops*, but by the contrary, the King is obliged thereby to maintain the true Religion of Jesus Christ, the preaching of his holy Word, and right administration of the Sacraments, then received and preached within this Realm. And seeing it is cleared by the preceding Relation, that *Bishops* were never allowed, but oppugned by the Kirk of *Scotland*, that Oath doth not allow, but exclude *Episcopacy*, which is also more perspicuous in the short Confession 1580. and 1581. when the Kirk set down her constant Policy in Doctrine and Discipline, grounded upon the Word of God, wherein the *Hierarchy* is abjured as contrary thereto; and craved an Oath from his Majesty for maintenance thereof, which now also our gracious Sovereign, in the Judgment of the Kirk of *Scotland*, is obliged to maintain, as being founded upon the Word of God, and exclusive of *Episcopacy*, as repugnant thereto. The Acts of Parliament thereafter particularly cited are these mentioned in order.

The 24th Act, 1567. ratifying all Civil Privileges formerly granted to the Spiritual Estate, and the 35th Act, 1571. ratifying all Acts made anent the freedom and liberty of the true Kirk; the same cannot be extended to the establishing of *Episcopacy*, because it is not mentioned in these Acts, but by the contrary was abolished by the Acts of the Assembly and Parliament before mentioned, so that the Privileges therein mentioned, are granted to such Kirk-men as then were received by the Kirk and Kingdom; and the freedom of the Kirk must be interpreted

Anno
1638. by her own judgment: who thought ever *Episcopal* Jurisdiction an heavy bondage: and yet those Priviledges can infer no Spiritual Jurisdiction, but only Civil Priviledges; some Immunities and Exemptions granted for the goods and persons of Kirk-men as is clear, 1. act *James* 1. Par. 1. and 26 act Par. 2. *James* 1. and 4 act Par. 3. *James* 2. with many others.

It is here to be observed, that the careful evolver of these acts of Parliament, hath omitted to cite the 7 act 1. Parliament of King *James* 6. bearing the examination and admission of Ministers, to be only in the power of the Kirk, then openly and publickly profest; and presentations to be made to *Superintendents*, or others having Commission from the Kirk, and appealeth from them, to the *Superintendents* and Ministers of the Province, and appealeth from these to the General Assembly: in all which gradations no mention of Bishops; but they in effect excluded by that contrare distinction of the Kirk then openly profest: because they were discharged by the foresaid second act 1567. and *Superintendents* were then permitted like temporary *Evangelists* for the present necessity, declared in the first Book of Discipline *ad ecclesiam constituendam*; but was abrogate from 1575. that the constant Policy of *Ecclesia constituta* began to be established.

Annot the
Acts 1572.
1573. As for the acts of Parliament, 1572, and 1573. It is known by the records of the time, that the *Regent* then laboured hard to bring in *Archbishops*, and *Bishops*, who were not dead, but standing *de facto* provided to the power of these Titulars of Benefices, to fortifie his own designs, and counter-balance the authority of Ministers, pressing the purity of Reformation: and so cannot be Honourably alledged for the *Bishops* at this time: and yet it was done not by authority, but by warrant of some Ministers of his own party convened at *Leith*: and was only done for an *interim*, and protested against by the next Assembly; and yet nevertheless by the said acts of Parliament, the *Archbishops*, *Bishops*, *Superintendents*, or Commissioners of Diocesses or Provinces, are joyned together (which is wrongously omitted in the Quotation) to shew that no *Archbishop* or *Bishop*, *qua tales*, had any power but only being *de facto* standing provided in the Title, they were capable of a Commission from the Kirk, which sometimes they obtained, and in the Book of Assembly are named such as are called *Bishops*, and were under the Discipline of the Kirk: and in the same *Superintendents* Possessors and Titulars of Prelacies, as well as *Archbishops* and *Bishops*, are ordained to be called and convened for that effect before the General Assembly of the Kirk: and yet none can say, That the Offices of *Abbots*, *Priors*, &c. were then retained; howbeit the Benefices were not extinct; and few will grant that when the *Archbishops* and *Bishops* Office was in vigour, they thought themselves subject to the General Assembly: as they are by the said act which is also fraudfully omitted in the quotation.

Annot the
Acts 1578.
1579. As for the acts of Parliament 1578, and 1579. It is answered that the Kirk in this mean time, from the year 1575. was buied in abrogating *Episcopacy*, and establishing the constant Policy, as is clear by the Printed acts of Assembly before the Book of Discipline, and unprinted acts of Parliament: The Kirk by her Commissioners daily reasoning and agreeing with the King's Majesty and his Commissioners upon these

heads of Policy, whereupon the Parliament, by the said 69 act 1579. declareth there is none other Jurisdiction Ecclesiastical to be acknowledged, but that which is in this Reformed Kirk; and floweth therefrom, which extinguisheth *Episcopacy*; because it doth not flow from this Reformed Kirk: neither can produce its Charter from her: for besides that it was abolished by the foresaid acts 1567. It was condemned also in the Book of Policy, and in the General Assembly holden at *Dundie*, 1580. and their whole estate Spiritual, and Temporal condemned in the Assembly at *Glasgow*, 1581. and so acknowledged by his Majesties Commissioner in the Assembly at *Edinburgh*, 1581. so that by this act of Parliament, 1579. The Bishops are so abolished, that unless they be established by lawful Assemblies of the Kirk, no act of Parliament since sen can conduce for their established: seeing this act with the other acts for their abolition, standeth yet unrepealed. And farther, for the act of Parliament 1578. if the same contribute any thing, for *Episcopacy*, it must either be because *Bishops* are there mentioned, or for the power thereby conferred upon them: But both these are weak grounds. The first because there is no *Bishop* there named, but such as stood provided *de facto* on life: which is an designation of the Benefice, which was not then extinct; and not of the Office which was extinct. The power conferred upon them by the said act can give no strength to the argument: because there is no Jurisdiction granted thereby to them, but only power to visit Hospitals: which the Parliament might have granted to any person: but was most proper to these idle Titulars of Benefices, who might best attend the same, or employ means for their reparation. And this charge is likewise communicate by act of Parliament to all Chancellors of this Kingdom for the time being. And as to the 71 act 1579. we repeat the former answers that *Superintendents* and Commissioners are there joined with the *Bishops*; to shew that no power is granted unto them as *Bishops*, but Commissioners from the Kirk, and the name is still used, because the Benefice was not extinct, but they were known by that appellation.

The acts of Parliament 1581. were better alledged for Assemblies than *Bishops*, for it is an *Annot the*
Acts 1581. expresse ratification of the former acts of abolition of *Bishops*, and abrogation of all acts or constitutions, Canons Civil or municipal contrare to the Religion then presently profest within this Kingdom: which is not only clearly exprest in the words: but if they were doubtfull (as they are not) were manifest for these reasons. First, the Assembly holden at *Edinburgh*, about the very same day, honoured with the presence of his Majesties Commissioner, is acknowledged by him to have condemned *Episcopacy* whereunto Temporal Jurisdiction is annexed; and the Assembly declaring that Function to be against the Word of God and acts of the Kirk, thereupon did supplicate the Parliament, that they should make no acts repugnant to the Word of God, especially concerning *Bishops*.

Secondly, The King and Estates by that act ratifieth all acts made for maintenance of the liberty of the true Kirk of God, presently professed within this Realm and purity thereof: which present profession can be no other, than that which was received by the Kirk and Assembly then presently sitting so near the Parliament at *Edinburgh*, which had approved the *Presbyterial Government*,
con-

Anno 1638. condemned the *Episcopal*, and ratified the short Confession *simul & semel*, wherein the Estates had sworn to the *Presbyterial* and abjured *Episcopal* Government.

Thirdly, This ratification of the former Acts of Parliament must be interpreted, according to the words thereof, to be in all points, which are not prejudicial to that purity of Religion and liberty of the Kirk presently professed within this Realm. And at this time the whole Estates had subscribed the short Confession, and so sworn to the Discipline, set down in the Book of Discipline, which by this Act is ratified in the first place, before any special enumeration of particular Acts.

Fourthly, It hath been formerly shewn that in the preceeding Acts of Parliament; where *Archbishops* or *Bishops* are named, the same hath been by reason of their Benefice, and not their Office, which the Parliament could not give them, being abrogate by Assembly; or having intended really to give them any place, would not have joyned *Superintendents* and other Commissioners with them: Or otherwise they are named as having equal power with the *Superintendents* and other Commissioners, as in the Convention at *Leith*; and conform to the time, especially 1572. and 1573. wherein some Titulars or Possessors of Prelacies, so called in the 46. Act of the Parliament 1572. had a Commission from the Kirk like unto *Superintendents*, which was not fully abrogate until 1580. But all this was without prejudice of the Kirk her liberty, to recall her own Commission from these who were provided to Prelacies, and to condemn their *Episcopal* Offices, whereunto they ascribed the power, which they really had by their Commission; as the Kirk did upon good Reasons abrogate the Office of *Superintendents*, without impugning of the said Acts of Parliament (which were never rescinded till 1592.) whereby it is evident, that though this Act of Parliament 1581. ratifie the former Acts wherein *Archbishops*, *Bishops*, *Superintendents*, or other Commissioners of the Kirk are named, yet seeing the said Acts are *alternative* conceived, the vigour and efficacy thereof subsists by this ratification in the last *alternative*, viz. Commissioners from the Kirk, Diocese or Province; seeing the remanent were formerly condemned, especially by this Assembly of *Edinburgh* holden the time of the Parliament.

Fifthly, This ratification 1581. of the former Acts made in favours of the true Religion, repeating only the titles of these Acts, and not themselves, cannot import any corroboration of the Offices under the titles mentioned in these former Acts; because this ratification can only be extended to the matter, and not to the designation of the persons, exprest in the former Acts, which is only personal and circumstantial; as for instance, this Act 1581. could not confer any power or employment upon *Superintendents*, because that Office was then abrogate, and out of the Kirk. But the true meaning of the Act is, that ratifying the substance and matter in favours of the Kirk and Religion, it doth intrust the execution to these whom the Kirk shall lawfully authorize with Commission for that end, which is more manifest in the 114. Act Parl. 12. 1592. wherein this Act 1581. and all the Acts therein contained are ratified *quoad materiam*; and yet all *Archbishops* and Commissioners are discharged, and all Ecclesiastical matters subjected to Presbyteries.

Sixthly, It cannot probably agree with rea-

son, that by this ratification the Parliament, above their power, would endeavour to establish in the Kirk any Function so recently condemned of before by the Assemblies at *Diindie* 1580. and at *Glasgow* and *Edinburgh* 1581. immediately before this Parliament.

The Acts of Parliament 1584. are of several natures: But they were protested against by the Ministers of *Edinburgh* in the name of the Kirk of *Scotland*, at the Mercate Cross of *Edinburgh*, when they were proclaimed, and as they were made in that time which was called the hour of darkness in this Kirk, tyrannized by the Earl of *Arran*, so are they expressly repealed 1592. cap. 114.

Anent the Act of Parliament 1584. for the three Estates, and so forth. To answer; 1. That the Kirk from the year of God 1580, 1581. that the Confession was subscribed, unto the Year 1597. all this time was by continual Acts condemning the Office of *Bishops*, their Spiritual, their Temporal, their whole Estate, their Confusion of Civil and Ecclesiastical Jurisdiction, and craving in Council and Parliament the dissolution of Prelacies, and the erection of Presbyteries.

2. *De facto* the former *Bishops* being continually proccessed and sentenced by the Kirk, these who presumed to usurp that Office condemned by the Kirk, namely Mr. *Patrick Adamson*, and Mr. *Robert Mounsgomry*, in the Year 1582, 1584, 1586. they were deprived and excommunicate by this Kirk before the Parliament, 1587.

3. *De facto* no Ecclesiastical Bishop voted in Parliament but *Mounsgomry* and *Adamson*, who were taken in by the Earl of *Arran*, unto the Parliament holden in May at *Edinburgh*, 1584. wherein the three Estates ratifieth the honour and dignity of the three Estates, so that as these two Bishops cannot be called the third Estate which doth ratifie, so the Estate of Bishops, cannot be called the third Estate, which is ratified; especially seeing by that same Parliament in the 132. Act, Bishops of the Diocese are but nominate the King's Commissioners. And in the last Act of that same Parliament, printed of old in black letter, there is set down the King's Commission granted to the said pretended Bishop *Adamson*.

4. From 1581. till the Year 1597. the Quoter doth not cite, nor can cite any Act of Parliament expressly nominating any Ecclesiastical Bishop, but that in the 1584. wherein he is named as one amongst other the King's Commissioners, whereof some were meer secular persons.

5. It is clear by the first Act of the ninth Parliament 1584. and the eleventh Act of the tenth Parliament 1585. that *Bishopricks*, *Prelacies*, *Abbasies*, *Priories*, *Nunneries*, were then thought to be alike in the Kings hands, were granted to whatsoever persons being his Subjects, albeit they brooked no Office in the Kirk; so that some of these Lordships and Baronies were erected before 1587. and excluded from the annexation.

6. As the Kirk had ever been craving the dissolution of Prelacies, and condemning the Temporal as well as the Spiritual Estate of Bishops, by their Act of the Assembly 1581. and by their censure of the Presbytery of *Strivling* for admitting *Mounsgomry* to the Temporality of the Bishoprick of *Glasgow*, and Censure of *Mounsgomry* for aspiring thereto, contrary to the Word of God and Acts of the Kirk in the

Assembly 1587. *Juni.* So in the eleventh Parliament of King James the Sixth, 29. of July 1587. *Anno* 1638. 29. Act. the three Estates of Parliament annexeth to the Crown, all Lordships and Baronies pertaining to whatsoever, *Archbishops* or *Bishops*, *Abbots*, *Priors*, *Nunns*, and *Monks*; reserving always to *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Prioresse*s, *Commendators*, and others, possessors of great Benefices of the estate of *Prelates*, and which before had or hath vote in Parliament, the principal Castles and Fortalices: Whereby it is clear, that the *stylus curie* naming three Estates, did no ways include Ministers being *Bishops*; seeing no Ecclesiastical *Bishops* sate in that Parliament, nor could sit: Because the only two *Bishops* of the time, *Adamson* and *Montgomery*, were before deprived and excommunicate, and certainly they neither would nor could have sitten as an Estate in Parliament to abrogate their own Estate and Lordships, and temporal Land, whereupon that Act acknowledgeth any right they had, did depend. 2. It is clear that *Archbishops* or *Bishops*, *Abbots*, *Priors*, &c. all alike voted in Parliament of old, not by reason of their Ecclesiastical Office, but by reason of their great Benefices and Lordships: Which here is said to have had vote in Parliament; for that cannot be relative to the Persons, as unto *Prioresse*s, but unto the Benefices. So that Ministers voted not as Ministers in name of the Kirk, but as possessors of these great Benefices or Baronies: And others, who were not Ecclesiastical persons, being titulars, and possessors of these great Benefices, both *communi stylo* were called *Bishops*, *Abbots*, &c. by vertue of the Benefice without any Office, in the Rolls of Parliament, and in the Act of Assembly 1587. The *Bishoprick* of *Cathnes* is said to vaikie by decease of *Robert* Earl of *March*, the King's Unkle: And the Assembly, in their Letter to the King, declareth to be against the Word of God, and Acts of the Kirk, to present and admit any Minister to that *Bishoprick*, as also some of these titulars, and possessors of the Benefices, albeit they had no Ecclesiastical Office, did sometimes ride and vote in Parliament. 3. It is clear that the three Estates, by taking away from *Archbishops* and *Bishops*, their Lordships Baronies, and temporal Lands, they took away their vote in Parliament, which doth not subsist, but in and by the Benefice, and therefore Ecclesiastical persons separate to the Gospel for want of their great Benefices, had no vote in Parliament, till the 1597. (albeit all the intervened Acts are made by the three Estates) wherein the King's Majesty restoreth Ministers to the Titles and Dignities of Prelacies, which sheweth that before they were disposed to others then Ministers; and provideth that Ministers presented to these Titles and Dignities, and to the Benefice of *Bishopricks*, shall have vote in Parliament; which sheweth that the Benefice, and not the Office, giveth right to vote in Parliament, like as the very Act of Parliament 1606. acknowledgeth, that by the Act of annexation of the Temporality of Benefice to the Crown 1587. the estate of *Bishops* were indirectly abolished; and therefore they behoved to rescind the Act of Annexation anent the Benefice, and restore them to these Titles and Dignities, before Ministers could vote in Parliament; but these Acts also are hereafter answered.

7. But as for 130. Act, 1584. no *Bishop* is therein mentioned; and yet it is adduced for *Bishops*, because the three Estates are therein named, under one of which the *Prelate* claimeth to be

comprehended; But why more he than *Abbots* and *Priors* formerly abolished, as well as *Episcopacy*? *Car. 14.* Why more by that Act, than many former made when *Bishops* neither rode, sate, nor voted in Parliament, but were expugned out of this Kirk, and yet the Acts were all made by the three Estates? Which albeit it needeth none other demonstration then that it is *stylus curie*, carefully observed in this Kingdom: Yet the truth is, that the Nobility, Barons, and Burrows, were the three Estates of this Kingdom, many hundred years after Christianity, before any *Bishop* was in this Kingdom, as is observed by *Buchanan* and *Boetius*, and acknowledged by *Lefly* in his *Chronicles*; and after the *Bishops* were abrogate expressly, the three Estates of Parliament did continue, and make all Acts of Parliament. Yea, after the 1592. where *Bishops* were discharged, for if *Bishops* were an Estate, there behoved to be four Estates of Parliament, as there are so many named in the Commission granted by King James and King Charles, viz. the Clergy, Nobility, Barons, and Burrows, and that as Ecclesiastical persons separate to the Gospel, since the Reformation, were never warranted to voice in Parliament, while 1597. So on the other part, the Barons are, and have been, as an Estate of Parliament in uncontraverted possession of voting in Parliament, conform to the 101. Act Parl. 7. King James the first, renewed again in the Parliament 1585. and 1587. Act 113. wherein Precepts of the Chancelary are ordained to be directed to the Barons, as unto an Estate of Parliament; even as they shall be direct unto other Estates, to wit, the Nobility and Burrows, which in that Act is mentioned. So in this same Act of Parliament (which in the Narrative relateth the by-gone great decay of the Ecclesiastical Estate) there are exprest three compleat Estates in Parliament, the Nobility, Barons, and Burrows. And as in Law the three Estates are intire without *Bishops* or Ministers voters in Parliament, so also, it is most expedient and necessary for the liberty of the Kirk, honour of the King, and peace of this Kingdom, that no Ministers vote in Parliament, as is most clearly and largely proved in the Reasons of the Protestation given into Parliament against the same, 1606. and in the Act of this Assembly against Civil places of Kirk-men.

As for the 131. Act, 1584. no *Bishop* is therein mentioned to get any benefit thereby, and far less can the same reach to the prejudice of the late Assembly, which was indicted by his Majesty, and is an ordinary Judicatory allowed by the Laws of God and man; like as it is answered in our Protestation more largely.

And for the 132 and 133 Act of the said Parliament, 1584. there is no Ecclesiastical Privilege or Authority thereby granted to *Bishops* as *Bishops*; but only a power of cognition, wherein the Parliament hath joyned others the Kings Commissioners with them, only as the King's Commissioners; and granted the same unto Secular persons with them: But the King could never provide them to the Office and Jurisdiction of *Bishops*, which was abolished by many Acts of Parliament and Assemblies before written.

The 23. Act 1587. worketh directly against *Bishops*, being a general ratification of all Acts formerly made anent the Religion presently profest in this Kingdom, which must include the Acts abolishing *Episcopacy*; but especially, seeing in the same Parliament 1587. Temporal Livings are taken from the *Bishops*, as well as the Office

Anno 1638. Office was 1567. And the same Act undoubtedly was granted in the same meaning, wherein the Kirk did crave it; who that same year had often condemned *Episcopal* Government, as contrary to God's word, and the liberty of the Kirk, and approved *Presbyterial* Government, as flowing from the pure Fountain of God's Word.

Anno the 114. *Act* 1592. It falleth in here to be remarked, that the Act is never alledged; and that because it not only revokes in particular the foresaid Acts 1584. but in general all other Acts contrary to that Discipline then established, and in particular the Assemblies, Presbyteries and Synods, with the Discipline and Jurisdiction of this Kirk, are ratified and established, as most just and godly, notwithstanding whatsoever Statutes, Acts, Canons, Civil or Municipal Laws made in the contrary, whereunto his Majesties Prerogative is declared to be no ways prejudicial. Further, the said Act abrogates all Acts granting Commission to *Bishops*, and other Judges constitute in Ecclesiastical Causes, and ordaineth presentation to Benefices to be direct to Presbyteries, with power to give collation thereupon; and so containeth a ratification of the Heads of Policy set down in the second Book of Discipline. Which Act is renewed Act 60. *Anno* 1593. and the power of Presbyteries acknowledged 1594. Act. 129. and was never rescinded expressly *in totum*; but only in part by the ratification of the Act of *Glasgow*. Which now cannot be respected, but falleth *ex consequenti*, seeing that Assembly of *Glasgow* is now upon just and infallible Reasons declared to have been null *ab initio*: And so this Act of Parliament, wisely omitted by the Collector to the Commissioners grace, might serve alone, without our preceeding special Answers for clearing the whole preceeding Acts.

Anno the The 23. Act, 1597. granteth the priviledge of a voice in Parliament to the whole Kirk; and under that name to *Abbots*, or other persons provided to Prelacies, as well as *Bishops*, even as in time of Papistry; so as Sir Robert Spottiswood, Abbot of *New-abbey*, rood thereafter in Parliament, which was both unwarrantable and unusual. Which doth nothing contribute for the *Bishops* advantage; because albeit the Benefice was not extinct, yet neither the King nor the Parliament might give them the Office so oft condemned by this Kirk; which is also acknowledged in the same Act: Because after the granting to them of the said voice, the Parliament remitteth them to the King and the Assembly, concerning their Office in their Spiritual Policy and Government in the Kirk. 2. The said Act beareth expressly to be but prejudice of the Jurisdiction and Discipline of the Kirk, established by Acts of Parliament made in any time preceeding, and permitted by the said Acts to all Provincial and General Assemblies, and other whatsoever Presbyteries and Sessions of the Kirk: And so the same cannot derogate from the former Acts ratifying the present Discipline of the Kirk, especially the said Act 1592. nor yet from the Acts of the Assembly abjuring *Episcopacy*. 3. The priviledge is granted upon condition they be actual Pastors and Ministers. And so we refer to the World and themselves, if with good Consciences they may claim the benefice of that Act. 4. That priviledge was obtruded, and pretended to be introduced in favours of the Kirk, who may and hath renounced the same, as being incompatible with their Spiritual Function; as the Act of the Assembly at more length beareth, upon undeniable Reasons. 5. When voice in

Parliament was first plausibly obtruded upon the Kirk, it was neither proponed nor tolerated in other terms then that only such should have vote in Parliament, as had Commission from the Kirk: So that not as *Bishops*, but as Ministers, Commissioners from the Kirk, they had vote in Parliament; like as the Assembly at *Montrose*, 1600. being so hardly prest by Authority, that they could not get it altogether refused (albeit in their Conference at *Holy-rood-house*, 1599. they proponed unanswerable Reasons against this, and all other Civil places of Pastors) set down Cautions, binding the Ministers voters in Parliament, to be insert in the Act of Parliament subsequent; which was omitted notwithstanding of the *Bishops* Oath and Duty in the contrary: For the breach whereof they are now most justly censured. 6. The ratificatory Acts of the Priviledges of the Kirk and Discipline thereof then profest, are not thereby abrogate, but notwithstanding thereof must stand in force, because it is ever understood, and frequently provided in Parliament, that all Acts thereof are made *salvo jure ejuslibet*; far more *salvo jure Ecclesie & Sponsæ Christi*, when she is robbed of her right without audience; especially seeing her right is usually ratified in the first Act of every Parliament. 7. Albeit it were granted, that by this Act of Parliament, or any whatsoever the *Prelates* had voice in Parliament, yet that doth not exime them from Ecclesiastical Censure, nor forefault the the Kirks right, whereby she may condemn them for their transgressions, as now this Assembly most justly hath done; for by their own Caveats, whosoever is Ecclesiastically censured by Presbyteries and Provincial Assemblies, *ipso facto* loseth his benefice and vote in Parliament. 8. Further, the *Bishops* in their Declinatour profess they never had Commission from this Kirk to voice for her in Parliament, according to the Cautions set down in the Assembly at *Montrose*; for the which Cautions that Assembly was never challenged, as trenching upon the third Estate.

That Act of Parliament 1606. is coincident with the nature of the preceeding Acts; for albeit the King and Parliament might have reponed them to their Rents, Teends, Lands, &c. which were annexed to the Crown; yea, might have disposed to them any part of the Patrimony of the Crown, if lordly Titles and Civil places in the persons of Pastors separate to the Gospel, had been lawful, yet could not give them the Spiritual Office, and Jurisdiction Spiritual, which was abolished and abjured by many preceeding Acts of Assembly and Parliament forecited. *Et quod illud tantum agebatur*, is evident by the whole strain of the Act, reponing them, for remed of their contempt and poverty to their Dignities, Priviledges, Livings, Rents, Lands, and Teends; and this always limited, as was competent to them, since the Reformation of Religion in the reformed Kirk, from which time their Office and Jurisdiction Spiritual was always extinct. Which is evidently acknowledged in the Act of Parliament 1592. and expressly in the Act of Parliament 1597. granting voice in Parliament to Ministers. Which albeit it was the first step to *Episcopacy*, yet the Parliament thereby hath remitted the Office of *Bishops* in their Spiritual Policy and Government (as not pertaining to their Civil place and Jurisdiction) to the King and the General Assembly of Ministers, as properly belonging to them, but prejudice always of the Jurisdiction and Discipline of the Kirk, permitted by many Acts of Parliament, (whereof that 1592. forecited

Car. 14.

Anno the Act 1606.

Anno
1638. cited is one) to general Provincial Assemblies, Presbyteries and Sessions of the Kirk, which were never prejudged neither by the Act 1606. nor by the Act 1609. albeit corruption was then fast advancing; till the year 1612. at which time first, and never before, the King and Estates had taken the advice of the pretended Assembly at *Glasgow*, anent their Office and spiritual Jurisdiction formerly remitted to them; as is clear in the Act of Parliament 1612. relative to that remit in the Parliament 1597. which for that cause is also omitted by the Quoter.

Anent the Act 1609. Like as also the Act of Parliament 1609. restoreth them only to Temporal Jurisdiction, and Privileges, lawfully pertaining to them and flowing from his Majesty, as any other ordinar Jurisdiction doth; with reservation of the King's Supremacy and Prerogative therein; which can no waies comprehend their Ecclesiastical Office, because the same is not a Temporal Jurisdiction, neither did lawfully pertain to them, but by the law of God, and acts of this Kirk after Reformation; and by the act 1592. was abrogate and taken from them; and the Ecclesiastical power established in Presbyteries. So that if it be an Ecclesiastical Office, it cannot flow from the King, who cannot make a Minister, Doctor, Elder or Deacon in the Kirk; albeit he may present a Minister made by the King of Kings to the Kirk; neither can the Parliament institute originally any Ecclesiastical Office in the Kirk, as is before said. Further the intended scope of that act is only the restitution of Commissariats and Temporal Jurisdiction flowing from his Majesty; as is clear by the act itself, bearing that they shall brook all Privileges and jurisdictions granted to them by his Majesty, and redintegrates them to their former Authority and Jurisdiction, lawfully pertaining to them, alwaies flowing from his Majesty (from whom only Temporal Jurisdiction doth flow) which is only the Jurisdiction of Commissioners in Temporal Causes, and no waies any Spiritual Jurisdiction competent *ratione officii*: which by God's Word and the Laws of the Kingdom was abjured in them, and established in Assemblies, Presbyteries, &c. as is many times before repeated. But to convince them further it is not our that both 1606, and 1609. they read in Parliament, and by their own voices and the iniquity of the time, made the said acts without inserting the cautions made at *Montross*, without any Commission from the Kirk, contrare to the said cautions and their own Oath given for observance thereof, against which the Kirk of *Scotland* did protest solemnly, clearing unanswerably, not only the unlawfulness of the Ecclesiastick *Episcopal* Function; but also of the Civil places in persons of Pastors, from God's Word, our Confession of Faith, 1580. acts of this Kirk and Kingdom; but this Protestation being rejected by them was Printed to the view of the World.

Anent the Act 1617. And as for the Act of the Parliament 1617. it cannot set down Consecration to the Office, without a preceding act of the Kirk: which is not alledged: but by the contrare, the Kirk, had before condemned that Office, and did particularly protest against that act of Parliament. Moreover this act is builded upon the supposed ground of *Glasgow* Assembly 1610. which for infallible reasons is now annulled: and so not only this act 1617. but all after acts, ratifying the same, fall *ex consequenti*; both by the light of Reason, Law and Practice of this Kingdom. For when the princijal act or right ratified doth fall, the subse-

quent ratification falleth *eo ipso*: especially in this case, when Civil Laws in Ecclesiastical matters, cannot be made originally, nor subsist after the abolition of the Ecclesiastical constitutions, which they ordain under Civil Sanction to be obeyed: and yet being once annulled they cannot be obeyed. And further even that corrupt Assembly of *Glasgow* 1610. which is now declared to have been null *ab initio*, did never restore the Office of a *Diocesan* Bishop before condemned in this Kirk; but did too far enlarge and extend the power of these who were provided to the Benefice of *Bishops*; and yet alwaies under cautions and limitations sworn unto: which they never observed; and upon condition of their subjection for censure to yearly General Assemblies: which they have not kepted; but impeded, and so they ought not to clame the Benefice of these acts of Parliament concluded by their own voices, and protested against by the Kirk of *Scotland* and violated by themselves.

And last, for answer to all Acts of Parliament *Conclusion* whatsoever, let the Christian Reader consider, if, as the Assembly lately convened by his Majesties indiction in the name of Jesus Christ, should judge (and hath proceeded) by the Word of God alone, and not by Acts of Parliament: so we are obliged by our Oath made to God, to return to the Doctrine and Discipline of this Kirk 1580. and renounce all subsequent Acts contrary thereunto, and prejudicial to the purity of Reformation and the Kirk, in whose favours any pretended privileges is granted, and that out of experience of real prejudice, and the pungent sins of our Oath and danger of Perjury; under which this Kingdom lieth: for the which we ardently deprecate God's wrath, and beg mercy to every one of us who are guilty; and must still continue our earnest and humble supplications to his Majesty for redress; as we shall do our Petitions to God, for preserving the Sacred Person of our Dread Sovereign, and perpetuating his Reign and his Royal Posterity over this Land so long as the World endureth.

Revised according to the Ordinance of the General Assembly, by me Mr. A. Johnston Clerk thereof:
10:

Edinb. 14. of
Feb. 1639.

BEcause the Reader shall not need to doubt of the vanity of all these exceptions against the Acts of Parliament here cited, and of the impertinency of their Citations of some Acts of Parliament to the contrary: It will plainly appear to the Reader, that when this Confession of Faith was first framed, and enjoined to be subscribed; Episcopal Government was then in force and strength, which doth appear by the most unquestionable and irrefragable Record of that Kingdom, *viz.* The Books and Rolls of Parliament. And therefore We have here caused to be inserted out of the *Sederunt* Rolls of Parliament, the names of such Bishops as sate in Parliament, and represented the third Estate since the Reformation, beginning no higher than the year 1579. In which the Reader must note that the Abbots were secular men who had got the Abbey-lands, but yet retained their names and places in Parliament.

Par:

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Parliament 23. Octob. 1579.

Sederunt pro Clero { Archb. S. Andrews.
Glasgow.
Dunkell.
Murray.
Orkney.
Brechin.
Abbots 15.

Parliament penult. Octob. 1581.

Sederunt pro Clero { Archb. S. Andrews.
Brechin.
Orkney.
Abbots 12.

Parliament 2. Octob. 1583.

Sederunt pro Clero { Archb. S. Andrews.
Dunkell.
Aberdene.
Brechin.
Orkney.
Dumblane.
Argyle.
Iles.
Abbots 13.

Parliament 22. May 1584.

Sederunt pro Clero { Archb. S. Andrews.
Dunkell.
Brechin.
Orkney.
Abbots 11.

Parliament 26. August 1584.

Sederunt pro Clero { Archb. S. Andrews.
Dunkell.
Brechin.
Aberdene.
Abbots 4.

Parliament 1. Decemb. 1585.

Sederunt pro Clero { Archb. S. Andrews.
Dunkell.
Brechin.
Orkney.
Abbots 9.

Parliament 13. July 1587.

Sederunt pro Clero { Archb. S. Andrews.
Aberdene.
Dunkell.
Orkney.
Brechin.
Abbots 13.

Parliament 3. April 1592.

Sederunt pro Clero { Orkney.
Dunkell.
Abbots 6.

Parliament 3. April 1593.

Sederunt pro Clero { Aberdene.
Brechin.
Abbots 6.

Parliament 22. April 1594.

Sederunt pro Clero { Dunkell.
Aberdene.
Brechin.
Abbots 5.

Parliament 1. Novemb. 1597.

Sederunt pro Clero — Abbots 5.

Parliament 1. Novemb. 1600.

Sederunt pro Clero { Dunkell.
Brechin.
Abbots 6.

Parliament 12. April 1604.

Sederunt pro Clero { Glasgow.
Dunkell.
Ross.
Brechin.
Caithnes.
Abbots 3.

Parliament 3. July 1606.

Sederunt pro Clero { S. Andrews.
Glasgow.
Dunkell.
Ross.
Galloway.
Orkney.
Abbots 1.
Priors 1.

Parliament 3. August. 1607.

Sederunt pro Clero { S. Andrews.
Glasgow.
Murray.
Brechin.
Caithnes.
Orkney.
Abbots 3.

WE shall now take our leave for a while to speak of the Scottish affairs, and mention somewhat of the state of things in England; where in an Assize held at Durham before Judge Berkley, Aug. 6. a demand was made by Claxton Claimant, and Lilburn Defendant or Tenant, concerning a question of Right to be determin'd by Battel: the weapons were Sand-baggs and Battoons, each party producing his Champion in Arms in open Court they cast down their Gantlets with five pence in them and demanded the Battel, which was several times put off, and at last it came to the Council-Board where his Majesty was acquainted with the matter how that there had been several daies appointed for determining by Battel the Question of Right, which had long depended between Claxton Demandant, and Lilburn Tenant, for certain Lands in the County Palatine of Durham. And that by the late Appointment, the same was to be tried by the said Parties Champions the twenty second of December next. It was by his Majesty ordered, That the Judges of that Circuit, upon conference with their Brethren, should be thereby prayed and required to take the same Case into due and serious consideration; and if they could find any just way by Law

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how the said Combate might be put off, and the Cause put into another way of Trial; for his Majesty, out of his pious care of his Subjects, would have it so, rather than to admit of a Battel. But otherwise, since *Lilburn* had a Judgment upon a Demurrer again *Claxton*, and also Costs from the Board for his Vexation, and since that *Claxton* had brought a new Action, upon which *Lilburn* had waged Battel, his Majesty would not deny the Trial of Laws, if it could not be legally prevented.

Afterwards both Parties brought their Champions into the Court of *Durham*, having Sandbags and Battoons, and so tendred themselves in that fighting posture: But the Court upon the reading the Record, found an Error in it, committed by a mistake of the Clerk. (some thought wilfully done) whereupon the Court would not let them join Battel at that time.

Thus did the Judges several times order to avoid Battel by deferring the matter, though Champions on both sides were appeared in Court at all Meetings to join Battel.

But at last the Judges gave their Opinion that inasmuch as the Champions had confessed in open Court, that they had received Money and were hired by the Parties, for that this exception came after the Battel was gaged, and the Champion allowed the exception ought not to be received, and at last, as before appears, there was found a mistake in the Record.

And now all things appear as tending to an open War betwixt his Majesty and the Scots, who had openly put off all subjection, only in words they would call themselves the King's humble and faithful Subjects; hereupon his Majesty issues out his Letters to the Nobility to attend his Royal Standard at *York*.

CHARLES REX,

Right Trusty and Right Welbeloved Cousin, We greet you well. The late Disorders in Our Realm of Scotland, began upon pretence of Religion, but now appearing to have been raised by Faction's Spirits, and fomented by some few ill and traiterously affected particular Persons, whose aim hath been by troubling the Peace of that our Kingdom, to work their own private ends, and indeed to shake off all Monarchical Government, though We have often assured them, that we resolved to maintain constantly the Religion established by the Laws of that Kingdom, is now grown to that height and dangerous consequence, that under those sinister pretences, they have so far seduced many of our People there, as great and considerable Forces are raised and assembled in such sort, as we have reason to take into consideration the Defence and Safety of this Realm of England; and therefore upon due and mature consultation with the Lords of our Council, We have resolved to repair in our Royal Person to the Northern parts of this our Realm, there (by the help of Almighty God, and the assistance of our good Subjects) to make resistance against any Invasion that may happen.

And to the end that this Expedition, may be as effectual as we design, to the Glory of God, the Honour and safety of Us, and of this our said Kingdom of England, We have directed that a considerable Army both of Horse and Foot, should be forthwith levied out of all the Shires to attend Us in this Action, wherein we nothing doubt, but the Affection, Fidelity, and Courage of our People shall well appear.

In the mean time, we have thought fit, hereby to give you notice of this our Resolution, and of the state of our Affairs, and withal hereby to require You to attend Our Royal Person and Standard at Our City of *York*, by the first day of April next ensuing, in such Equipage, and such Forces of Horse, as your Birth, Honour, and your Interest in the publick Safety do oblige you unto, And as we do and have reason to expect from you. And this our Letter shall be as sufficient and as effectual a Warrant and Discharge unto you for the putting of your self, and such as shall attend you, into Arms, and Order as aforesaid, as if you were authorized thereunto by our Great Seal of England. And we do require you to certify Us under your hand within fifteen daies next after the receipt hereof, what Assistance we shall expect from you herein, and to direct the same to one of our Principal Secretaries of State. Given under our Signet at our Palace of Westminster the 26 day of January in the fourteenth year of our Reign.

Exam. P. Warwick.

And also those of the Nobility and Gentry, who had Estates in the North parts to repair thither.

At the Court at White-hall, the 27th
of January, 1638.

Present

The King's Most Excellent Majesty.

Lord Archbishop of *Canterbury*.
Lord Keeper.
Lord Treasurer.
Lord Privy-Seal.
Lord Duke of *Lenox*.
Lord Marquess *Hamilton*.
Lord High Chamberlain.
Earl Marshal.
Lord Admiral.
Lord Chamberlain.
Earl of *Dorset*.
Earl of *Salisbury*.
Earl of *Holland*.
Lord *Cottingham*.
Lord *Newburgh*.
Mr. Treasurer.
Mr. Comptroller.
Mr. Vice-Chamberlain.
Mr. Secretary Cook.
Mr. Secretary *Windebanck*.

This day was read at the Board (His Majesty sitting in Council) the Draught of the Writ hereafter mentioned, and by His Majesties express Command, it was ordered, That Mr. Attorney-General should be hereby required forthwith to send Writs accordingly to the Lord William Howard, the Lord Clifford, the Lord Wharton, the Lord Grey of Wark, Sir Richard Lumly, Knight, Vicount Waterford in Ireland. Mr. Attorney is to take care not to fail to issue out these Writs.

As also Letters were dispatched to the Majors of *Newcastle* and *Hull*, for the fortifying of those Towns according to the usage of former times, and for that divers of the Nobility and Gentry did voluntarily offer their Service to his Majesty to serve him in his Wars, the Privy-Council ordered Letters

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Letters of License to all such to train, maintain and discipline their Servants, men and associates which they were ordered to have under the hand of the Earl Marshal of England, as also a place of Rendezvous was appointed at Selby in Yorkshire, and the Lieutenants of the respective Counties were to pay the charge of the Souldiers conduct, and the moneys to be allowed them in the Exchequer. All Lord Lieutenants of Counties were ordered to repair into their Counties respectively, and the Earl of Bridgewater to his Presidency in Wales, and all Governours of Town, City or Castles, to their particular Governments accordingly. And in regard the Scottish Tumults were more than likely to end in a War, the Lord Deputy of Ireland, the Loyal Earl of Strafford, gave his Majesty his Sentiments of that was as followeth:

The Lord Deputy of Ireland's Letter to the King.

May it please your Sacred Majesty,

HAVING of late in a short space written sundry Letters, I chose hitherto to forbear answering those of the 28 of December, lest my Liberty might seem a violence to the modesty and Reverence I ought and shall ever observe, so often as I have the Honour to appear before your Majesty be it in Person or Writing.

But now the Acknowledgments of your Princely Aspect toward your absent Servant break forth from me.

First, In a most humble sense of your gracious admitting me the Honour to perform unto the Queen a small Service, in the Suit I last mentioned, and thereby express my ambition to be commanded something by her Majesty.

And next, the comfort I have to find my self under the protection, and shelter of your Majesties most excellent Judgment and Justice, all along that storm raised in my Country (when I least looked for it) by the Earl of Holland, and others.

The Passages indeed I have understood from Mr. Raylton, for which I most humbly thank your Majesty.

It seemeth the Earl of Holland now saith, That he never refused to be examined; excepting only against the looseness of the Interrogatories. Sure his Lordship hath thought better of it of late; for, either I have been strangely misinformed, or at first his Lordship insisted positively, That by his Privilege of a Peer and Counsellor, he ought not to be examined at all, and laboured to procure an Order at the Council-board it self to fettle it accordingly.

Then your Majesty conceives, I should have looked so into the Interrogatories, as might have rendred them without exception. I have been heretofore thrice Defendant and twice Plaintiff in that Court; and upon my Faith, Sir, never read over any Interrogatory in all my Life, this being the Work of the Solicitor and Counsel, and not of the Client; and so having given Direction, nothing should pass of that kind, but under the Eye of your Majesties Attorney General, and Solicitor; I held my self by that means safer, and in a more perfect way, than any poor advice or skill of mine own could have set me, albeit I had been present upon the place.

As for that which your Majesty with so much tenderness above any merit, or consequences of my poor Services, mentions in the latter part of this gracious Letter concerning Sec. Win. 182. I beseech your Majesty believe, that I have so intirely assigned my Will and Affections to your Pleasure; am so perfectly delighted to follow and serve you your own way, how much soever my private Opinion might else lead me into your Paths; that there is neither Person, nor Thing, that I shall not readily and chearfully join hands withal, where your Majesty is pleased once to signifie it is fit for your Service to have it so, how much more then with this Lady, against whom I protest I never had the least Exception for any private interest of my own.

And here having answered the former, I receive your Majesties other Letter of the 25th of January, this 5th of February.

By the Blessing of Almighty God, these five hundred Men, provided in all respects as becomes your Service, shall be at Carlisle by the first of April, according to your Majesties appointment, nothing but crows Winds to hinder; for that favourable, I have them all on Board, and moving thitherward by the twentieth of the next Month, provided of fifteen daies Bread and Beef, for Cheese this Place affords none: But still, under favour, me-thinks the Garrison of Carlisle would not be less than two hundred Horse and one thousand Foot, and that of Berwick four hundred Horse and two thousand Foot.

I congratulate exceedingly the forwardness of your English Subjects, the readines of your Army, and your gracious Purpose of going in Person to York, as passing wise and noble, will give infinite chearfulness to your Army, countenance and advantage to all your Affairs; yet I trust there is no thought of your going any further, It will be sufficient the rest under your Majesties Directions be managed by such as have that Charge committed to them.

The season of this year is so past, as nothing can be done in present, but against the next Winter. If I knew the proportions, I conceive I might, at good Rates, victual Carlisle with Beef, Butter, Corn, or Bisket, and Herring, to be delivered at Whitehaven, and so carried thirty miles over Land to Carlisle; and after I understand your Pleasure, shall attend that Service, as all other your Gracious Commands, with my uttermost care and pains.

My Lord of Antwerp doth not by one word make known his desire to me for Arms, which is advisedly done; his Lordship perceiving I am not ignorant of his great want of Money; his credit to be so low, as not able to take up, at this very instant, in this Town poor three hundred pounds; therefore his great Undertakings are more like to be believed on abroad, than they would be nearer home. I shall be able to furnish him with Arms, when the Supply comes. We have sent for into the Low-Countries, if it be your Pleasure to have it so: But I crave to know who it is your Majesty purposeth shall pay for them.

Yet I might accuse my self, should I not humbly certify your Majesty, I am altogether of opinion, his Lordship in so great a streight of his own Fortune, is not a Person at all to trouble the Earl of Argle now come back again into Cambray, or in present much considerable to your Majesties Affairs; and confident I am this will appear most true, how great soever his desires

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on that side are expressed, and I may believe them to be to serve the Crown.

The Secrets your Majesty gives me in charge, shall never be discovered to any Creature; yet that I be not thought upon for other Mens faults, I send inclosed a passage that I my self read in a Letter writ thence to Captain *Biron*. The Writer is one Mr. *Daniel Neal*, a very slight and busy Person; His principal dependance on the Earl of *Antrim*; and if I be not mistaken, very conversant at *Arundel-House*: Nevertheless my hands once freed of this Packet, I shall so colour the Matter, as to take away all thoughts of going to *Carlisle*.

Mr. *Raylton* informs me, There are Summons gone out for all the Nobility to attend your Majesty at *York*, Letters made ready for me among the rest, which your Majesty was pleased to order the stay of, for which I thus return my most humble thanks.

Were I not really and importunately fixed by my Employment, as a decent Complement at least to the Peace and Safety of the Affairs on this side, I should be most mightily out of countenance to be found in another place, than at your Majesties Feet, to receive and execute your Commands, to the utmost of my Power and Life.

Yet, Sir, I am your most obliged Creature, why should I be cared for, or considered, where your greatest Interests are in question? Hence it is, that I thought of sending thither fifty of my Horse-Troop, but that they are not to be supplied again on this side, nor durst I disfigure your Service of them here, and to furnish so many there, my self absent, and in so short a time, I am out of hope: yet have I thought of another Expedient, which perchance may prove as much for your Service, as good in the Example, which I humbly crave may be accepted.

Therefore, if it shall not please God to put the Scottish Subjects into their right Wits again, that they do not humbly and repentantly conform to your Majesties Will: I shall give order that for this next year, there be paid at *York* to Sir *William Udall*, your Treasurer for the Wars, as my Rents come in, one thousand pounds at *Midsummer*, and one thousand pounds at *Christmas*; and if this be not sufficient, I do most humbly beseech your Majesty command all I have there to the uttermost Farthing.

Nor have I on this side more Friends than three, that have Lands there; and I am desired, by the Master of the *Folls*, and Sir *George Radcliff*, that 500 *l.* betwixt them may be accepted upon the same terms, and some daies of Payment: And in like manner a young Captain of your Majesties, my Brother, that hath some Fortune by his Wife there, 100 *l.*

Our Sons are all Children; but if they were able to bear Arms, we should send the young *Whelps* to be entred in your Majesties *Militia*, Judge it to be their greatest honour it might be so; and for a Conclusion, so as it might be better for your Service, hang up the old Dogs.

Above all, I beseech your Majesty intend your Horse, and make your self as strong in them as possibly can be effected in this short time: For as it will be no great difficulty to your Majesty to over-top your Rebels, and Master them in Horse; so shall that Point gained, and fortified alone, secure your Kingdom of *England* from the prejudice it might otherwise sustain, if they went forth to such Insolence, as to make an Offensive War upon the Crown.

My next Work, I fear, will be to trouble your Majesty with a Letter touching my own Particular. I beseech you vouchsafe to read it; and after, rather than disquiet your Majesty, or your Affairs, burn it, and command Mr. *Raylton* to go on with the Examination, as it is already directed; only, Sir, there is a Credit, which among Men, I ought so far forth to care for, as it may enable me to fulfill your Commands with more Effect and Honour, which I trust howsoever will plead my excuse. The Great God of Battles long and long preserve your Majesty.

Dublin, Feb. 10.
1638.

Your Majesties

Most faithful, and most humble
Subject and Servant,

WENTWORTH.

And in regard the War was likely to prove very expensive, and more than his Majesties Revenues without Parliamentary Aid would well bear, the Clergy were required to assist his Majesty herein, and the Lord Archbishop of *Canterbury* wrote to them by his Majesties Command as followeth:

Feb. 11. The Archbishop of Canterbury's Letter to the Clergy.

After my hearty Commendations, &c.

I Have received a Warrant from the Lords of his Majesties most Honourable Privy-Council, which requires me to write to all the Bishops in my Province to call their Clergy together, and put them in mind of the great danger this Kingdom is in, by the Traiterous Conspiracies of some ill-affected in Scotland. These Seditious Persons have begun, and continued hitherto their foul Disloyalty under the pretence of Religion, which by factious Spirits in all times is made the Cloak to cover and hide, (if it might be) their Designs. But now it appears clearly to the State, that they daily strengthen themselves by Arms and Ammunition, and other Preparations for War. And though his Majesty hath graciously condescended to more than they could justly ask in all things concerning their Religion and their Laws, yet they go on still, and are satisfied with nothing but their rebellious Disobedience, and have no less aim than to Invade or annoy England. The Letters to the several Bishops I have sent, as I was commanded, and I doubt not but they and the Clergy in general, will give very freely towards this great and necessary Defence of the Kingdom. And because this great and common Danger cannot be kept off, but by a common Defence; and for that the Reverend Judges, and others of the Common-Law have bountifully expressed themselves already; I am required to write to you also, that you calling to you the rest of the Doctors of the Commons, propose to them now while most of them are together, this great and weighty Business belonging as much to their Defence as to other mens; and let every man set down what he will give to this Service: when this is done, I will acquaint his Majesty with it, and yours and their forwardness herein. And it is expected that you hasten this with all convenient speed. So to God's blessed Protection I leave you, and rest,

Lambeth, Feb.
11. 1638.

Your very loving Friend,

W. CANT.

POST-

POSTSCRIPT.

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And for that a Parliament was summon'd to meet at Westminster, Apr. 13. 1640. the aforesaid General Assembly of Scotland caused privately to be dispersed in London and elsewhere, their Declaration to assure their dear Brethren of England, of their gude intentions, and of the sincerity of their hearts for the carrying on the Lord's own cause (so they Nick-named their Rebellion) and that they only aimed at the endeavouring a Reformation of and a Conservation of the true Religion in the two Kingdoms, the Purport whereof take as followeth:

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THe work of Reformation now renewed and far advanced in this Kingdom, hath in the whole progress met with all the opposition which the subtil malice of Rome's Emissaries could plot: But God hitherto has disappointed all their Intentions, and turned Achitophel's Wisdom into folly. And now when they cannot beat down the Walls of Jerusalem, they labour to undermine it with Calumnies, according to the damnable Maxim, *Calumniare audacter, & semper aliquid habebit.* And, like Tobias, Sanballat, and such like, will not be wanting to oppose mightily the building of Ezra and Nehemia, by saying to the King, *Why is the rebellious City builded?*

The same steps are now traced by the Authors of Innovations in this Church, who taking the advantage of their opportunity (which we want, to our great regret) and being greatly assisted and stirred up by some of their own Coat, who are pernicious and Popishly affected, do thereupon presume to whisper unto his Sacred Majesty, and spread abroad in their Neighbour Kingdom of England most untrue and damnable Aspersions, (over and above the Particulars laid to our charge in the Proclamation of the Eighteenth of December, which are largely answered in our Protestation lately published) venting with equal impudency and malice, that we do only pretend Religion, but do intend to shake off the most lawful yoke of Authority, by changing the form of Civil Government; that we intended to invade our Neighbour Kingdom of England, and enrich our selves with the spoils thereof; although our Consciences bear us Testimony against those untruths, and make us think so charitably, that no man understand-

ing rightly Religion and Policy, will give belief unto these Aspersions, forged against the body of our Church and Kingdom: yet being certainly informed, that the Authors of our Innovations and the Arch-enemies of Reformation, have laboured to poison his Majesties sacred Ears with those Imputations, and have dispersed the same with open mouth among the Subjects of England: We are forced to vindicate our innocency, and wipe away all impressions which those Challenges might make in the behalf of any: First, by our Supplication given in to the Lords of Secret Council, January 31. and now by our Answer, and publick Declaration unto the World, whereby we take God to witness, That Religion is the only Subject, Conscience the motive, and Reformation the aim of our Designs, for attaining whereof, we have never strayed from the humble and loyal way of Petitioning his Majesty for a legal Redress. And do yet according to our bounden Duty, beg the consummation of our happy beginnings by the holding of the Parliament for the Ratification of the Assembly indicted by his Royal Majesty. And as We have often heretofore professed in our Supplications, religiously sworn in our solemn Covenant with God Almighty, and publicly declared before God and Men in all our Protestations made in the view of Heaven and Earth, That We had never the least intention to cast off our dutiful Obedience unto his Majesties most lawful Authority: So We do hereby renounce the same, and solemnly declare, That our Loyal Breasts have never harboured any thought against our gracious Sovereign his Person or Government, for whom We daily and earnestly pray the King of Kings to grant a long and happy Reign over us; and when he shall be crowned with Immortality, that there never want one of his Seed rightly to rule us, and to sit upon his Throne so long as the Sun and Moon endureth: For We acknowledge that he is the Lord's Vicegerent swaying the Scepter of this Land, transmitted to him by the succession of so many Royal Ancestors, as no other King in the World can parallel the same, and no other Nation compare with us in the glory of Antiquity, under that lawful subjection to one Line of Native born Princes, which we will never deface by any unnatural and impious cogitations against the Lord's Anointed, but heartily wish that Shame and Confusion may be Printed upon the face of his Enemies, And that We may be happy in the occasion to expose our Lives and Fortunes to the greatest hazard, for maintenance of the Person and Authority of our dread Sovereign, and increase of his Honour. *Let Mercy and Truth preserve the King.*

As for our Intention towards England, We attest the ever-living God, (who is conscious of our most secret thoughts) that We never had any such Design or motion to offend, or wrong in the smallest measure any other Nation, much less our Neighbour Kingdom, living in one Isle, under one King, with as little controversy, and with as much affection, as hath been betwixt two Nations once at variance, but now happily reconciled and tyed together by the most strict Bonds, which We desire rather to increase than diminish by any act of unjust Hostility. And albeit we are confident that the improbability of this Challenge will stop the way of all credit to it, yet to confound these Reporters in their malice, we will shortly relate our

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Car. 14.

Aug. 6.
1639. the
Assembly
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1638.

on that side are expressed, and I may believe them to be to serve the Crown.

The Secrets your Majesty gives me in charge, shall never be discovered to any Creature; yet that I be not thought upon for other Mens faults, I send inclosed a passage that I my self read in a Letter writ thence to Captain *Biron*. The Writer is one Mr. *Daniel Neal*, a very slight and busy Person; His principal dependance on the Earl of *Antrim*; and if I be not mistaken, very conversant at *Arundel-House*: Nevertheless my hands once freed of this Packet, I shall so colour the Matter, as to take away all thoughts of going to *Carlisle*.

Mr. *Raylton* informs me, There are Summons gone out for all the Nobility to attend your Majesty at *York*, Letters made ready for me among the rest, which your Majesty was pleased to order the stay of, for which I thus return my most humble thanks.

Were I not really and importunately fixed by my Employment, as a decent Complement at least to the Peace and Safety of the Affairs on this side, I should be most mightily out of countenance to be found in another place, than at your Majesties Feet, to receive and execute your Commands, to the utmost of my Power and Life.

Yet, Sir, I am your most obliged Creature, why should I be cared for, or considered, where your greatest Interests are in question? Hence it is, that I thought of sending thither fifty of my Horse-Troop, but that they are not to be supplied again on this side, nor durst I disfigure your Service of them here, and to furnish so many there, my self absent, and in so short a time, I am out of hope: yet have I thought of another Expedient, which perchance may prove as much for your Service, as good in the Example, which I humbly crave may be accepted.

Therefore, if it shall not please God to put the Scottish Subjects into their right Wits again, that they do not humbly and repentantly conform to your Majesties Will: I shall give order that for this next year, there be paid at *York* to Sir *William Udall*, your Treasurer for the Wars, as my Rents come in, one thousand pounds at *Midsummer*, and one thousand pounds at *Christmas*; and if this be not sufficient, I do most humbly beseech your Majesty command all I have there to the uttermost Farthing.

Nor have I on this side more Friends than three, that have Lands there; and I am desired, by the Master of the *Rolls*, and Sir *George Radcliff*, that 500 *l.* betwixt them may be accepted upon the same terms, and some daies of Payment: And in like manner a young Captain of your Majesties, my Brother, that hath some Fortune by his Wife there, 100 *l.*

Our Sons are all Children; but if they were able to bear Arms, we should send the young *Whelps* to be entred in your Majesties *Militia*, Judge it to be their greatest honour it might be so; and for a Conclusion, so as it might be better for your Service, hang up the old *Dogs*.

Above all, I beseech your Majesty intend your Horse, and make your self as strong in them as possibly can be effected in this short time: For as it will be no great difficulty to your Majesty to over-top your Rebels, and Master them in Horse; so shall that Point gained, and fortified alone, secure your Kingdom of *England* from the prejudice it might otherwise sustain, if they went forth to such Insolence, as to make an Offensive War upon the Crown.

My next Work, I fear, will be to trouble your Majesty with a Letter touching my own Particular. I beseech you vouchsafe to read it; and after, rather than disquiet your Majesty, or your Affairs, burn it, and command Mr. *Raylton* to go on with the Examination, as it is already directed; only, Sir, there is a Credit, which among Men, I ought so far forth to care for, as it may enable me to fulfill your Commands with more Effect and Honour, which I trust howsoever will plead my excuse. The Great God of Battels long and long preserve your Majesty.

Dublin, Feb. 10.
1638.

Your Majesties

Most faithful, and most humble
Subject and Servant,

WENTWORTH.

And in regard the War was likely to prove very expensive, and more than his Majesties Revenues without Parliamentary Aid would well bear, the Clergy were required to assist his Majesty herein, and the Lord Archbishop of *Canterbury* wrote to them by his Majesties Command as followeth:

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Anno 1638. Regrets and Fears, our Desires and Resolutions with that freedom and sincerity, which may evidence our brotherly respect to the Subjects of England, and controul the false Surmises of our intentions against them. We regret together with our dear Christian Brethren of our Neighbour Nation, that we should have so evident and sensible experiences of the dangerous Plots set on foot, and entertained by the Church-men of the greatest power in England, for introducing Innovations in Religion, by corrupting the Doctrine, changing the Discipline, daily innovating the External Worship of God, Preaching publicly and maintaining Points of *Arminianism* and heads of Popery, defending and advancing Preachers and Professors of that Judgment, and allowing Books stuffed with that Doctrine, Fining and Confining and Banishing all such, as in Conscience of their Duty to God labour to oppose the Doctrine, Discipline or Worship of the Church of Rome, by their incroaching and usurping upon the King's Prerogative, tyrannizing over the Consciences, Goods and Estates of Persons of all qualities within that Kingdom: And not being content to keep within their own Precincts, did induce, assist, and encourage the pretended Archbishops and Bishops of this Kingdom, to press not only a Conformity of this our Church, with that of England in matter of Ceremony, but also with the Church of Rome in the Points most substantially erroneous, as appeareth by the *Book of Common Prayer* and *Canons*, found to be a mass of Popish Superstition, false Doctrine and Tyranny, which was confessed to have been first plotted, then corrected and interlined in England, and sent down to their Associates the pretended Archbishops and Bishops of this Kingdom, to be Printed, and pressed upon the whole Church here without order or consent, as the only Form of Divine Worship and Government of the Church, to make us a leading Case to England. And by their Letters to Statesmen, Noblemen and Burroughs (to further the advancement thereof) perswaded his Gracious Majesty to declare these Books, which are full of Popish Superstition, to be free of it, and to be fit means of Edifying this Church, and caused his Majesty to prohibit the lawful Meetings and humble Supplications of his Subjects under pain of Treason, and to esteem of his good Subjects as of Traitors and Rebels, for a discovering this wicked Plot, and complaining thereof; And for their renewing of their *National Covenant* with God and their Allegiance to his Majesty, did threaten them by publick Proclamation with utter extermination and ruin, and have by their Calumny moved his Majesty to discharge under the pain of Treason, the sitting of our free General Assembly, indicted by his Majesty after so many Supplications, and to engage his Royal Word of a Prince, to defend all disobeyers of the Church, to threaten and prepare for an inward War against this his most ancient loyal native Kingdom, to distrust all our Supplications, Oathes and Declarations ingenuously and humbly made, and thereby they have endeavoured, so far as in them lies, to alienate his Majesties heart from his People, and estrange their due bound Affections from him if it were possible. And in the end for the full accomplishment of their wickedness (as we are informed) have made his Majesty follow the advice and counsel of professed Papists, and to intrust them with

the chiefeft Offices of the Armies and Arms now preparing, for the threatened Invasion of this Kingdom, and still intend to raise Jealousies in the Body of the one Kingdom against the other, and so to commit them together, which we beseech God to prevent, and hope it shall be above their Malice, the Lord opening the eyes of our Sovereign, and of our Neighbour Nation, to discover that Treachery whereby nothing is intended, but to join the two Kingdoms in bloody War, that so Reformed Religion may be extinguished and Popery introduced, which then may be easily effected when both sides are weakened, and so may be easily suppressed by the Papists, having all Power and Offices in their hands, being already too strong in England, and encouraged with expectation of Foreign help, ready to accept that advantage, so much prejudicial to his Majesties Honour, Power and manifold Declarations for the maintenance of the Reformed Religion, whereof he is the Defender. We have also Reason to regret, that any within the Kingdom should give more credit to false Calumnies, cunningly invented to foment their jealousies, and make them prepare for invading their Brethren, than to our solemn Protestations, Supplications, Declarations and Covenant with God himself; yet we are fully confident that such are drawn thereunto, partly through the Information of our Adversaries, and particularly for lack of clear Information concerning our most Loyal and Christian Proceedings: and therefore do most heartily wish, they may with Wisdom and Charity suspend any further giving credit to things of that kind, till they may have occasion to receive full Information of the truth. And we regret that any should think the standing of Episcopacy in the Church of Scotland just ground for Invading of, and making War against this Nation, and consequently to raise up the Old National Bloodshed and Quarrels, which are now happily changed unto a sweet peaceable conjunction of Hearts and Affections, seeing Episcopacy in this Church is contrary to our Ancient Reformation, *Confession of Faith*, and Oath of this Church and Kingdom, whereby that Government was abjured, which cannot reasonably offend any other State or Church, who may be ruled by their own Laws and Warrant. But as in every Matter which falleth in deliberation to be put in Execution, Justice should be the Mover and Efficient, and Profit and Honour used to be the End: So especially in this weighty Business it should be well pondered, if this Act of Invading us by War, for keeping our Oath to God, and obeying the lawful Constitutions of our Church and Kingdom, be just upon the part of the Invader; or if the benefit of *Re-establishing the Bishops* upon us, will recompence the loss of so much Christian Blood, and the hazards of Dissention and War, whereof the Event dependeth upon the Lord of Hosts. But it is obvious to every man's Consideration, That this War is by our Adversaries intended for another end, and hath a more deep and dangerous reach, otherwise the Prelates (if either good Christians or Patriots) would rather quit their Minion, Ambition, and worldly Pomp, than engage two Kingdoms with the hazard of true Religion.

And that none may suspect the sincerity of our Intentions, the lawfulness of our Proceedings, or the truth of our Declarations or Accusations against the Enemies of our Reformation and Peace,

Anno
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Peace, We are able, and wish to have occasion to justify the same before the World: For unless we should have closed our own Light, and resisted the known Will of God, acknowledged, subscribed, and sworn by his Majesties Father (of ever blessed Memory) to our Predecessors, in a solemn Covenant with God, and so often confirmed and ratified by Acts of this Church and Kingdom since the Reformation, we could not omit any thing which we have done. And albeit we be one Church and Kingdom, as free, ancient, and independent as any other in the World, yet for clearing of the Mind of our Neighbour Nation from all mis-information and mis-construction of our Intentions and Proceedings, and to verifie the lawfulness and absolute necessity of our Actions and Acts of the late Assembly, We do assure our selves, that if the States of the Parliament of *England* were Convened, and the whole progress of this Business faithfully represented unto them, they would without doubt be so far from censuring or condemning what we do, that they would be moved to become Petitioners to his Sacred Majesty on our behalf, and approve of the equity and loyalty of all our Proceedings in this Cause. And therefore in the mean time we intreat, That no true *English* Heart entertain any Jealousies of Us, who are confident of the innocency of our Proceedings and Intentions, and free hitherto of all Blemishes against our Sovereign and our Neighbour Nation, as we beg the occasion of manifesting the same to them and to all the World, as we have upon the knowledge of these mis-reports of us, cleared our selves of any such Intention by our great Oathes every one to other, at our most frequent Meetings.

The obtaining of this our so peaceable and just desire, shall not only be comfortable to us their Christian Brethren, serving as a further tye to unite our Affections in time to come, and to stir us up to pour out our hearty Prayers to God on their behalf; but without all question, the Righteous Judge of all the World shall make you reap the Fruit thereof one day; and who knoweth how soon?

In the mean time our care shall be upon all occasions, to make it appear clearly to all the World, how far it hath alwaies been (and by the Grace of God ever shall be) from our Intention first or last, to offer the least Act of Hostility to our Neighbour Kingdom, excepting so far as we shall be necessitate in our own Defence. And though (as God forbid) we should be forced thereunto, yet shall we remain unwilling to conceive things of that kind to flow from the Body of that Kingdom, with whom we intend no National Quarrel, neither mind to wrangle with them, except in the case of Invasion from them, but rather that this Stir hath been contrived and set forward by some ill-affected Persons to both Kingdoms; with whom only our question is, and to whom alone we may justly intend according to their desert, as men who are set to engage both Kingdoms in so bloody a War for their own base ends. And although a Party be raised from among our selves, that are fomented and maintained from abroad, whence we find the Sinews of that body within our selves to be derived and maintained which might justly stir us; yet the vanity and weakness of our Intestine Adversaries, even in this case of Offence, is so far from making us take Fire, without manifest Hostility offered, or engaging us in any

violent course that may interrupt the Brotherly Love and Concord of these two Kingdoms, or blemish our holy Profession in the least degree, as we are confident no malicious mis-reports of our common Adversaries, will induce our dear Brethren to quarrel with us for seeking to enjoy our Religion in purity, and our Laws and Liberties, according to the Fundamental Constitutions of our Church and State, when we are so well affected to them, as we are truly sensible of their grievous burdens, and intolerable sufferings from the Tyranny of their Hierarchy, and the fearful bondage they undergo from the wicked Counsel of that Clergy suggested from *Rome*, and producing so dangerous Innovations both in Religion and Policy.

The sincere manifestation of our real intentions, We find our selves obliged to publish, for satisfying all good Subjects in our Neighbour Nation, being confident they are also desirous to be confirmed in their good opinion of us, and so to be armed against all Slanders and Calumnies of those that endeavour the final over-throw, and utter extermination of the Kingdom of *Christ Jesus* from this whole Island, where of we pray God to avert the Danger, and grant us Peace and Purity, which is the height of our desire; for procuring whereof we shall employ no other Weapons (except we be forced) but Fasting and Prayer to God Almighty, and humble Supplications to our Gracious Sovereign.

Revised according to the Ordinance of the General Assembly, by Mr. Archibald Johnston, Clerk there. At *Edinburgh* the 14th of February, 1639.

About this time the Lord Commissioner resolved to ask his Majesties leave for his return to *England*, seeing there was no good to be expected from the King's fair and gracious proceedings with them of the pretended Assembly, and wrote unto his Majesty accordingly. When he had received his Majesties leave for his return, he hearing of the great stirs which were now raised at *Edinburgh*, and the strong and great Guards which were since his leaving of *Glasgow* put upon his Majesties Castle there, repaired thither to the King's Palace at *Holy-wood-house*, where he found the people of that City horribly abused by the mis-reports of all the passages of the Assembly, whilst he continued at *Glasgow*; especially with a false information that his Majesty had there made good nothing of all which was contained in his last gracious Declaration made at *Edinburgh* the twenty second of *September* last past: herewith he made the King presently acquainted, which moved the King by a very speedy dispatch to command him by Proclamation to make known to all his Subjects at *Edinburgh*, the sum of his whole proceedings at *Glasgow*; which the Lord Commissioner presently performed, by causing this the ensuing Proclamation to be published at the Market-Cross of that City.

CHARLES

Anno
1638.

Charles R.

CHARLES by the Grace of God, King of Scotland, England, France, and Ireland, Defender of the Faith. To our Lovest

Messrs, Heraulds, Pursuivants, Our Sheriffs in that part conjunctly and severally specially constitute, greeting. Whereas for the removing of the disorders which had happened of late within this Our Kingdom, and for settling of a perfect peace in the Church and Commonwealth thereof, We were pleased to cause indict a free General Assembly, to be holden at Glasgow the one and twentieth of November last: And for Our Subjects their better content and assurance that they should be freed of all such things as by their Petitions and Supplications given in to the Lords of Our Privy Council, they seemed to be grieved at, We in some sort prevented the Assembly, by discharging by Our Proclamation the Service-Book, Book of Canons, and high Commission, freed and liberate Our Subjects from the practising of the five Articles, eximied all Ministers at their entry from giving any other Oath then that which is contained in the Act of Parliament, made all persons, both Ecclesiastical and Civil, liable to the censure of Parliament, General Assembly, or any other Judicatory competent, according to the nature of their offence; had declared all by-gone disorders absolutely forgotten and forgiven: And last, for securing to all Posterity the truth and liberty of Religion, did command the Confession of Faith, and Band for maintenance thereof, and of Authority in defence of the same, subscribed by Our dear Father, and his household in Anno 1580. to be renewed and subscribed again by Our Subjects here: And albeit that this Our gracious and pious command, instead of obedience and submission, rancountred open and publick opposition and protestation against the same: And that they continued their daily and hourly guarding and watching Our Castle of Edinburgh, suffering nothing to be imported therein, but at their discretion, stopping and impeding any importation of Ammunition, or other necessities whatsoever to any of Our Houses within this Kingdom: Denying to Us their Sovereign Lord that liberty and freedom, which the meanest of them assume to themselves (an Act without precedent or example in the Christian world). Like as they spared not boldly and openly to continue their Conventions and Council Tables of Nobility, Gentry, Ministers, and Burgeses within the City of Edinburgh, where, not regarding the Laws of the Kingdom, without warrant of Authority, they convened, assembled, and treated upon matters, as well Ecclesiastical as Civil, sent their Injunctions and Directions throughout the Country to their subordinate Tables, and other under Ministers appointed by them for that effect. And under colour and pretext of Religion, exercising an unwarranted liberty, required obedience to their unlawful and illegal directions, to the seen prejudice of Authority, and lawful Monarchical Government. And notwithstanding it was evidently manifest by the illegal and informal course taken in the election of the Commissioners for the Assembly, whereof some of them were under the Censure of this Church, some under the Censure of the Church of Ireland, some long since banished for open and avowed teaching against Monarchy, others of them suspended, and some admitted to the Ministry contrary to the form prescribed by the Laws of this Kingdom; others of them Rebels, and at the Horn, some of them confined, and all of them by Oath and Subscription bound to the overthrow of Episcopal Government. And by this and other their under-hand working, and private informations and persuasions, have given just ground

of suspicion of their partiality, and so made themselves unfit Judges of what concerneth Episcopacy. And als
albeit it was sufficiently cleared by the peremptory and illegal procedures of the Presbyteries, who at their own hand by order of Law, and without due form of Process, thrust out Moderators lawfully established, and placed others whom they found most inclinable to their turbulent humours, associate to themselves, for choosing of the Commissioners to the Assembly, a Laick-Elder out of each Parish, who being in most places equal, if not more in number than the Ministry, made choice both of the Ministers, who should be Commissioners from the Presbyteries, as also of a Laick-Elder, (which in time will prove to be of dangerous consequence, and import a heavy burthen to the Liberty of Church and Churchmen) being more directed therein by the warrants of the foresaid pretended Tables, then by their own judgments; as appeared by the several instructions sent from them (far contrary to the Laws of this Country, and lawable custom of this Church) some whereof were produced and exhibit by Our Commissioner, and publicly read: One whereof, direct to the Noblemen and Barons of each Presbytery, doth, among many other odd passages, require diligence, lest (say they) by our own silliness and treachery we lose so fair an occasion of our liberty both Christian and Civil; a strange phrase to proceed from dutiful or loyal hearted Subjects. The other to the Moderators of the several Presbyteries, under the Title of Private Instructions, August 27. First, containeth that these private instructions shall be discovered to none, but to Brethren well affected to the cause: Secondly, order must be taken, that none be chosen ruling Elders but Covenanters, and those well affected to the business: Thirdly, that where the Minister is not well affected, the ruling Elder be chosen by the Commissioners of the Shire, and spoken to particularly for that effect: Fourthly, that they be careful that no Chapel-men, Chapter-men, or Minister Justice of Peace, be chosen, although Covenanters, except they have publickly renounced, or declared the unlawfulness of their places: Fifthly, that the ruling Elders come from every Church, in equal number with the Ministers; and if the Minister oppose, to put themselves in possession, notwithstanding of any opposition: Sixthly, that the Commissioner of the Shire cause convene before him the ruling Elder of every Kirk chosen before the day of the Election, and enjoin them upon their Oath, that they give vote to none but to those who are named already at the meeting at Edinburgh: Seventhly, that where there is a Nobleman in the bounds of the Presbytery, he be chosen, and where there is none, there be chosen a Baron, or one of the best quality, and he only a Covenanter: Eighthly, that the ablest man in every Presbytery be provided to dispute de potestate supremi magistratus in Ecclesiasticis, praesertim in convocandis conciliis, &c. Whereby it is most evident what prelimitations, indirect and partial courses, and dangerous propositions have been used in the preparations and elections to this pretended Assembly. By which unlawful doings, although We had sufficient reason to discharge the meeting of the said Assembly, yet We were pleased patiently to attend the same, still hoping that when they were met together, by the presence of Our Commissioner, and assistance of some well-affected Subjects, who were to be there, and by their own seeing the real performance of what was promised by our Proclamation, they should have been induced to return to the due obedience of Subjects. But when we perceived that their turbulent dispositions did increase, as was manifest by their repairing to the said pretended Assembly with great troops and bands of men, all bidden in fear of War, with Guns and Pistolets, contrary to the Laws of this Kingdom, and in high contempt of Our Proclamation at

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at Edinburgh the sixteenth day of November last: And also by the peremptory refusing to the Assessors, authorized by Us, (although fewer in number than Our dearest Father was in use to have) the power of voting in this Assembly, as formerly they had done in all others, openly averring that We, nor Our Commissioner, had no further power there than the meanest Commissioner of their number: And by their partial and unjust refusing, and not suffering to be read the Reasons and Arguments given in by the Bishops, and their Adherents to Our Commissioner, why they ought not to proceed to the election of a Moderator, neither yet to the trying and admitting of the Commissioners, before they were heard, though in Our name they were earnestly required thereto by Our Commissioner: And notwithstanding that Our Commissioner by warrant from Us, gave in under his hand a sufficient Declaration of all that was contained in Our late Proclamation, bearing likewise Our pleasure of the registration of the same in the Books of Assembly, for all assurance of the truth and purity of Religion to all Our good Subjects, as doth clearly appear by the declaration it self; whereof the tenor follows. The King's Majesty being informed that many of his good Subjects have apprehended that by the introducing of the Service-Book, and Book of Canons, the inbringing of Superstition hath been intended, hath been graciously pleased to discharge, like as by these he doth discharge the Service Book, and Book of Canons, and the practice of them, and either of them, and annuls and rescinds all Acts of Council, Proclamations, and other Acts and Deeds whatsoever, that have been made or published for establishing them, or either of them, and declares the same to be null, and to have no force nor effect in time coming. The King's Majesty, as he conceived, for the ease and benefit of the Subject, established the high Commission, that thereby Justice might be administrate and the faults and errors of such persons as are made liable thereto, taken order with, and punished with the more conveniency, and less trouble to the people. But finding his gracious intention therein to be mistaken, hath been pleased to discharge, like as by these He doth discharge the same, and all Acts and Deeds whatsoever made for establishing thereof. And the King's Majesty being informed, that the urging of the five Articles of Perth assembled hath bred distraction in the Church and State, hath been graciously pleased to take the same into His Royal consideration, and, for the quiet and peace of this Country, hath not only dispensed with the practice of the saids Articles, but also discharged all and whatsoever persons from urging the practice thereof, upon either Laick or Ecclesiastical person whatsoever, and hath freed all His Subjects from all censure and pains, whether Ecclesiastical or Secular, for not urging, practising, or obeying them, or any of them, notwithstanding of any thing contained in the Acts of Parliament, or General Assembly in the contrary. And his Majesty is further contented, that the Assembly take the same so far to their consideration, as to represent it to the next Parliament, there to be ratified as the Estates shall find fitting. And because it hath been pretended, that Oaths have been administrate different from that which is set down in the Acts of Parliament, his Majesty is pleased to declare by me, that no other Oath shall be required of any Minister at his entry, nor that which is set down in the Act of Parliament. And that it may appear how careful his Majesty is that no corruption nor innovation shall creep into this Church, neither yet any scandal, vice, or fault of any person whatsoever, censurable or punishable by the Assembly, go along unpunished, his Majesty is content to declare by me, and assure all His good people, that General Assemblies shall be kept so oft, and also oft as the affairs of this Church shall require. And

that none of His good Subjects may have cause of grievances against the proceedings of the Prelates, his Majesty is content that all and every one of the present Bishops, and their Successors, shall be answerable, and accordingly from time to time censurable, according to their merits by the General Assembly. And to give all His Majesties good People full Assurance, that He never intended to admit any alteration or change in the true Religion profest within this Kingdom, and that they may be truly and fully satisfied of the reality of His intentions and integrity of the same, his Majesty hath been pleased to require and command all His good Subjects to subscribe the Confession of Faith, and Band for maintenance thereof, and of his Majesties person and Authority, formerly signed by His dear Father, in Anno 1580. and now also requireth all these of this present Assembly to subscribe the same. And it is his Majesties will, that this be insert and registerate in the Books of Assembly, as a testimony to Posterity, not only of the sincerity of His intentions to the said true Religion, but also of his Resolutions to maintain and defend the same, and His Subjects in the profession thereof.

Which Declaration was by Our special command and direction given in, and subscribed by Our Commissioner, upon protestation made by him, that his assenting to the registration hereof, should be no approbation of the lawfulness of this Assembly, nor of any of the Acts or Deeds done, or to be done therein. And finding them in like sort no ways to be satisfied therewith, and that nothing else was able to give them contentment, except at their own pleasure they were permitted to overthrow all Episcopal Government in the Church, and thereby to abrogate Our publick Laws standing in vigour by the space of many years by-gone, and to alter the fundamental Government of this Kingdom, in taking away one of the three Estates, contrary to express Acts of Parliament: And lest the continuance of their meetings might have produced other the like dangerous Acts so derogatory to Royal Authority, We were forced for preventing thereof, and for the Reasons and Causes abovementioned, and divers others importing true Monarchical Government, to dissolve and break up the said pretended Assembly, and to discharge them of all farther meeting, treating and concluding any thing therein: And yet in that calm and peaceable way, as Our Commissioner before his removing desired their pretended Moderator for that time to have said prayer, and so concluded that days Session, that so they might have had time to think upon the just Reasons of his refusing to assist, or be any longer present at the said pretended Assembly, and of the causes moving Us to the dissolving thereof; and notwithstanding his earnest urging the same, and being willing to return the next morning to hear their answer; in place of all other satisfaction to his so reasonable and moderate desires, it was refused, and met with a Protestation of an high and extraordinary strain, thereby presuming to cite and call Our Council in question, for their dutiful assistance and obedience to Us and Our Commissioner. And finding their disobedience thus to increase, We were constrained to discharge them of new again the next day thereafter, by publick Proclamation, under the pain of Treason. And albeit that their contumacy is such as hath not been heard of in former times, yet they shall never move us to alter the least point or article of that We have already declared by Proclamation, or Declaration under Our Commissioner's hand: All which was publickly read, and by Our Commissioner required to be insert and registerate in the Books of Assembly, therein to remain as a testimony to Posterity, not only of the sincerity of Our intentions to the true Religion, but also of Our resolution, to maintain and defend the same, and Our Subjects in the profession thereof: And per-

perceiving likewise that in contempt of Our Proclamation at Glasgow the 29. of Novemb. they go still on to convene, meet, and to make illegal and unwarrantable Acts, We have conceived it fitting to forewarn all Our good Subjects of the danger that they may incur by being insnared by these their unlawful proceedings. And to this purpose do not only liberate and free them from all obedience to any of the pretended Acts, made, or to be made at the said pretended Assembly, or Committees direct therefrom, but do also free them from all pain and censure which the said pretended Assembly shall inflict upon them, or any of them. And therefore do discharge and prohibit all Our Subjects, that they nor none of them acknowledge nor give obedience to any pretended Acts nor Constitutions, made, or to be made at the said pretended Meetings, under all highest pains. And We command, charge, and inhibit all Presbyteries, Sessions of Kirks, Ministers within this Realm, that none of them presume nor take upon hand privately nor publicly in their Sessions and Meetings, nor in their Conferences, Sermons, nor no other manner of way, to authorize, approve, justify, or allow the said unlawful Meeting or Assembly at Glasgow: Neither yet to make any Act thereupon, nor to do any other thing private or publick, which may seem to countenance the said unlawful Assembly, under the pain to be repute, holden and esteemed and pursued as guilty of their unlawful Meeting, and to be punished therefore with all rigour: And siclike We command all and sundry Noblemen, Barons, Gentlemen, Magistrates, and all other Our lieges who shall happen to be present and hear any Ministers either in publick or private Conferences and Speeches, or in their Sermons, to approve and allow the said unlawful Assembly, rail and utter any Speeches against Our Royal commandments, or proceedings of Us, or Our Council, for punishing or suppressing such enormities, that they make relation and report thereof to Our Council, and furnish probation, to the effect the same may be accordingly punished, as they will answer to Us thereupon: Certifying them who shall hear and conceal the said Speeches, that they shall be esteemed as allowers of the same, and shall accordingly be taken order with, and punished therefore without favour. And to this effect We likewise straitly charge and command all Judges whatsoever within this Realm, Clerks and Writers, not to grant or pass any Bill, Summons, or Letters, or any other execution whatsoever, upon any Act or Deed proceeding from the said pretended Assembly, and all Keepers of the Signet from signeting thereof, and that under all highest pains. And because We gave order and warrant to Our Commissioner to make open declaration, not only of Our sense, but even of the true meaning of the Confession of Faith, in Anno 1580. by which it may clearly appear, that as we never intended thereby to exclude Episcopacy, so by no right construction can it be otherwise interpreted, as is more nor evident by the Reasons contained in the said Declaration, and many more, which for brevity (the thing it self being so clear) are omitted. Herefore We do not only prohibit and discharge all Our Subjects from subscribing any Band, or giving any Writ, Subscription, or Oath to, or upon any Act, or Deed that proceeds from the foresaid pretended Assembly, but also do require them not to subscribe, nor swear the said Confession in no other sense than that which is contained in the said Declaration, and manifestly committed by Our Commissioner, under all highest pains. And that none of Our good Subjects, who in their duty and bound Obedience to Us shall refuse to acknowledge the said pretended Assembly, or any of the pretended Acts, Constitutions, Warrants, or Directions proceeding therefrom, may have just ground of fear of danger or harm by doing thereof, We do by these promise,

and upon the word of a King, oblige Our selves by all the Royal Authority and Power wherewith God hath endowed Us, to protect and defend them, and every one of them, in their Persons, Fortunes, and Goods, against all and whatsoever person or persons who shall dare or presume to call in question, trouble, or any ways molest them, or any of them therefore. And Our will is, and We charge you straitly, and command, that incontinent these Our Letters seen, you pass, and make publication hereof by open Proclamation at the Market Cross of Edinburgh, and other places needful, wherethrough none pretend ignorance of the same.

Given from Our Court at Whitehall the Eighth day of December, and of Our Reign the Fourteenth year, 1638.

Per Regem.

THIS his Majesties Proclamation, published only to make the People acquainted with his gracious proceedings at Glasgow, which by the malice of their Leaders had either been concealed from them, or misreported to them, was received, as all His former gracious proffers, with a very undutiful, windy and blustering Protestation, so full of words, but withal, so void of truth and sense, as (saith the large Declaration) we were once resolved not to have inserted it here, neither indeed is it necessary it should, for it is stuffed with the idle and superfluous repetitions of those things which are contained in their former Protestations, especially their last Protestation made at Glasgow, with which indeed it is for the most part the same *verbatim*: Yet, because We know that if it should be left out they would not stick to assure their followers, that it was omitted because of the unanswerable pregnancy of the Reasons contained in it, here you shall have it, but without any answer to it, as to their former Protestations hath been given; there being very little in it which is new, and so not answered before, or what is in it new being either very false or very impertinent, both which falsities and impertinencies shall only be observed on the Margent, being assured that the Reader will easily find that there is nothing in it worthy of any larger Answer.

The Protestation of the General Assembly of the Kirk of Scotland, made at the Market Cross of Edinburgh the 18. of December, 1638.

WE Commissioners from Presbyteries, Burghs, and * Universities, now convened, and yet sitting in a full and free Assembly of the Kirk of Scotland, indicted by his Majesty, and gathered together in the Name of the Lord Jesus Christ, the only Head and Monarch of his own Kirk: And we Noblemen, Barons, Gentlemen, Ministers, Burgeses and Commons, Subscribers of the Confession of Faith, make it known; That where we his Majesties loyal Subjects of all degrees, considering and taking to heart the many and great Innovations and Corruptions lately by the Prelates and their Adherents introduced into the Doctrine, Worship, and Discipline of this Kirk, which had been before in great

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* For as there was not after the King's Commissioners leaving of the Assembly, any one Commissioner from any University of that Kingdom, which did not dissent great

great purity, to our unspeakable comfort, established among us, were moved to present many earnest desires and humble supplications to his Sacred Majesty, for granting a free General Assembly, as the only legal and ready mean to try these innovations, to purge out the corruptions, and settle the disorder of the Kirk, for the good of Religion, the honour of the King, and the comfort and peace of the Kirk and Kingdom: It pleased his gracious Majesty out of his Royal bounty, to direct unto this Kingdom, the Noble and Potent Lord James Marquess of Hamilton, with Commission to hear and redress the just grievances of the good Subjects; who, by many Petitions and frequent Conferences, being fully informed of the absolute necessity of a free General Assembly, as the only Judicatory which had power to remedy those evils, was pleased to undergo the pains of a Voyage to England, for presenting the pitiful condition of our Kirk to his Sacred Majesty: And the said Commissioner his Grace returned again in August last, with power to indict an Assembly, but with the condition of such * prelimitations, as did both destroy the freedom of an Assembly, and could no ways cure the present Diseases of this Kirk. Which was made so clearly apparent to his † Grace, that for satisfying the reasonable desires of the Subjects, groaning under the weariness and prejudices of longsome attendance, he was again pleased to undertake another journey to his Majesty, and promised to endeavour to obtain a free General Assembly, without any prelimitation, either of the constitution and members, or matters to be treated, or manner and order of proceeding: So that if any question should arise concerning these particulars (whereof the power of ruling Elders as a part of the constitution, and the examination of Episcopacy as a present question to be moved, was express, albeit now the Commissioner hath pretended the famine for the greatest causes of his rising and away going from the Assembly) the famine should be cognosed, judged, and determined by the Assembly, as the only Judge competent: And accordingly by warrant from our Sacred Sovereign returned to this Kingdom, and in September last caused indict a free General Assembly to be holden at Glasgow, the 21. of November last, to the unspeakable joy of all good Subjects and Christian hearts, who thereby did expect the perfect satisfaction of their long expectations, and the final remedy of their pressing grievances. But these hopes were soon blasted; for albeit the Assembly did meet and begin at the appointed day, and for the space of seven days sitting was countenanced with his Graces personal presence, yet his Grace did never allow any freedom to the Assembly, competent to it by the Word of God, acts and practice of this Kirk, and his Majesties indiction, but did labour to restrain the famine during the time of his abode there, by protesting against all the Acts made therein, and against the Constitution thereof by such Members, as by all Law, Reason, and Custom of this Kirk, were ever admitted as Members constituents of our free Assemblies, and by denying his approbation to the things proponed and concluded, though most clear, customable, and uncontroverted.

And further, his Grace after the presenting and reading of his own Commission from our Sacred Sovereign, and after his seeing all our

Commissions from Presbyteries, Burghs, and Universities, produced and examined, and the Assembly constitute in all the Members by unanimous consent, did, to our great grief, without any just cause or occasion offered by us, || unexpectedly depart, and discharge any further meeting or proceeding in this Assembly, under the pain of Treason; and after seven days sitting, declare all Acts made, or thereafter to be made in this Assembly, to be of no force nor strength; and that for such causes as were either then express verbally by his Grace, or contained in a Proclamation made by his Grace at Glasgow, † without any warrant of an Act of Council, contrary to the Law and Custom of this Realm: Whereunto we answered by our Protestation of the 29. of November, or otherwise for such Reasons as his Grace thought meet to alledge, which are since superadded in this late Proclamation, now made at Edinburgh, this 18. of December, wherein, for our greater surcharge of sorrow, we are heavily and wrongously blamed and taxed of many great Offences.

And first for making Protestation against the Proclamation made at Edinburgh the 22. of September last, whereas our Reasons contained in that our Protestation are so forcible and just, to demonstrate the necessity and lawfulness of our Act, that we judge all good men and Christians will be satisfied therewith; whereanent we remit our selves to our Protestation printed, and will not for shortness repeat the same Reasons here.

And where we are reproached and blamed in this new Proclamation for guarding and watching the Castle of Edinburgh, and impeding to import Ammunition, or other necessities, to any of his Majesties Houses; an Act which is exaggerate to be without an example in the Christian World, seeing we deny that liberty to our Sovereign, which the meanest of us do assume to our selves: For answer hereunto, we confidently affirm that we are unjustly challenged of all the said points, except for preventing dangers evidently threatned unto us, by circumspect attendance about the Castle of Edinburgh; which afterward we shall shew to be warrantably done: * For we declare that we have never made the least stop or hindrance to the importation of any Ammunition, Victual, or thing whatsoever, into any other of his Majesties Houses or Castles: Nor for carrying all necessary sustentation into the Castle of Edinburgh. Neither hath any of us fortified, or provided any of our private Houses for warlike defence; so that all those are heavy and unjust imputations: But we confess and grant, that there being some Provision and Ammunition quietly imported into this Kingdom, for furnishing the Castle of Edinburgh, and intended secretly to have been put therein, we have carefully prevented the famine by our diligent attendance; and that for such Reasons, grounded upon Equity, the Law of Nature, and municipal Laws and Acts of Parliament of this Kingdom, and the lowable example of our Predecessors: For the truth is, that having petitioned his Majesty for redress of our just grievances,

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|| False, and sufficiently proved.

† It is a wonder that men can be found who dare aver such an untruth, when the Proclamation at Glasgow is subscribed by the hands of the Councillors: let the Reader turn back to it and be Judge.

Anent our Protestation.

Anent our watching the Castle of Edinburgh.

* They confess it within 8 lines after this.

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1638. vances, and a legal trial thereof, before we received any answer thereunto, all possible means were used to dissolve that union which was made amongst us for that good cause, and to impede all our meetings from deliberating thereupon, wherein the Town of *Edenburgh* made a considerable part, not only as an important member of this conjunction, but as a most commodious and ordinary place of our meetings; so that when all other means of perswasion had failed, the means of terrour was not left unassaid: And for that effect a great quantity of ammunition was brought by Sea from Foreign parts, to have been clandestinely imported into the Castle of *Edenburgh*, as no doubt it was intended, seeing the famine was unloaded in the dead time of the night. And we considering that in case the famine had been imported into the Castle, with other provision and store formerly therein, the famine might have been used and imployed for the overthrow of that place, and tended to our great prejudice, by withdrawing them, upon that terrour, and displacing us from our ordinary meetings; upon these reasons and considerations we prevented the famine by such a loyal way as

* True: but the King, and his Majesties Council, and his Judges, and the rest of his loyal Subjects, are the Publick; Mutineers and Rebels are but a private and schismatical part, though never so many.

cannot be offensive to Authority: * For the safety of the publick is the end of all lawful power, and supream Law. And the adversaries of our Religion having formerly boasted by that provision so to furnish the Castle, that it might beat down the Town of *Edenburgh*, and bar the supplicants from meeting therein, we had just reason to hinder that fetter of slavery to be put upon the Town; and that the Castle of *Edenburgh*, which is amongst the first strengths of the Land against Foreign Forces, might be turned as a special engine of constraint against the Subjects, to hinder their lawful meetings, or to force the Town of *Edenburgh* to separate from the rest of the supplicants: Which great prejudice the Law of Nature teacheth us to avoid; and yet we have not proceeded therein without the warrant of the Acts of Parliament.

For first, where there is any violent presumption of spoiling of the Country, it is ordained that the Lieutenant raise the Country, and pass to such Castles and Fortalices where there is any unruly men, and take soverty of the persons within these houses, that the Country and all the King's lieges be unharmed and unskathed of the saids Houses, and of them who inhabits the famine from time forth: And if any make difficulty to be arrested, and find soverty as Law will, they shall be streined thereto, *James 2. Parliament 2. Act 3.* And therefore now seeing there is not only violent presumption, but great menacing, from the Adversaries of the Truth and Country, and their adherents, of the breaking of the Country and harming of the famine; and especially his Majesties lieges within *Edenburgh*, by the extraordinary provision of munition to the Castle of *Edenburgh*, and that by the saids Bishops plots from his Majesties prime Officers, who in his Majesties absence should prevent that inconvenient by the ordinance of that Act: Therefore upon their default the Country it self and the King's Lieges, in whose favours the Act is made, may provide for their own safety, and keep themselves unharmed by that Castle, or any inhabitants thereof, and so prevent the importation

† But not without or against the Kings Command; his General (much less any Lieutenant of his) cannot do that.

any unruly men, and take soverty of the persons within these houses, that the Country and all the King's lieges be unharmed and unskathed of the saids Houses, and of them who inhabits the famine from time forth: And if any make difficulty to be arrested, and find soverty as Law will, they shall be streined thereto, *James 2. Parliament 2. Act 3.* And therefore now seeing there is not only violent presumption, but great menacing, from the Adversaries of the Truth and Country, and their adherents, of the breaking of the Country and harming of the famine; and especially his Majesties lieges within *Edenburgh*, by the extraordinary provision of munition to the Castle of *Edenburgh*, and that by the saids Bishops plots from his Majesties prime Officers, who in his Majesties absence should prevent that inconvenient by the ordinance of that Act: Therefore upon their default the Country it self and the King's Lieges, in whose favours the Act is made, may provide for their own safety, and keep themselves unharmed by that Castle, or any inhabitants thereof, and so prevent the importation

of Ammunition thereunto, conform to the said Act of Parliament.

† Secondly, as the Castle of *Edenburgh* and certain other Castles and Lands are the King's undoubted annexed Property, so it is to be considered for what cause they were annexed, by whom annexed, upon what condition, and how to be disposed upon. For the only cause exprest in the annexation thereof *41. Act James 2. Parliament 11.* is, that the poverty of the Crown is oftentimes the cause of the poverty of the Realm: Which Act makes no mention that the King was annexer of the Castles and Lands to the Crown, but only that by the advice of the full Council of the Parliament it was so statute and ordained, and appoints that they may not be disposed upon without advice, deliverance, and decreet of the whole Parliament, for great, seen, and reasonable causes of the Realm: So that being thus annexed to the Crown by the Realm it self, for avoiding an inconvenient to the Realm, and being annexed with condition not to be disposed upon without the advice and decreet of the whole Parliament, and for great, seen, and reasonable causes of the Realm; justice and equity will require, that these Castles should not be made an instrument of the poverty and defolation of the capital Town of the Realm, and of the harm of the most considerable part of the body of the Realm there convened for supplicating his Majesty and the Council, and preparing overtures to the future Parliament, for redress of our just grievances: But now by this extraordinary provision to the Castle, being threatned with ruin and extermination, they may stop the misimploying of that benefit granted to the Realm *eo animo & ad hunc finem*, for the well of the Realm, while the Parliament of the Kingdom give their humble advice to his Majesty thereanent.

Thirdly, by the *9. Act 9. Parl. James 6.* it is acknowledged that the Castle of *Edenburgh*, *Dumbartane*, *Stirling*, and *Blaknesh*, are four chief strengths of the Realm, which ought to be safely kept to the King's behove, and welfare of the Realm: And for keeping the Castle of *Edenburgh*, there is assigned, with consent of the Estates, both money and victual, a great part whereof is forth of the thirds of Benefices, which thirds in *December 1561.* were decerned and ordained by *Queen Mary*, with advice of her Council and others of the Nobility then present, to be uptaken and imployed for these two uses: *viz.* Sustaining of Ministers, and entertaining and setting forward the common and publick affairs of the Country and Commonwealth of the Realm; which was also enacted, *Act 10. Parl. 1. James 6.* and thereafter ratified *Act 121. Parl. 12. James 6.* Whereby it doth appear that as the Castle is the King's undeniable annexed property, so it is also a strength of the Realm, which should be safely kept to his Majesties behove, and welfare of the Realm, having for the keeping thereof rents assigned with consent of the three Estates of the Kingdom forth out of the thirds of Benefices, estimate by the Estates *in eum usum*, for entertaining and setting forward the publick Affairs of the Country and Commonwealth of the Realm. And consequently the most loyal part of the Body of the Realm hath main interest to divert the converting of this strength to the weakning or ruin of the Realm or any member thereof, threatned by this unusual provision, and openly denounced by our said enemies.

Fourthly,

Car. 1. All this which followeth concerning the guarding of his Majesties Castles and Forts, and keeping him out of them, containeth no less than Treason, and is not to be answered with a Pen.

* Which the Covenanters are not.

Anno 1638. Fourthly, by the 125. Act 7 Parl. *James 6.* it is acknowledged that the King's Castles and strengths are the keys of the Realm: And the only use of keys is for keeping together in safety and preservation, and not for spartling, dispersing, or perdition. So that the Realm and collective Body thereof can hardly be disallowed for contributing their loyal endeavours to the good keeping of their * own keys, when contrary to the right end these keys are used against the Country and Realm, whereof they should be, and are the keys of safety; as by the said Act is declared.

Whether should the King or his Subjects keep the keys of his own Kingdom?

But the Covenanters are the worst part.

† We do not take them to be such fools as to expect thanks from his Majesty for their proceedings; if they do, they are like enough to go without them.

* The worst and most disloyal part of all his Majesties Subjects.

† In what History be these words? Is *poscenti traderent.* as well as *Conventui ordinum?* Or can there be a Convention of the three Estates called without the King or his Authority?

Fifthly, by the same Act, all violent detainers of the Kings Castles from him, or constrainers of the Kings Regents do redeem his own Houses, and all makers of any such bargain, merchandise, or market of the King's Castles, are only ordained to render and deliver again what they have received for reddition of the said Castles, and that the King shall have action for repetition thereof as necessarily given for the time, and wrongously received for unlawful causes. And our proceedings being compared with the subject of that Act of Parliament, cannot deserve so harsh constructions, where the || best part of the Body of the Realm being constrained for indemnity of their persons and goods, do neither take nor detain the Castle, but only with-hold importation, first clandestinely intended, and thereafter openly threatened, of all kind of warlike and invasive furniture, which could be useful to no purpose, but to the harm and annoyance of those who were conveyed for the just occasions forefaids, who deserve and expect approbation and † thanks from his Majesty in his own due time, for keeping his evil Counsellors, and bad Patriots, from putting hand in his best Subjects.

Sixthly, by the 25. Act 6. Parliament *James 2.* sundry points of Treason are enumerate: And amongst the rest, one is the assailing, without consent of the Estates, the Castles or places where the King's person shall happen to be: And now the King's person not being in this Castle, but out of the Country, and the * best and most loyal part of his Subjects both for number and fidelity, imploring his Majesties Authority, for convocating the Estates to take order with these, who, presuming upon his Majesties absence, are bold to give him sinister information and counsel, these who do no ways assail the Castle, but barrs these evil Patriots from putting in execution their damnable suggestions by their superchery violence and terrifications from that Castle, before the convention of Estates, cannot in Law and Equity be challenged in their carriage, so necessary to them in the interim, while the Estates convene in a Parliament, which now his Majesty hath been graciously pleased to proclaim.

Seventhly, it is known by our Chronicles and Records, that the Castle of *Edinburgh* was given in keeping to the House of *Erskin* by the King and Estates of Parliament, † *hac lege expressa & conditione, ut nulli nisi conventui ordinum re-*

Christian World; but hath many Presidents both in the History of other Kirks and Kingdoms, and of our own, which hath many such examples; even done by the Estates themselves; whose fact doth make our right, and whose authority is ratified conform to the ancient and lawable custom, in punishing rebellious Subjects, and preserving the faithful, Act 130. Par. 8. *James 6.*

Car. 14.

In the next place we are upbraided for our meetings, which in the Proclamation are called Council Tables only by that name which by ordinary expression is due to Judicatories, to make it believed, that we have arrogate to our selves some unwarrantable power and authority; (which we neither have nor intends to do God willing) whereas the truth is, that in a matter so highly importing all of us, as the preservation of Religion and purity of God's worship, it was most necessary for us to meet, and that in a sober, modest, and quiet way, for deliberating with joint advice upon those weighty businesses for the good of the Kirk, his Majesties honour, and peace of the Kingdom: And those * meetings did never emit nor send forth any authoritative command or injunctions, but conclude upon such advices as might be most expedient for advancing that great business, and facilitating the way of supplication to his Majesty, and overtures for the Assembly and Parliament; which was an Act lawful and approveable in the self, albeit the conclusions thereof did not carry the force or validity of a binding law or command, which was never aimed at, nor intended: Which meetings they might warrantably keep for that end, being for God's glory, and removing the just grievances of the Subjects, no ways prohibited by any of our municipal Laws, which disapproveth such Conventions as are for disturbance of the peace, or usurpation against Authority, whereof neither of the two can be alledged against these meetings: Not the first, because no invasion, violence, offer of wrong by word or deed, to any person, no even to those upon whom they justly complain, ensued upon the same, notwithstanding of their provocations, and their fears falsely represented to his Majesty, and maliciously pretended for their stay out of the Country: Not the second, because their meetings was to consult in manner foresaid upon the fitting and humble way of supplicating his Majesty, and for the most convenient Propositions to be represented to his Majesty, the Parliament, and Assembly: All which Acts are most compatible with the loyalty and duty of good Subjects, and do no ways intrench upon Authority, seeing they can never be challenged to have assumed to themselves any judicial determination in any matter of State, Civil nor Ecclesiastical, but by voluntary instructions & opinions every one to another in a common cause of Religion, did resolve what might be most conducive to their lawful and just ends; and yet those conventions want not the warrant of Law and Authority, because they consist of the Nobility, Barons, Burrows, and Ministry, which by the fundamental Laws of the Land, have place of proponing, reasoning, and voting in Parliament and Assemblies, Act 113. K. *James the 6.* Parl. 11. wherein is acknowledged that it is necessary to the King and his Estates to be truly informed of the needs and causes pertaining to His loving Subjects in all estates, and therefore ratifieth the Act made by King *James 1.* Anno 1427. giving power to Barons, to propone all and sundry needs, and causes, and to hear, treat, and determine all Causes to be proponed in Parliament; which

about the meeting and alledged Council Tables.

* Many letters have been sent down from Commissioners of Shires then resident at *Edinburgh* to them living in the Country, requiring them to do such things as they would answer the contrary to the Table.

Anno 1638. necessary and true information cannot be made to his Majesty and Estates, † without privy meeting and consultation: And consequently it being granted to them, to inform the King and Estates, and to propone, hear, treat, and finally determine all needs and causes to be proponed in Parliament, there must be necessarily understood to be a sufficient power granted to them for meeting and advising upon that information: *Quia aliquo concessio, omnia concessa videntur, sine quibus concessum expediri nequit.* And as to the Ministers they have likewise power granted to them, not only by the Word of God and Constitutions of the Kirk, but by the King and Laws of this Land, to propone, reason, and vote in Assemblies, and be the same parity of reason to keep preceeding Meetings, not to determinate or execute, but to consult upon their necessary Propositions: So that these lawful Meetings, for the religious end, suffer wrongously the invidious designation of Council Tables: Which is only done for procuring misconstruction against them; because at these Meetings and Consultations they sate about a Table, which posture is no ways prejudicial to Authority, the meanest of Mechanick Crafts having their own Tables where about they sit, when they consult upon the smallest business importing their Trade. And farther, these same Meetings, consisting of Commissioners from each Sheriffdom and Body of this Estate, were allowed by his Majesties || Council first, and thereafter by the Commissioner his Grace; in so far as the whole Subjects of this Kingdom out of their resentment of the weight of this cause, having numerously convened at *Edenburgh*, from all the parts of the Kingdom, that confluence of people was desired to be dissolved, and directed to make choice forth of that great number of some Commissioners from each Shire, who might meet to represent their just grievances and desires, and attend the answers thereof.

|| Most talic.

Anent some Members of the Assembly alledged to be under censure.

* Who have made the Covenanters Judges of the lawfulness either of the Judiciary or the Cause; especially, what an intolerable presumption is it in them to judge the Kings Judicatories in Ireland?

The third particular Challenge in the Proclamation, is for the illegal and unformal course taken in the election of Commissioners to the Assembly, whereof some are alledged to have been under the censure of this Kirk, some under the censure of the Kirk of *Ireland*, some banished for teaching against Monarchy, others being suspended, some admitted to the Ministry contrary to the Laws of this Kingdom, others at the Horn, some confined, and all by Oath bound to the overthrow of Episcopacy: Whereunto although no answer be requisite, seeing the persons thereby meaned, are not specially condemned upon, yet for clearing all mens minds, and shewing the warrantableness of our proceedings, it is of truth that the Assembly, after particular trial which they took upon some such surmises, could not find any censured by the Kirk of *Scotland* or *Ireland*, by a lawful manner, in a lawful * Judicatory, or for a lawful cause: But on the contrary, the Assembly, after careful searching and examination, found, that any censure inflicted upon any of these persons in *Scotland* was only by a Bishop (who ought to be punished for taking arrogantly on him the name of the Kirk of *Scotland*) and that without the advice of any Presbytery, but sitting in his high Commission (which was condemned by the

Laws of this Kirk and Kingdom, is discharged by the Kings Proclamation, is one of our just grievances, and a part of the Bishops ditty) and that only for refusing the innovations and corruptions abjured by the Confession of Faith 1580. For the censure of the Kirk of *Ireland*; it was not notified to the Assembly by any such Objection, and yet out of their zeal and care to satisfy all these misinformations, whereof they heard some whisperings, they sate after trial, that these censures inflicted were for the same causes foresaid, and yet could not militate out-with the bounds of that Diocie where they were censured in their own law and practise, and none of them were ever banished for any cause, let be for that odious cause pretended in the Proclamation: Wherein the mention of Horning against some of the Commissioners could not be a lawful exception against them, because Horning can neither take away their Ministerial Function, nor deprive the Presbyteries of their voice by their Commissioners: But in special this Horning against the Commissioners to the Assembly cannot be respected; because it was done in *Edenburgh* upon a † suddenly (upon what intention, we permit every one to consider) after all the Members of the Assembly were gone to *Glasgow*, and yet Protestation was taken against the same, and suspension craved upon the real offer of consignation, which, contrary to the Common Law and practise of this Kingdom, was unexampledly refused, and publick instruments taken thereupon: All which Objections are only now remembered to blemish the proceedings of this Assembly, but were never urged nor proponed in the Assembly; but on the contrary, the Commissions of all persons were produced, examined, discussed, and approved in my Lord Commissioners own audience, without any contrary voice of the Assembly: And yet upon these Challenges much is built against the Assembly, and the same are aggravate from a preceeding Oath, whereby it is alledged that the Commissioners were bound to overthrow Episcopal Government, which is of the same stamp and metal with the rest: For the truth is, that there was never any Oath given, nor exacted, but that which is contained in the Covenant, whereby all was abjured, only in general, which was contrary to the Confession of Faith 1580. leaving to the trial and determination of the Assembly, whether Episcopacy and some other innovations were repugnant to the said Confession, or not? And at the best, it is a bad inference, that one who hath maintained Orthodox Opinions, and preached against Heresie and Error, may not in the lawful Judicatory voice for condemnation of these Errors. And as for the election of Moderators, admission of Ministers by Presbyteries, and restitution of Elders; the same needeth no answer in this place, being sufficiently cleared by us before in our answers to the Eleven Articles exhibit unto us by the Commissioner his Grace: Which answers were so satisfactory, that after the receipt of the same, his Grace promised to procure a free General Assembly, with power to determine upon all questions anent members, matter, and manner of proceeding. And are further cleared in the Book of Policy, and other Acts already cited in our particular answer to the Declinator of this Assembly, produced by the Bishops. All which is approved by this general Assembly, and all Acts carrying appearance of contrariety thereto upon undeniable grounds are declared to be null ab initio.

Car. 14

† But they know that many Members of that Assembly were denounced the Kings Rebels, and put to the Horne, long before his Majesties Assembly was thought on.

Anno 1638. The fourth Act rubbed upon us to our prejudice by the Proclamation, is the sending from the Tables of instructions, whereof the heads are summarily exprest, which his Grace indeed did shew to the Assembly, and then the members of the Assembly declared, that neither of these Papers were ever sent from the (a) Meetings at *Edenburgh* to any man in their knowledge; and yet for the first (which possibly might have been some private direction of one Friend to another, without common

sent the alleged instruments sent from the Tables.

(a) Not from their publick Meetings (for they durst not, for fear it should be known) but from a Cabinet Meeting, consisting of them who led the West by the nose, and whose names we know, and shall be known to all in due time.

advice) it doth not contain any thing offensive or partial. For the phrase of losing of our Christian and Civil Liberty might be warrantably exprest in relation to our former bondage and slavery under the Prelates, Tyrannizing in their High Commission, whereby most summarily, at their own pleasure, they deprived, fined, and confined all Persons and Professours, with such an high hand as justly we might affect deliverance from that servitude, which was likely more to interests by the unlimited power usurped in their Canons. So that the desire of this Liberty cannot be judged an affectation of licentious living without subjection to lawful Authority, which in our solemn Covenant with God we have sworn to maintain. And as for the

(b) If it be forged, it is forged by none but Covenanters, who from many several Shires in the Kingdom did send Copies of the same, written in the same words to the L. Commissioner and others, and yet those Covenanters did not know one of anothers sending.

same was produced by the Commissioner, the same was not only cleared to be no draught sent by publick advice, but the Members of the Assembly, and even those whom his Grace most suspected, denied the same, and offered to controul it by production of the true Paper of their instructions, altogether disagreeing from that other produced by the Commissioner, except in the Two Points following, which had been craftily intermixed with the saids untruths, to give them some countenance of probability. Like as they professed to his Grace upon their (c) Oath, that they had never seen the same before, nor ever read any of the Articles therein contained in any other Paper, except the fourth and the eighth Articles, whereof the fourth was for eschewing (as far as might be) Chapel-men, Chapter-men, and Ministers Justices of Peace, from being chosen Commissioners to the Assembly: which was so reasonable, that none could be offended thereat, because (d) Chapel-men had approved,

(c) There was no man in the Assembly who offered any such Oath as is here alleged. We doubt not but there were many members of the Assembly who might have taken that Oath safely, because they were indeed never acquainted with these Papers; but the Commissioner (if he had been put to it by the Assembly) could have named many especially some of the Nobility, Gentry, and Ministers, who could not have taken that Oath without Perjury; and since it is now denied, they shall be named in due time and place.

(d) First, This (nor the eighth) was not published in their publick instructions (for it would have offended many Covenanters who were both Chapter-men and Chapel-men) and therefore they acknowledging it to be one of their instructions, must needs confess it to be amongst their private ones. But a wonder it is that men should not be ashamed to avow in Print this their false and partial dealing; for this instruction concerning Chapter-men and Chapel-men was only given to bar some moderate Covenanting Ministers from being chosen Commissioners; for, notwithstanding this instruction, Mr. Ramsay, who both was one of the Chapter

of *Edenburgh*, and Sub-Dean of our Chapel, and *Roller*, who was Prebend of the same Chapter, and one of the King's Chaplains, who duly Preached his turns in the King's Chapel, and some others, fierce and fiery revolved Chapter-men and Chapel-men, were chosen Commissioners, though the reason here exprest was as strong against them as against the rest.

and without warrant of this Kirk practised the innovations introduced of late; the Chapter-men had practised the book of Ordination, and (contrary to the Acts of the Kirk discharging Chapters and their Election of Bishops 1578.) had approved the corruptions of Kirk Government, and Ministers Justices of Peace had likewise accepted that Civil Office upon them, whereunto they were promoted for the most part as Creatures and Dependents of Bishops. And the eighth, wherein some are desired to study the points which were likely to be agitate in the Assembly, as, *de Episcopatu*, *de senioribus*, and among other Points, *de potestate supremi Magistratus in Ecclesiasticis, praesertim in convocandis conciliis*; whereat none can take just exception, because it was the duty of every member of that Assembly to instruct and enable themselves for agitating every point, which might occur to be spoken of there by any, or been proponed by the Doctors of *Aberdene*, who were expected there, and commanded to study these points: So that this ought not to be wrested to their prejudice, seeing it was incumbent to the Assembly to know the Precinct of the Kirks Jurisdiction, especially anent their own Assemblies, and to distinguish it from the Civil Jurisdiction of the supreme Magistrate giving to God what is God's, and to *Cesar* what is *Cesar's*, whereby the Sovereign Magistrate hath no prejudice, but great benefit, to know the extent of his power in matters Ecclesiastical, lest either he should come short of what is due to him, or, for want of true information, inroach upon the liberties of Christ's Kirk: Whereby it is most evident, that no indirect nor partial courses, nor dangerous Propositions, have been used in the preparations and Elections to this Assembly, but such as are most legal, peaceable, ordinary, and warrantable.

In the next place the Proclamation charges our innocency for repairing to the Assembly with great Troops and Bands of men boddin in fear of War, and furnished with forbidden Arms, in contempt of a preceding Proclamation: where-as the truth is, that our going and repairing to *Glasgow* was in the most peaceable, quiet, and single way which might serve for our security and indemnity against sundry Out-laws, *Clangregors*, and their Followers, who shortly before the Meeting of the Assembly had done sundry Out-rages, and committed many insolencies upon the King's good Subjects in these Western parts, both to private men, whom by their number they might enforce, and by exacting Moneys at publick Mercats near *Glasgow*, whereof many were advertised by their private Friends from these places, and to come thither prepared for eviting all affront or hazard which they might incur by that Rascally multitude: So that being firmly resolved of before to go thither every one accompanied with his own ordinary private Train, we yet continued in that resolution, and went thither in most sober and quiet way, only with this change, that for preventing that hazard we went not every man alone with his own ordinary servants, but some few together went in company; which is not only ordinary in going out the way, but was most expedient at that time for avoiding the foresaid hazard and prejudice: which moved us all so

sent their going to Glasgow with alleged numbers and weapons.

Anno
1638.
* Most
false.

to carry with us some offensive Weapons, where- with not only these Rebels were provided, but likewise such who went to *Glasgow* with his Majesties Commissioners, who upon that same necessity were likewise * provided with those prohibited Weapons, and yet their carriage nothing thought to deboard from the duty of good Subjects. Upon these Reasons some of the Supplicants being present in *Edinburgh*, at the making the said Proclamation the sixteenth of *November* last, did protest that it might be lawful for them to carry Weapons for their own defence, and preservation against any such lawless Invasion or violence as might threaten them, and that they might incur no prejudice by carrying such weapons as those who followed Councillors and many others did, promising to carry themselves peaceably and irreproveably during the time of the Assembly, which accordingly they have done: and seeing our said carrying of weapons was for defence of our lives, against the Invasion of these barbarous Sorners, we are not censurable therefore by the Act of Parliament prohibiting the saids weapons, because we was repairing to, or returning from the Assembly at command of his Majesties Letters and Authority, which is in special words exprest in the Act of Parliament, Act 18. *Parliam. 1. James 6.* which is thereafter ratified with the same provisions, Act 87. *Parliam. 6. James 6.* and thereafter also ratified, Act 248. *Parliam. 15. James 6.* like as by the 227. Act, *Parliam. 14. James 6.* all honest men, and good Subjects Free-holders, are Authorized with a Commission to take and apprehend the persons and goods of those Sorners and and Thieves, keep themselves in Prison, and execute them to the death: And therefore far more to carry weapons for resisting of their savage violence.

Against their refusal of Assessors, and of the Bishops Declinator.

And where the formal and orderly proceeding of this Assembly is challenged in the Proclamation, as peremptory, for refusing voice to the six Assessors assumed to himself by the Commissioner, and for not suffering the Declinator by the Bishops to be read before the Electing of a Moderator, We cannot conceive the same to be a just cause of offence, because albeit according to our bound duty, We defer all humble respect to his gracious Majesties Commissioner, and to the persons and places of the prime Noble-men, and Councillors his Graces Assessors, yet for preservation of the liberty of the Kirk of Jesus Christ, We did in all humility remonstrate that his Majesties Commissioner and Assessors, how many soever (whose place is not to vote, but to assist the Commissioner by their Counsel for his orderly proceeding) could have but only one voice in the Assembly: Since after thirty nine National Assemblies of this reformed Kirk, where neither the King's Majesty, nor any in His name were present, at the humble and earnest desire of the Assembly, his Majesty graciously vouchsafed His presence, either in his own Royal Person, or by a Commissioner, not for voting or multiplying of voices, but as Princes and Emperours of old, in a Princely manner, to countenance that Meeting, and to proceed in it for external order: And if we had been honoured with his Majesties personal presence, his Majesty (according to the practice of King *James* of blessed memory) would only have given his own judgment in voting of matters, and would not have called others who had not been clothed with Commission from the Kirk, to carry things by plurality of voices, Which is also imported by his Graces Commission produced,

wherein he his nominate sole Commissioner. Like as also his Majesties Father never had Assessors voicing in (a) lawful Assemblies, nor challenged the same to his Commissioners, but only of late daies in these corrupt Assemblies, which for undeniable reasons are declared to have been null ab initio. And as to the refusing of the reading of the Declinator, and Protestation, exhibite by the Prelates, The same was publickly read, and the first Act of the Assembly, immediately after the Election of a Moderator and Constitution of the Members, before the which time there was no Assembly established, to whom the same could have been read, or by whom it could be judged; Like as we desired his Grace to bring in the Prelates themselves, and we should both answer for their safety, and give them a full audience.

(a) It is a bold and impudent Speech to affirm that Our Royal Father kept unlawful Assemblies, especially when some of them are confirmed by Parliament.

And further, whereas his Grace under his hand, gave in his Majesties Declaration, mentioned in this Proclamation, the same being considered by the Assembly, gave them matter of great joy, to find his Majesties Royal heart so far enlarged towards them, as willingly to untie some of those grievous bands wherewith they had been fettered by the means of some who abused their own places, and trust with his Majesty; But the same was not found satisfactory, nor sufficient for establishing of a legal security of the points therein mentionate, nor yet for purging the corruptions, and settling the peace of this Kirk, as was promised, whereof the Commissioner his Grace would not stay to be informed, but did unexpectedly and suddenly remove, to the great grief of the Assembly, who thereby was necessitate to use the power † God had put in their hands, for removing all innovations, and settling the purity, and peace of this Kirk. And seeing in this Proclamation his Majesties Declaration is insert *ad longum*, and the Assembly taxed for not being fully satisfied therewith, we are enforced to repeat here the reasons which moved the Assembly not to think the same satisfactory, in hope that they, coming to his Majesties Sacred ears, may procure the continuance of his benigne favour, so acceptable to this Kirk, by the indiction of this Assembly, and production of the said Declaration, and obtain his Royal approbation to the whole Acts and proceedings of this Assembly, which is heartily wished, and would replenish the hearts of all good Subjects with abundant joy and contentment. And

First, Where his Majesty hath discharged the Service-Book, and Book of Canons, and practice of both, and all Acts, Proclamations, and Ordinances made for establishing thereof, upon Information that by the introduction of them, the Subjects have apprehended the in-bringing of Popery, and Superstition to have been intended: Neither the discharge nor the ground thereof are satisfactory; Not the first, because as some Acts and Proclamations did serve for their establishing, so others gave them an high approbation, as fit means to maintain Religion and beat down all Superstition: And therefore though those which established them be rescinded, yet those which approved them do remain, and may bring forth other Acts and Proclamations for restoring them or the like hereafter, if these Books receive not a publick censure by the General Assembly as the only judge competent to bar them and the like in all

Car. 14.

Against his Majesties Declaration on wherein it is not satisfactory.

† God never put it in their hands, but the Devil, who is the Author of all Sedition and Rebellion.

Anno 1638. all time coming: Seeing Acts of Council, and Proclamations, are frequent and variable, and yet are no legal valid mean either to introduce or abolish any thing concerning the Doctrine and Discipline of the Kirk, wherein they neither can meddle nor secure the Subjects. Next, seeing by the constitutions of this Kirk (a) the General Assembly hath only power to determine concerning the matters of God's publick Worship; And that the framers of these Books, who called themselves the representative Kirk, made them to be practised in sundry places of the Country by their

(a) But never without the Authority of Us and Our Successors. (b) The Confession of Faith and Band annexed, upon which their Covenant is grounded, were enjoined at the first only by the Authority of King James and his Council, and so these Books were commanded by as good Authority as those.

own Authority, and that which they borrowed from (b) the Lords of Secret Council: Therefore it was most necessary that the same should be discharged by the General Assembly (the only true representative Kirk of this Nation) for vindicating

her just right from violent Usurpation, and preventing the like in time coming; Not the second, for the Subjects have just grounds of perswasion that the Prelates and their followers (the framers and followers of those Books) intended the introducing of Popery and Superstition by the introducing thereof, because, 1. Many gross points of Popery and Superstition are not only closely couched under the cover of ensnaring ambiguities (the most insinuating way of Errours and best mask for Superstition) but also expressly contained in the Books themselves; as was made manifest by sundry Treatises read and considered in the Assembly, and is now so declared by the Assembly. 2. The framers and favourers of these Books in their Sermons and Conferences have vented sundry Popish Errors, and approved Popish Superstitions: which fully detecteth, and leaveth no doubt of their intention, in the introducing of Books so full of Popery and Superstition.

Secondly, The discharge of the High Commission by his Majesties Proclam. or Declaration cannot be sufficient; because first, his Majesty declareth that he established the same for the ease and benefit of the Subjects, that Justice might be administrate with the more conveniency and less trouble of the people, And now dischargeth it, because the Subjects have mistaken his gracious intention: So that if the mistaking be removed, that which is conceived of it self to serve for administration of Justice, with ease and benefit to the Subjects, may be established upon pretention of the removal of all such mistakings. Secondly, Though the acts and deeds made fore establishing thereof be rescinded, yet the acts past heretofore by the High Commission are not rescinded: And so the Subjects censured by it, are still esteemed under these censures, as appeareth by the Tenour of the Proclamation, wherein the Assembly is taxed, as consisting of some Members that are under the censures of this Kirk, meaning the Bishops censure in the High Commission. Thirdly, It being found contrary to the Acts of Parliament, and Acts of General Assembly, and extremely derogatory to them and all other subalterne Judicatories both Civil and Ecclesiastical (which is made clearly manifest by a Treatise presented to the General Assembly,) and it being devised and brought in by the suggestion of Bishops, as a mean whereby they might and have unlawfully Tyrannized over all the Subjects, Therefore it is necessary that the Parliament and General Assembly, the highest Civil and Ecclesiastical Judicatories

that have been wronged, should by their several sentences utterly abolish it as unlawful and hurtful.

Thirdly, Whereas his Majesty dispenseth with the practice of *Pearth* Articles, dischargeth all from urging the practice thereof, freeth from censures for not urging or practising them, notwithstanding of any thing contained in the Acts of Parliament, or General Assembly to the contrary, and is content that the Assembly take the same so far to their consideration, as to represent it to the next Parliament, there to be ratified as the Estates shall find fitting: These cannot satisfy; because first, a dispensation with the practice, without a simple discharge, leaveth it still Arbitrary to those who will practise, and so continueth the Rent and distractions in this Kirk. Secondly, Although his Majesty had discharged the Practice of them by his Proclamation or Declaration, yet the Subjects had not been put in security thereby, except the General Assembly (to whose Trial they belong and were referred by all the Subscribers of the Confession in *March*) do either repeal the Articles of *Pearth*, or upon good reason declare that Assembly null, since his Majesties Proclamation or Declaration, is not a sufficient warrant to infringe an Act of Assembly or Parliament made to the contrary. Thirdly, By tying the Assembly to take the same no further unto their consideration than to represent it to the next Parliament, the Assembly is both prelimited (whereanent refers to the six reasons against prelimitation insert in our Protestation, *Septemb. 22.*) and weakened in power, (a) as if it might not judge and determine in matters merely Ecclesiastical without a licence from his Majesty, or a reference to the Parliament, whereas the General Assembly is supreme and independent in matters Ecclesiastical, as the Parliament is in Civil; so that when the Acts of Assembly are ratified in Parliament, the same is for adjoyning the Civil Sanction to the Ecclesiastick constitution for the great terror of Transgressors.

Fourthly, Anent the Oathes administrate to Ministers at their entry, it hath not only been pretended, but is certain, and will be made manifest to the Assembly, (which also now is done) that Oathes have been exacted different from that which is set down in the Acts of Parliament, and in many several waies according to the pleasure of the Prelates: And where his Majesty declares that no other Oath shall be required of a Minister at his entry, nor that which is set down in the Act of Parliament, (b) the same is of fearful consequence, because the Act bears an Oath to be given unto the Bishop by Ministers intrants, and so supposeth the Office of a Bishop to be unchangeable and uncontroverted, whereby the Assembly is prelimited (against the reasons before mentioned) which may find that Office useles and unlawful in this Kirk, and which now they have found upon most infallible reasons.

Fifthly, That his Majesty assureth General Assemblies shall be kept as oft as the affairs of this Kirk shall require, doth not satisfy, because first, by leaving the time indefinite, it prejudgeth the liberty of the Kirk of holding yearly General Assemblies at least, and oftner *pro re nata*, ratified by the Act of Parliament 1592. the disuse whereof hath been a main cause of our evils, which should be prevented in time coming, by renewing

Car. 14.

(a) It may not; and the holding of the contrary is a false and Jesuitical Position.

(b) A fearful Proposition indeed it is, to hold Episcopal Government to be an uncontroverted Government, which hath continued in the Church ever since the time of Christ and his apostles, without the least suspicion of controversy until within these few years.

Anno
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newing that ancient necessary Custom and Liberty. Secondly, By the same Act of Parliament it is provided that the King, or his Commissioner being present, shall appoint the time and place of the next Assembly: And in case his Majesty or his Commissioner be not present for the time in the Town where the Assembly is holden, it shall be leave to the said General Assembly by themselves to appoint the time and place of the next Assembly, as they have been in use in times past: But this Declaration not only leaves all indefinite but totally everts that power and liberty competent to them by Law and Custom. Thirdly, As it doth not determine how oft the ordinary affairs of this Kirk require an Assembly (which the Custom of this Kirk and act foresaid evidently manifest to be yearly once at least) so neither doth it determine who shall judge when the necessity of extraordinary affairs require an Assembly *pro re nata*: whereas undoubtedly the Kirk will be most sensible of her own necessities, and is the most proper Judge of her own affairs: And therefore should have freedom to appoint her own times when she finds her self pressed with present exigences, as his Majesty hath also power when he perceives any necessity requiring the same.

Sixthly, Whereas his Majesty is content that all the present Bishops and their Successors be answerable to, and censurable by the General Assembly, it doth not satisfy; because, First, it bears a prelimitation of the Assembly in the matter of trying that Office, and presupposes the continuance thereof by Succession as unquestionable. Secondly, They have been formerly made censurable by the General Assembly in the straightest way that the Kirk could enjoy, or they could assure: And yet these thirty years they have shunned all censure (though all their actions deserved it) by procuring General Assemblies to be prorogate, and then suddenly indicted when they had cunningly prepared both persons and purposes to their mind: Like as now they have by their Declinator refused to answer, and be censured by this present Assembly indicted by his Majesty, convened in the name of Christ, and perfectly constitute in the members thereof: And therefore it lyeth upon this present Assembly to take some solid course, for securing the Kirk, in all time coming, against the prejudices of their former and frequent breaches contrary to their Oathes given.

Seventhly, Whereas his Majesty requireth this present Assembly to subscribe this Confession of Faith formerly signed by his Royal Father 1580. and late commanded by his Majesty to be subscribed by all his Majesties Subjects: The reasons contained in the Protestation September 22 last (whereto we adhere and repeats the same) do sufficiently evidence that we cannot subscribe the same: to which we add; First, That his Majesties Commissioner hath declared to the Lords of Session when their subscriptions was required, that it might subsist with the Innovations introduced since the year of God 1580. which * some of the said Lords then did, and all of us do now conceive to repugne to the genuine and true sense of the Confession of Faith as it was first made: Secondly, That his Grace hath protested divers times in this Assembly, that nothing done or to be done therein prejudice the Archbishops and Bishops in their Priviledges, places, power and jurisdiction: whereby he declareth that these may subsist with the Confession of Faith, notwithstanding they be novations introduced upon this

Kirk, contrary to the same, since the year aforesaid, as is now found by the Assembly. Thirdly, That to the Assembly presently convened and perfectly constitute in the Members thereof, it pertaineth properly according to the Word of God, Constitutions of this Kirk, and Book of Policy, ratified in divers Assemblies, to determine what is the true meaning of the Confession of Faith, and to make the same known to all the Members of this Kirk, who thereafter without scruple or danger may subscribe the same. And although the Assembly could not find this Declaration satisfactory for these and the like weighty reasons, yet were they willing the same should be insert in their Books for obedience to his Majesties desire: and thankfully acknowledging his Majesties pious affection to true Religion, and Royal resolution to defend the same and his Subjects in the profession thereof, exprest in the closure of his Royal Declaration, they were confident that when his Majesty shall be fully informed that the novations introduced since the year 1580. are incomparable with the Confession of our Faith, he will be pleased graciously to vouchsafe his comfortable protection upon those, who (adhering to the true meaning of that Confession now fully cleared by the Assembly) have abjured all the Innovations introduced, and by their great Oath and subscription have bound themselves to maintain the true Religion, and his Majesties Person and Authority in defence of the same. And this true Religion being the Channel which Convoyleth both duties to their proper object, the evidence of God's Image in our Dread Sovereign his Depute shall be terrible to all the enemies of his Majesty and of his Loyal Subjects who stand for the Confession of Faith, and the true meaning thereof, and shall raise up the affections of his Religious Subjects towards his Majesty above all earthly respects.

And where it is subjoined in the Proclamation that nothing was able to give contentment, except we were permitted to overthrow Episcopal Government and to abrogate publick Laws standing, and take away one of the three Estates, we are sufficiently cleared thereof by the Acts of the Assembly, abrogating, and abolishing Episcopal Government in this Kirk for † infallible reasons contained in the said Act, and also by our answer published to the Declaration emitted in the Commissioners name (which for brevity we forbear to insert herein) whereby we have sufficiently evinced that our proceedings are not contrary to the Laws of the Kingdom, or destructive of any lawful third Estate, and which part of the Proclamation doth close, with an undeserved imputation to our Loyalty, bearing that for the like dangerous Acts so derogatory to Royal Authority, and for other Reasons importing true Monarchical Government, the Commissioner was forced to dissolve the Assembly; but the same is so generally expressed, that it appears evidently to be done of plain purpose to make us hateful, which we hope will not work that end, unless some special Act of disloyalty or malversation could be specially condescended upon (which undoubtedly had not been omitted if it had been possible) otherwise that dark cloud of general terms cannot obfuscate the pure brightness of our sincere intentions, unless our true representation of Grievances, and earnest humble pressing legal redress thereof at his Majesties hands, may deserve that aspersions in the eyes of these Councillours, who think themselves obliged rather in absolute obedience, than a dutiful

* But they do not declare all the truth; for of 20 Lords of the Session, only four did it, but the rest who were present did the contrary.

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dutiful representation to their Sovereign of what is just and warrantable; wherein we appeal to all the World, if either our proceedings, or opinions be any waies derogatory to the true power of Monarchical Government or his Majesties Authority, which we are obliged to defend with our lives and fortunes by our Covenant.

*Anent his
Graces in-
struction to
the Kirk*

** Most
false.*

*Anent our
sitting still
after the
Commission-
ers dis-
charge.*

And where in the Proclamation, in that part thereof, anent the Commissioners discharge of the Assembly, is insinuate some expression of his Graces willingness to return the next morning to the Assembly, we declare that we were most sensible of the benefit of his Graces presence, and received great contentment by that countenance of Royal Authority in representation, whereof we would never have deprived our selves, if we had had the least signification of any such intention: but the truth is, that having called our selves to our best remembrances, we heard no word or expression tending that way; but by the contrary * we did humbly require his Grace to give in the reasons of his discontentment in writ, and to return the next day again, at which time we should give in sufficient answers thereto which might wipe away all his Graces objections, and move him to continue his wished presence to that Assembly, whereat he had publickly professed he could no longer assise: but this being refused, and the Assembly discharged by him, we were necessitate to protest both that day and the day following upon the Market-Cross of Glasgow, and to shew, that in conscience of our duty to God and his truth, the King and his Honour, the Kirk and her Liberties, this Kingdom and her peace, this Assembly and her Freedom, to our selves and our safety, to our Posterity, Persons, and Estates, we could not dissolve the Assembly for the reasons following: First, For the reasons already Printed anent the convening a General Assembly, which are now more strong in this case, seeing the Assembly was already indicted by his Majesties Authority, did convene and is fully constitute in all the Members thereof, according to the Word of God and Discipline of this Kirk, in presence and audience of his Majesties Commissioner, who hath really acknowledged the same by assisting therein seven daies, and exhibition of his Majesties Royal Declaration to be registrate in the Books of this Assembly, which accordingly was done. Secondly, For the reasons contained in the former Protestations made in name of the Noble-men, Barons, Burgesses, Ministers, and Commons, whereunto we did then judicially, and do now actually adhere, as also unto the Confession of Faith and Covenant subscribed and sworn by the Body of this Kingdom. Thirdly, Because as we are obliged by the Application and Explication subjoynd necessarily to the Confession of Faith subscribed by us, so the King's Majesty, and his Commissioner, and Privy Council, have urged many of this Kingdom to subscribe the Confession of Faith made in *Anno* 1580. and 1590. And so to return to the Doctrine and Discipline of this Kirk as it was then professed; but it is clear by the Doctrine and Discipline of this Kirk, that it was most unlawful in the self, and prejudicial to these Priviledges, which Christ in his Word hath left to his Kirk to dissolve or break up the Assembly of this Kirk, or to stop and stay their proceedings in constitution of Acts, for the welfare of the Kirk or execution of Discipline against Offenders, and so to make it appear that Religion and Kirk Government should depend absolutely

upon the pleasure of the Prince. Fourthly, Because there is no ground of pretence, either by act of Assembly, or Parliament, or any preceding practice, whereby the King's Majesty may dissolve the General Assembly of the Kirk of Scotland, far less his Majesties Commissioner, who by his Commission hath power to indict, and keep it *secundum legem & praxim*, but upon the contrary his Majesties prerogative Royal is declared by act of Parliament to be no waies prejudicial to the Priviledges and Liberties which God hath granted to the Spiritual Office-bearers and meetings of this Kirk, which are most frequently ratified in Parliaments, and especially in the last Parliament holden by his Majesty himself; which Priviledges and Liberties of the Kirk, his Majesty will never diminish or infringe, being bound to maintain the same in integrity by solemn Oath given at his Royal Coronation in this Kingdom. Fifthly, The Assemblies of this Kirk have still enjoyed this freedom of uninterrupted sitting, without or notwithstanding any contramand, as is evident by all the Records thereof, and in special by † the General Assembly holden in *Anno* 1582. which being charged with Letters of Horning by the King's Majesty his Commissioner, and Council, to stay their process against M. Robert Montgomery pretended Bishop of Glasgow, or otherwaies to dissolve and rise, did notwithstanding shew their liberty and freedom by continuing and sitting still, and without any stay going on in that process against the said M. Robert, to the final end thereof, and thereafter by Letter to his Majesty did shew clearly, how far his Majesty had been misinformed, and upon mis-information prejudged the prerogative of Jesus Christ and the liberties of this Kirk, and did enact and ordain that none should procure any such warrant or charge under the pain of Excommunication. Sixthly, Because now to dissolve after so many Supplications and Complaints, after so many reiterated promises, after our long attendance and expectation, after so many references of Processes from Presbyteries, after the publick Indiction of the Assembly, and the solemn Fast appointed for the same, and after frequent Convention and formal Constitution of the Assembly, in all the Members thereof, and seven daies sitting, were by this Act to offend God, contemn the Subjects Petitions, deceive many of their conceived hopes of redress of the Calamities of the Kirk and Kingdom, multiply the Combulitions of this Kirk, and make every man despair hereafter ever to see Religion established, Innovations removed, the Subjects Complaint respected, or the Offenders punished with consent of Authority, and so by casting the Kirk and Estate loose and desolate, would abandon both to ruin. Seventhly, It was most necessary to continue this Assembly, for preveening the prejudices which might ensue upon the pretence of two Covenants, whereas indeed there is but one: that first subscribed in 1580. and 1590. being a National Covenant and Oath to God, which is lately renewed by us, with that necessary explanation which the corruptions introduced since that time contrary to the same, enforced: which is also acknowledged in the Act of Council in September last, declaring the same to be subscribed as it was meant the time of the first subscription; and therefore, for removing that shame and all prejudices, which may follow upon the shew of two different Covenants and Confessions of Faith in one Nation, the Assembly could not dissolve before it had tryed, found, and determined that both these Cove-

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† That Assembly is but one instance and a very reprovable one. The Ministers of the pretended Assembly at Aberdeen did the same, and were most severely punished for it.

nants are but one and the self same Covenant :
Anno The latter renewed by us, agreeing to the true
1638. genuine sense and meaning of the first as it was
 subscribed in *Anno* 1580.

Anent our citation of Councillors. And further in the said Proclamation, the strain of our Protestation is Taxed, because we have thereby presumed to cite those of his Majesties Council who have procured, subscribed, or ratified this Proclamation, to be responsal to his Majesty and three Estates of Parliament ; whereas the same cannot be justly quarrelled, because it is grounded upon the Law of the Kingdom, and warranted by the Act of Parliament therein cited, 12. Act. Par. 2. *James* 4. which Act is grounded upon good reason : for it were strange to think that Councillors giving bad Counsel, to the evident prejudice and ruine of the Country, and publick detriment of the good Subjects, should not be countable therefore to his Majesty and his Estates : and it is not without instance in our Laws, that perverse Counsel hath been given in misguiding the King's and common good of this Realm, Act 6. Par. 1. *James* 4. which is also acknowledged by the reduction of Grants made by Kings to these perverse Councillors, act 3. Par. 4. and act 5. Par. 1. *James* 4. The perverseness of which misguiding Counsel, hath been assuredly the cause why in the next Parliament in the year immediately subsequent, the King's Council was chosen in Parliament, and sworn in presence of the King and three Estates, and ordained to be responsal and accusable to the King and three Estates for their Counsel : Which cleareth that both evil Counsel may be given, and that the Council may be accused before the King and Parliament for malversation in their charge. Like as his Majesty in the Proclamation, makes all persons liable to the Parliament and General Assembly, and so giveth way to this previous citation, which may serve for a forewarning and intimation that they may be accused if they be guilty, as we know all are not, and wish that none were.

Anent the injunctions and Proclamation, and our answer thereto. All which heavy Objections and Imputations are premittid in the Proclamation to the Conclusion and Command thereof, which resolveth into two Heads ; the first discharging obedience to the acts of Assembly, and liberating all, who shall disobey, from censure, and promising Protection to the disobeyers, and inhibiting all Presbyteries, Sessions of Kirks, Ministers within this Realm in their Sermons, Sessions, and Meetings or any otherwaies, to authorize, approve, or allow the Assembly at *Glasgow*, or do any deed which may countenance the same, under pain to be punished with all rigour. And commanding all who shall hear them, to delate the same, under pain of the like punishments ; likewise straitly charging and commanding all Judges within this Realm, Clerks, and Writers, not to grant or pass a Bill, Summon'd, or Lettters, or any other Execution whatsoever, upon any Act, or Deed, proceeding from the said Assembly ; and all Keepers of the Signet from Signeting thereof, under all highest pain. And the Second Head, Commanding all Subjects to subscribe and swear the Confession commanded by his Majesty conform to the sense and meaning of the Declaration published by the Commissioner, whereunto we need not here make any answer, but remits the same to a special answer, published in Print made to that (a) Declaration. But for the first, the same is so far repugnant to the Word of God, practice of the Primitive Kirk, the Laws Civil

and Canonical, the Custom of all Nations, the constitutions of our General Assemblies, acts of Parliament, practice of other Judicatories within this Kingdom, to the Confession of Faith and Discipline of this Kirk, as we cannot believe any such Commandments to proceed from our gracious King, but from the malice and mis-information of our Adversaries, the Conscience of whose guiltiness affrighteth them to undergo their deserved censure, which is (b) clear, first, That the same is contrary to the Law of God, from that place of Scripture, *Mat.* 18. wherein the Kirk is commanded absolutely to inflict censures, 1 *Cor.* 5. wherein the Kirk did execute that Commandment. And the Kirks of *Pergamus* and *Thyatira*, are reprov'd for not executing Ecclesiastical censures against those who held the Doctrine of *Balaam*, or of *Jezebel*, *Rev.* 2. So that the power of the Keys in Ecclesiastical censures is so intrinsically and so essentially competent to the Kirk and General Assembly *Jure Divino*, as obedience to her Decrees and Executions thereof, cannot be suspended, far less taken away and discharged by human Authority, more nor the power of Preaching and Administration of the Sacraments. Secondly, It is contrary to the practice of the Apostolick and Primitive Kirks, whose constant practice was to execute the Spiritual Functions and censures ; and, notwithstanding human prohibitions, to obey God rather than man. Thirdly, It is contrary to the Civil Law, *Si contra jus vel utilitatem publicam, vel per mendacium fuerit aliquid postulatum vel impetratum ab Imperatore. Et titulo de diversis rescriptis & pragmatice sanctionibus*. Fourthly, The same is contrary to the (c) Canon Law decret. decretal. extravagant. titulo de rescriptis. Fifthly, It is contrary to the universal Custom in all Nations ordaining their

Judicatories to do Justice, notwithstanding their Princes prohibition, as is clear by *Convarruia* in Spain, *Pappon* in France, *Suedwyne* in Germany, &c. upon the title *de rescriptis aut constitutionibus principum*. Sixthly, To the constitutions of General Assemblies, because in sundry General Assemblies upon Complaints made that the King's Majesty and his Council by their Letters offered some stop to the Kirk from going on in her Ecclesiastical censures, especially by act of the General Assembly convened in the new Colledge of *Sanctandrews*, April 20. 1582. it is ordained that none being received to any Ecclesiastical Function, Office, or Benefice, seek any way by the Civil Power to exeeme and withdraw themselves from the Jurisdiction of the Kirk, or procure, obtain, or use any Letters, or Charges, either by themselves, or any other in their name, or at their command and instance, to impair, hurt, or stay the said Jurisdiction, Discipline, correction of Manners, or punishment of their Offences and enormities, or to make any appellation from the General Assembly, to stop the Discipline, and order of the Ecclesiastical Policy, and Jurisdiction granted by God's Word to the Office-bearers within the said Kirk, under the pain of Excommunication summarily, without any Process, or Admonition to be pronounced by the judgment of the Eldership, by the Minister, or Ministers which shall be appointed by them, how soon it is known that any of the saids Heads are transgressed ; Like as both the King's Majesty and his Council promised that none thereafter should have that cause to complain

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(b) All these Texts of Scripture are prophaned and abused ; for no such thing can either possibly or probably be inferred from them.

(c) It is well that they will cite the Pope his Law whom they call Antichrist ; for when any thing is objected against them out of the Canon Law, it is usual with them to reject that as Popish and Anti-christian.

(a) They should do well to try if they can answer it, and the Queries of *Aberdeen* better ; for the common opinion is, that neither of them yet are answered at all.

Anno 1638. plain, as is manifest by the act of Assembly at *Montross* in July 1597. And in the Assembly holden at *St. Andrews*, April 24. 1582. being charged with Letters of Horning not to proceed against Mr. Robert Montgomery; the Assembly did write to his Majesty that this discharge was extraordinary, as a thing that was never heard nor seen since the World began, and was directly against the Word of God, and Laws of the Kingdom. And yet notwithstanding of the said charge the Assembly did proceed and Excommunicate the said Mr. Robert. Further, In the Assembly at *Edenburgh*, the twenty seventh of June 1582. *Seff.* 7. amongst the grievances presented by the Kirk to the King, The first is, That his Majesty by device of some Counsellours is moved to take upon Him that Spiritual Power and Authority which properly belongeth to Christ as only King and Head of his Kirk, the Ministry and Execution whereof is only given to such as bear

† Nay, but the pretended Assembly hath erected a Popedom, and for their Authority go upon the same grounds, and use the very same Arguments, and abuse the very same places of Scripture which the Pope and the learnedest Patrons of the Pope do for robbing of Princes their Authority over all Ecclesiastical persons, and causes in their several Dominions: The words which next follow are meer babbling

Office in the Ecclesiastical Government of the same; so that in his Majesties Person some men prease to erect a † Popedom, as though his Majesty could not be full King and Head of this Commonwealth, unless also the Spiritual as Temporal Sword be put in his Majesties hands, unless Christ be rest of his authority, and the two Jurisdictions confounded, which God hath divided, which directly tends to the Wrack and Overthrow of all true Religion, &c. And in the Assembly holden at *Edenburgh* in *Octob.* 1582. *Seff.* 15. Summons are direct by the General Assembly against the King's Advocate, for drawing up the King's Proclamation of that strain. 7. The foresaid command is also contrary to the acts of Parliament: because as the acts of Parliament appoint every matter for its own Judicatory, and to all Judicatories their own freedom, so much more doth this liberty belong to the National Assembly, being the supreme Judicatory Ecclesiastick of this Kirk, and only competent Judge in matters so important, and so nearly concerning God's Honour and Worship immediately, the Salvation of the Peoples Souls, the settling of the purity of God's Worship, the purging away the corruptions thereof, and right constitutions of the Kirk, whose liberties and privileges are confirmed, *Parl.* 12. King James 6. and *Parl.* 1. King Charles. Like as by the 12 *Parl.* 114. Act K. James 6. *Anno* 1592. the Liberty and Discipline of the Kirk, especially in her Presbyteries and Assemblies, are fully and firmly ratified, with Declaration that the Act of the King's Majesties Prerogative Royal over all Estates and Persons, shall no waies be prejudicial to the Priviledges which God hath given to the Spiritual Office-bearers in the Kirk, concerning Heads of Religion, matters of Heresie, Excommunication, Collation, and Deprivation of Ministers, or any such like essential censures, especially grounded and having warrant of the Word of God, with full power even to the Particular Presbyteries to put order to all matters and causes Ecclesiastical within their bounds, according to the Discipline of the Kirk. 8. The Lords of Council and Session by Act 92. *Parl.* 6. King James 6. are ordained to proceed in all Civil Causes intended or depending before them, or to be intended, and to cause execute their Decrees, notwithstanding any

private writing, Charge, or Command from the King's Majesty, or His Council in the contrary, and by the 47 act, 11. *Parl.* King James 6. all Licences and Superfederees purchas'd from his Majesty, are discharged as contempt done to the Law, as great hurt to the Lieges, and contrary to Justice, and declareth the same to be null of the Law, and not admittible by any Judge, nor effectual to the purchaser any waies, and ordaineth all Judges within this Realm to proceed and do Justice; siclike, and in the same manner as if the said Superfederees and Licences never had been purchased nor produced. Like as by the 106. Act *Parl.* King James 6. all Licences granted by his Majesty to hinder the execution of Acts against Papists and other Adversaries of the true Religion are discharged and declared to be of no force. According to which it hath been the ordinary custom both in Civil and Ecclesiastical Judicatories (notwithstanding of privy Warrants or Prohibitions contrary to Law which commonly are impetrate from his Majesty upon mis-information) to proceed and minister Justice. 9. To discharge obedience to the Acts of the Assembly, stop the execution thereof, protect and defend such as are delinquents and under the Kirks censure, doth directly repugne to the large Confession of Faith of this Kirk. Wherein, *Cap.* 19. the third mark of the true Kirk is affirmed to be upright Ministration of Ecclesiastical Discipline, as God's Word prescribes, for establishing good order and repressing of vice: and so no more can be impeded nor justly taken from the Kirk than any of her other two marks, viz. The right Preaching of the Word and Ministration of the Sacrament: And therefore in the Oath at the King's Coronation, he sweareth to maintain this Confession, and these three marks of the Kirk, and particularly that he shall be careful to root out of his Empire all Hereticks and Enemies to the Worship of God, that shall be Convict by the true Kirk of God of the foresaid Crimes. 10. In the short Confession of Faith sworn, 1580. and 1590. and renewed by the greatest and † best part of this Kirk and Kingdom, with an Explication renewed also at his Majesties Command by his Council, and are bound to continue in obedience of the Doctrine and Discipline of the Kirk, and defend the same according to their vocation and power. So that seeing this general Assembly hath proceeded in their Constitution, Acts, and whole proceedings according to the Discipline of this Kirk of Scotland 1580. and 1590. contained in the second Book of Discipline: which in both these years were ordained to be registrate and sworn to by all the Ministers of this Kirk, as the Discipline thereof, and wherein the Civil and Ecclesiastical Jurisdiction are so clearly distinguished in the 1. c. l. 2. as the power of the Sword may no waies stop or impede the power of the keys: and in the 7. c. the Eldership and Assemblies hath power to execute Ecclesiastical punishment upon all Transgressors and proud contempters of the Kirk: and in the 10. c. the Office of the Christian Magistrate is described to assist and maintain the Discipline of the Kirk, and punish those civilly who will not obey the censures thereof, without confounding alwaies the one Jurisdiction with the other: and this order of Ecclesiastical Discipline, condescended upon in General Assemblies, as warranted by Divine Authority to be execute notwithstanding any humane inhibition, is set down before the Psalms in Meeter: and therefore we can never expect that his Majesty, who

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† By the greatest, but the worst part of the Kingdom.

Anno 1638. out of his pious inclination to Justice by a late Proclamation the twenty second of September last, hath declared and ordained that all His Subjects both Ecclesiastical and Civil shall be liable to the trial and censure of General Assembly or any other

† The sentences of this pretended Assembly were most unlawful, light, and mad Sentences.

Judicatory competent, will now stay the execution of the † lawful and grave sentences of this National Kirk, so comfortable to us, and so necessary for maintaining the purity of Religion: which his Majesty in the end of the Articles before mentioned hath promised to defend, and his Subjects in the profession thereof, which is incompatible with the defence of Excommunicate and obstinate persons. But therefore we are assured that his gracious Majesty will be pleased to allow that reverence and all ready obedience may be deferred to the whole Acts, Constitutions, and Censures of the said General Assembly, by all his Subjects, who undoubtedly and necessarily are obliged to obedience of all the lawful commands and injunctions of the Mother Kirk, if they would be accounted Members or Sons thereof.

First, By all which (a) cloud of weighty reasons the warrantableness of

(a) It seems indeed that these reasons are wrapped up in a cloud, for both they are so dark as they cannot be discerned, and they do portend a storm, but have no weight in them at all.

our just proceedings doth evidently appear, notwithstanding of all the Arguments of challenge adduced against us in the said Proclamation: And therefore for these and many other reasons, We the Members of this Assembly, in our own names, and in the name of the Kirk of Scotland, whom we represent: And we Noblemen, Barons, Gentlemen, Ministers, Burgesses, and Commons, before mentioned, do solemnly declare in the presence of the

(b) These particular Protestations are the very same formerly made by them, and so often repeated even unto tediousness; and therefore the Reader needeth not to be troubled any more with them.

everliving God, and before all men; and protest (b) That our thoughts are not guilty of any thing which is not incumbent to us, as good Christians towards God, and loyal Subjects towards our Sacred Sovereign: And we attest God the Searcher of all hearts, that our intentions and whole proceedings in this present Assembly have been and shall continue according to the Word of God, the Laws and Constitutions of this Kirk, the Confession of Faith, our National Oath, and that measure of light, which God the Father of light hath granted unto us, and that in the sincerity of our hearts, without any pre-occupation or passion.

Secondly, That it was and is most lawful and necessary for us to sit still and continue in keeping this present Assembly indicted by his Majesty, until after conclusion of all matters it be dissolved by common consent of all the members thereof, and that for trying judging and censuring all the by-gone evils and the Introducers, and providing a solid course of the continuance of God's truth in this Land with purity and liberty, according to his Word, our Oath and Confession of Faith, and the lawful constitutions of this Kirk.

Thirdly, That this Assembly is and should be esteemed and obeyed as a most lawful, full and free General Assembly of this Kingdom, And that all Acts, Sentences, Constitutions, Censures, and Proceedings of this Assembly (whereof the general and principal Acts are to be pub-

lished,) are in the self, and should be reputed, obeyed, and observed, by all the Subjects of this King, and Members of this Kirk, as the Acts, Sentences, Constitutions, Censures and Proceedings of a full and free General Assembly of this Kirk of Scotland: And to have all ready execution, under the Ecclesiastical pains contained, or to be contained therein, and conform thereto in all points, and such like, that whosoever presumeth to utter any undutiful Speech against the same, may be duly censured and condignly punished.

Fourthly, We protest that all and every Member of this Reformed Kirk efoldly and faithfully joyn and concur in their several Callings and Stations, to advance further and assist the execution and obedience of the whole Acts of this Assembly, by all means which their ability can afford, as they affect the advancement of God's glory and the work of Reformation in this Land.

Fifthly, We protest against all the Challenges and Alpersions laid upon us in the said Proclamation, and that our whole answers are not only true in every point, but likewise sufficiently forcible to deliver us from all unjust imputations, and to justify the lawfulness and necessity of our whole proceedings and carriage, which hath been so unreasonably blamed. Like as by these presents we summon'd and cite all those of his Majesties Council, or any other, who have procured, consented, subscribed, or ratified this present Proclamation, to be responsible to his Majesty and three Estates of Parliament, for their Counsel given in this matter, so highly importing his Majesty, and the whole Realm; conform to the 12 Act Parl. 2. King James 4. And protest for remedy of Law against them and every one of them.

Sixthly, We protest that it is and may be lawful unto us to defend and maintain the Religion, Laws, and Liberties of this Kingdom, the King's authority in defence thereof, and every one of us another in that cause, according to our power, vocation, and Covenant, with our best Counsel, Bodies, Lives, Means, and whole strength, against all persons whomsoever; and against all external, and internal invasions, and that in the obedience and observance of the Acts of this Assembly and National Mother Kirk.

Seventhly, That whatsoever inconvenients shall fall out by impeding, molesting, or staying the observance and obedience due to the Acts, Ordinances, and Conclusions of this Assembly, or execution to follow thereupon, that the same be not imputed unto us, or any of us in our lawful defence and maintenance thereof, who most ardently desired the concurrence of his Majesties Commissioner to this lawful Assembly, and do yet still with humble vehemency beg his Majesties gracious approbation thereunto, but on the contrary that the Prelates and their adherents, who have protested, and declined this present Assembly, in conscience of their own guiltiness, not daring abide to any legal trial, and by their misinformation did move the Commissioner his Grace to depart and discharge this Assembly, be esteemed, repute and holden (as they truly are) the disturbers of the peace, and overthrowers of the Liberties of the Kirk, and guilty of all the evils which shall follow hereupon, and condignly censured according to the greatness of their faults and Acts of the Kirk and Realm.

Eighthly,

W *Eighthly*, We protest that none hereafter subscribe the Covenant formerly subscribed by the *Anno.* Commissioner his Grace in Council, as they will *1638.* eschew the danger of a contradictory Oath, but that all and every one subscribe the Covenant renewed in *February* last; and that with this sense, meaning, and condition, that they subscribe the same conform to the determination and declaration of this Assembly at *Glasgow* allanerly.

Nimbley, We protest that as we adhere till all former Protestations, and every one of them made in the name of the Noblemen, Barons, Gentlemen, Ministers, and Commons *respective* for the time; So we may have his Majesties Royal approbation to this present Assembly, whole Acts and Constitutions thereof, and all our proceedings and behaviour in this business, which we assuredly expect from his Majesties imbred piety, justice, and bounty, notwithstanding the sinistrous, untrue informations, whispered in his Royal ears in the contrary.

Upon all which Premises and Protestation foresaid (which is the same with the former made by us at *Glasgow*, the 29. of *November* last, but so far differing as was necessary for answer to the new additions contained in this Proclamation; and clearing us of the aspersions wherewith we are charged therein, which we might lawfully do, having protested for this Liberty in respect of our surprisal) one certain number of all qualities and ranks for themselves, and in name foresaid, asked instruments. This was done in presence of a great confluence of people upon the Mercate Cross of *Edinburgh*, the 18. day of *December*.

Revised, according to the ordinance of the General Assembly, by me Master Archibald Johnston, Clerk thereto.

At *Edinburgh*, Jan. 8.
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Not long after his Majesties Proclamation, and their Protestation, the Lord Commissioner (seeing all things tending to a present rupture) began his journey according to the leave which his Majesty had granted him for his return: After which time, and ever since, they have throughout the whole Kingdom by threatnings made the Acts of their unlawful Assembly to be received, in many places have perswaded the reception of them by Force and Arms, have levied Souldiers, and imposed Taxes upon his Majesties Subjects for payment of them, have required of the Judges or Lords of the Session to approve their Acts, though none of them consented to it, have threatned and menaced them for refusing of it, have raised divers Fortifications in his Majesties Kingdom, have blocked up the Castles and Forts, and now at last forcibly taken the Castle of *Edinburgh*, have at home got their Preachers most seditiously and rebelliously to teach the people, that there is a necessity of their carrying Arms against the King, under pain of Perjury and Damnation, have scattered abroad, especially here in *England*, divers infamous Libels justifying their own wicked and rebellious courses, inciting the people here to attempt the like Rebellion, and to deface the Ecclesiastical Government.

When the Contrivers of that wicked Covenant first framed and devised it, and perswaded others who were well perswaded of their Piety, to enter

into it, 'We dare appeal (saith his Majesty in the larger Declaration) even to their own Consciences, whether they did ever make the seduced people acquainted with their intentions of abolishing Episcopal Government, and introducing of Lay-elders, which are the only two things they make the seduced people believe they now stand upon: And We do wonder there should be any man found in the World, who can hold it a sufficient Warrant for Our Subjects to take Arms against Us their lawful Sovereign, because We will not give them leave to abolish some things which stand fully established by Our Laws and Acts of Parliament of that Kingdom, and to introduce other things which are interdicted and prohibited by the same: But much more have We reason to think Our Subjects did then no whit believe that (though We should relieve all their grievances, just or pretended, as now We have done) they should yet be forced to Acts of Rebellion, and carrying of Arms against Us, as now they are. But such hath ever been the constant course of the Heads of all Rebellions, to engage their Followers by degrees, to conceal from them their main and wicked ends, which being at the first discovered, would be abhorred and detested, until they have gone on so far in following their Leaders, as afterward they are easily perswaded by them, that there is no hope of pardon left, and so nothing but danger, if they shall offer to retreat: The very same course hath been held in this Rebellion for seducing of our Subjects of that Kingdom. The specious pretence used by the contrivers of the Covenant to the People was Religion, but that which was intended by them was a Rebellion, grounded upon the Discontents of some few: And the very means whereby they have fomented their Factious ways, and kept up in Our People a belief that they intended only Religion as they pretended, have been the very same which have been usually practised by other discontented Mutineers. But yet We find, that the principal means used to foment this Rebellion by the Heads of it, have been these three.

First, The Seditious Prayers and Sermons of some Preachers suborned by them for that purpose, who made the people still believe, that all they said was Gospel, and they crying up in their Pulpits that Covenant, and most bitterly exclaiming against all Opposers of it with the most vile and reproachful terms they could devise, wrought the people to an incredible good opinion of all that favoured the Covenant, and a bad one of all those who opposed it: So that such things were delivered in their Pulpits, as cannot be related without both shame and horror. One of them upon Our Commissioners coming home, prayed God to deliver them from all crafty compositions. Another refused to pray in the Church for Sir *William Nesbitt*, late Provost of *Edinburgh*; when he was lying upon his Death-bed, only because he had not subscribed the Covenant. Another prayed God to scatter them all in *Israel*; and to divide them in *Jacob*, who had counselled Us to require the Confession of Faith to be subscribed by Our Authority. Many Ministers would not admit to the Communion those who had not subscribed their Covenant, but in their exhortation before it, barred them in express terms with Adulterers, Slanderers, and Blasphe-mers, &c. Others would not suffer Children to be baptized in the Churches of those Ministers who were not of the Covenant, though they were

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were their own Parish Churches, but carried them sometimes many Miles to be baptized by Covenanting Ministers. One preached, That all the Non-subscribers of the Covenant were Atheists; and so concluded, That all the Lords of Our Council, and all the Lords of Our Session were such: For none of them had subscribed it. Another preached, That as the wrath of God never was diverted from his people, until the seven Sons of *Saul* were hanged up before the Lord in *Gibeon*; so the wrath of God would never depart from that Kingdom, till the twice seven Prelates (which makes up the number of the Bishops in that Kingdom) were hanged up before the Lord there; which is extream, foul and barbarous. Another preached, That though there were never so many Acts of Parliament against the Covenant, yet it ought to be maintained against them all. Another delivered these words in his Sermon: *Let us never give over till we have the King in our power, and then He shall see how good Subjects we are.* Another in his Sermon delivered this, That the bloodiest and sharpest War was rather to be endured then the least Error in Doctrine or Discipline. Another in his Sermon wished, That he and all the Bishops in that Kingdom were in a bottomless Boat at Sea together; for he could be well content to lose his life, so they might lose theirs. Thousands more such beastly, barbarous, and profane speeches were delivered by them, not only in their Pulpits, but in their Sermons: For the Reader must know, that in these times of Tumult, where the Churches were not able to contain the great Multitudes, they did usually preach in common and profane places, in rooms which are yet in building and not finished (intended for Lawyers to plead in,) in the Halls of the Taylors, and other Mechanical Tradesmen of *Edinburgh*, in some private Houses, in the Hall of the Colledge of *Edinburgh*, where one *Sunday*, *Kollock* being to preach, but finding the Crowds of people to be too great for that place, mounted upon the top of a pair of Stairs which went up to an upper ground, in an open place which was only covered by the Heavens, and from thence preached to a great Troop or Multitude, whose breath is the only Air he desireth to live in, being shot quite through the head with popularity. Others preached in the Free-School at *Edinburgh*, where Boys use to play and be punished. If these speeches, and many as bad or worse then these, and delivered in such places, be fit to persuade the people that their Covenant comes from God, the Reader may easily discern.

The second means which they used for blinding the eyes of the people, were, their many false Reports, which both in their Pulpits, and out of their Pulpits, they vented amongst the people, which their Leaders knew in their own Consciences to be most false. They gave it out, that We intended to bring in Popery in all Our Kingdoms, or at least a toleration of it. It was preached that the Service Book was framed at *Rome*, and brought over by a Country-man of theirs; when they do know that every Papist by the Popes Bull is prohibited to hear the Service-Book read. Others preached that all *England* was of their Opinion and Judgment, and that they had good intelligence from hence, that no man would adhere to Us against them. Another preached that no man would have protested against the General Assembly but for money, and that none had protested but they who

had received some, when they did know that many had protested who had received none. It is true indeed, that some poor Ministers being thrust out of their Benefices by them for adhering to Us, were Petitioners to Our Commissioner for relieving the necessities of them and their Families; some of those who were most necessitated, he did a little relieve; but some of that number were none of the Protesters, and many who were Protesters were none of that number. It was preached ordinarily in their Pulpits, that neither We, nor Our Commissioner in Our name, did ever intend to hold the General Assembly, or if We did hold it, did never intend to perform any thing which We had promised in Our gracious Declaration; though they now know that We have performed both. Within these few days, some desired the people publickly in their Pulpits to give thanks to God for that overthrow which the *Hollanders* had given to the *Spanish* Fleet before *Dunkirk*; assuring their Auditors that it was no less to be celebrated by them, then their deliverance from the *Spanish* Invasion in 88. because all that Fleet was prepared at Our charge, for their ruin and subversion: Besides many thousands more such reports and counterfeited Letters scattered by them, of which some no doubt were devised by themselves, whereby they kept Our people in that ignorance in which at the very first they had resolved to involve them. Now what a fearful and terrible thing is it for men in the House of God, and in those places of these Houses of God which they call the Chairs of Truth, to deliver such things as either they do not know to be true, or do know to be false? Besides these discourses of the Ministers, the Lay-Elders, since they came to think themselves Ecclesiastical persons (for so now they do, and will not be called Lay, but Ruling-Elders) they have found new inspirations, and delivered Doctrines as like their Divines as may be: One of them We cannot choose but rehearse. An ancient Knight and a Lay-Elder intruded himself and his Fellows upon a Presbytery for choosing the Ministers Commissioners for the Assembly; and the Ministers of that Presbytery not being able to keep them out, though they earnestly desired it, fell to intreat these Lay-Elders, that if they would needs intrude themselves in their Election, they would have a special care to choose the ablest Ministers, and who were most inclined to moderation and peaceable courses, because the Church at this time stood in great need of such Commissioners: The old Knight in great zeal replied, That whosoever at this time gave his voice to a moderate or peaceable minded Minister, he was a betrayer of Christ and his Cause; because these times required no luke-warm Commissioners. Which barbarous and unchristian speech of his being related by way of complaint to the Tables at *Edinburgh*, was so far from being censured, as it was approved for a high and heroicall Ejaculation.

The third means whereby they have perverted Our people, and continued them in their disobedience to Us and Our Laws, have been their strange and damnable positions, whereby they have impoysoned Our Subjects; some whereof We shall now declare unto you.

First, What subjects do of their own heads is much better than what they do in obedience to Authority; the one favouring of constraint, but the other being voluntary and cheerful obedience.

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1638. dience. This proposition is delivered in their Protestation, bearing date the 22. of September, 1638. made against Our gracious Declaration; it is in their fifth reason against the subscription to the Confession of Faith urged by Us.

A second, The Parliaments power doth no more reach to the placing of Officers originally in the Church, then the Church hath power to make States-men in the Commonwealth. This Position is in their Answer to Our Commissioners Declaration, concerning Our sense and meaning, in commanding the Confession of Faith to be subscribed: Where they have added the word *Originally* only to puzzle the Reader. For certainly their meaning must be, That the Parliament hath no power for confirming of Officers placed in the Church by the Church it self; for no Act of Parliament in that Kingdom doth make any Officers in the Church originally, but only ratifieth and confirmeth such as were established by the Church in her General Assemblies.

A third Position is this: The Parliament can make no Law at all concerning the Church, but only ratifie what the Church decreeth: And after it hath ratified it, yet if the Assembly of the Church shall prohibit it, and repeal that decree of the Church, all the Subjects are discharged from yielding obedience to the Act of Parliament, which either made any such Law, or ratified any such decree of the Church. This Position they deliver in their Answer to the five Reasons in the said Declaration; and would be well weighed.

A fourth Position is this: The Assembly hath power to discharge all subscription to the Confession of Faith commanded to be subscribed by Us, and as it is interpreted by Us or Our Commissioner; so leaving Us no power at all in Ecclesiastical causes, which all Reformed Churches give their Princes, according to God's Law. This Position is in the same place in their conclusion of their Answers to the five Reasons.

A fifth Position is this: The Assembly without Us is the Church, and the only Judge competent fit to interpret and explain all doubts arising upon the Confession of Faith commanded by Us; which they put in practice, by explicating Our Confession of Faith against Our own meaning, and after We had dissolved the Assembly. This Position is set down in the beginning of their conclusion, after their Answers to the five Reasons.

A sixth Position is this: Though the Law be interpreted, yet if it be interpreted in a sense disliked by most of the Kingdom, the Body of the Kingdom, for whose good the Law was made, may crave the lawful redress of the Grievances sustained by that Law. This Position is in the fifth of their ten Articles propounded before the induction of the Assembly. A strange Position, that they shall crave redress of a Law, and before a Parliament which only can redress it; and though they call it a craving to redress it, yet they mean an actual redressing of it: For they (before a Parliament was at this time indicted) have actually done many things against Acts of Parliament, and stand upon their justification that they may lawfully do so.

The seventh Position is this: The Assembly is dependant, either from King or Parliament in matters Ecclesiastical. This Position is in their Protestation against Our Proclamation of the 18th of December 1638. in their third Reason

against Our gracious offers delivered into the Assembly by Our Commissioner; and is a Position delivered not only in the sense, but in the very words of the Jesuits. The other Positions following, generally dispersed throughout their Protestations and Pamphlets, are so obvious to any one who hath read them, as the particular citation of them may be forborn; such as are these following.

An eighth Position is: That in all matters determined in an Assembly, *We are to receive them as the Son of the Church, and have no further interest in them*, though they be not matters of Faith but matters of Government, and those concluded by them against Acts of Parliament established by Us and Our three Estates; nay, though they concern Secular business, as making of Salt, and fishing for Salmons on Sundays, changing of Markets from one day in the week to another, and such like: For in their late pretended Assembly they have determined of many such things, as doth appear by the Index of their Acts. They will not find many Papists who have said so much for the Church of Rome, nor any Jesuits which have said more.

A ninth Position is this: It is lawful for Subjects to make a Covenant and Combination without the King, and to enter into a Band of mutual defence against the King and all persons whatsoever, though by two Acts of Parliament before cited, all such persons as shall be found either contrivers of, or adherers to any such League, are punishable with death.

A tenth Position is this: That it is lawful for themselves sitting in an Assembly, to indict a new Assembly without Our consent, as they have now indicted a new Assembly to be held in July next; or out of the Assembly when they please, as they professed that now they would have done, if We had not indicted one, though this be directly and expressly against two Acts of Parliament before cited.

An eleventh Position is this: If Subjects be called before Us and Our Council for any misdemeanour, if they who are called do any way conceive that the matter for which they are called, *doth concern the glory of God, or the good of the Church* (and a wonder it is if any cause can be found which doth not concern one of these two) *then they may appeal from Us and Our Council to the next General Assembly and Parliament*; and in the meantime, before these Appeals be either heard or discussed, they may *disobey Us and Our Council*, although by an Act of Parliament before cited, it is expressly made Treason: And the Ministers who appealed from Our Royal Father and his Council, were upon that Act arraigned and found guilty of Treason.

The twelfth Position is this: That when we are intreated to indict a General Assembly, it is not that there is any need of Our induction, but *rather to do Us honour, and to beget some countenance to their proceedings*; alledging that the power of induction is in Us but *cumulative*, not *prevalative*, which if We shall refuse, then that power is *suppletive* in the collective Body of the People, as it is always (say they) in all other cases, if the Prince shall either neglect or refuse to do his duty: *Nor are they ashamed to aver, that all Sovereign Authority was originally in the collective Body of the People, by them conferred with their own consent upon the Prince; and therefore if the Prince shall omit to do his du-*

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ry, he either falls from his right, or his right is interrupted, until he return to his duty: But that in the mean time the Sovereign Right and Authority doth return to, and remain with the People, from whom it was at the first derived upon the Prince: A pretty matter it were if Princes Crowns and Sovereignities should depend upon such notional and pedantical distinctions, and wonder it is that these men who profess themselves to be the greatest enemies to Popery in all the World, should borrow the very words and terms of this ridiculous distinction from the Jesuits; which distinction, if it had ever been used in those primitive and purest Councils of the Church; all of which were only called by the Emperours, and in which all matters were ordered and disposed by their Presidents and Deputies, it would have made those Emperours out of love with the Councils and Assemblies of the Church: But they were never robbed of that special Prerogative of their Crown until the Bishops of Rome by their tyranny and usurpation, and by animating and arming their own Subjects against them, dispossessed them of it: And now We and Our Successors being repossessed of it again by the Laws of that Our Kingdom, and the usurpation of the Pope, in that very particular, being by many of Our Acts of Parliament excluded, wonder it is to see these men take upon themselves that usurped and cashiered Papal Authority.

The thirteenth Position is this: If We or Our Commissioner sitting in Assembly shall deny Our voice to any thing, which to Us appeareth to be unjust and repugnant to Our Laws, yet if that shall be concluded by most voices of the Assembly, that then We are bound *jure divino*, to see all these conclusions made in despite of Us, obeyed by all Our Subjects, and by Our Authority to enforce obedience to these Acts; and if Our Counsellors or Judges shall refuse to do the like, then they shall be liable to the Sentence of Excommunication, and so be deprived not only of their places, but of their estates: A Position to which We suppose they will never gain the consent of Princes, or Magistrates put in Authority under them.

A fourteenth Position is this: An Assembly may abrogate Acts of Parliament, and discharge Our Subjects from obedience to them, if they any way reflect upon business of the Church; which we wonder that the Nobility, Gentry, and Burrows can endure: For as it doth derogate principally from Our Authority, so doth it proportionably from theirs when they are assembled in Parliament: And indeed it is to be wondered at, how any man that is acquainted with government can indure it; for it destroyeth not only the nature, but the very name of the High Court of Parliament: For how can that be called the Highest Court of the Kingdom, if a General Assembly may rescind the Acts of it? And that power which may repeal one Act of it may repeal more, nay all Acts of it, when it shall be pleased to exercise that power, and say it is in order to the glory of God and the good of his Church.

A fifteenth Position is this: The Protestation of Subjects against Laws established, whether it be made *coram Judice*, or *non Judice*, before the Judges of the people, or the people themselves who are born to be judged, doth void all obedience to these Laws, and dischargeth all the protesters from any obligation to live under

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them, before ever these Protestations and the validity of them shall come to be discussed before the competent Judges of them; nay, although they be repelled by the Judges before whom they are made: All which (since these troubles begun in that Kingdom) have been usually practised by the Covenanters, who having sometimes made Protestations against Our Laws before Our Council, sometimes before Our Commissioner, sometimes before the Lords of Our Session who repelled them all, then they made them before the people their own associates in the publick Market-places, and by that means held these Protestations sufficiently admitted, and themselves discharged from obedience to all these Laws against which they protested, alledging (perhaps) that they were unjustly and unduly enacted: which course, if it may be allowed in any Commonwealth, and that Protestations before they be discussed, may discharge Subjects from obedience to Laws, what Subject will yield obedience to any Law, by which he findeth himself pressed or inconvenienced, when the remedy of a Protestation, whether admitted or not admitted, is so ready at hand?

A sixteenth and last Position is this; which indeed is the worst of all: For it is both the Mother and Nurse of all the rest, and is such a shameful one, that they have not printed it in *terminis*; but it followeth by an unavoidable consequence upon many of their printed Positions, as all of them do follow upon, and flow from it: And the practice of it is so current with them, as it appeareth almost in every one of their particular actions; and it is thus: A number of men, being the greater part of the Kingdom, because they are the greater, (and in that sense (say they) the more considerable part) may do anything which they themselves do conceive to be conducive to the glory of God and the good of the Church, notwithstanding any Laws standing in force to the contrary; and that this great part, especially met in a representative Assembly, may, without the Authority of Us, against the express commandment of Us and Our Council, and Our Judges declaration of it to be against the Laws of Our Kingdom, choose some few Noblemen, Gentlemen, Ministers and Burgeses, who, under the name of Committees or Commissioners from the General Assembly, to be chosen from Assembly to Assembly, shall sit and determine of things concerning the Church and State, as if there were neither King, Council, nor Judge in the Land. They complain of a High Commission erected by Us and Our Authority, but whether this be not a higher Commission than that, We leave it to every impartial Judgment.

They answer for themselves only this, That they do it as being put in Authority by the General Assembly, which is (say they) a Court independent from Us, and therefore may erect what Court it will without Us, and may appoint what Commissioners it will to sit for that Court, so they meddle with nothing but Ecclesiastical business: But let the Reader consider how many wicked and insufferable absurdities this their Answer carrieth along with it.

First, By what Authority did they do the same things which they now do, before the Assembly was indicted? They could not be then Commissioners from the General Assembly.

Secondly, Who gave the General Assembly power to erect any such Table of Commissioners? They found themselves aggrieved with the high Commission established by Us, upon this ground, that

1638. that there was no such Court established either by Acts of General Assembly or Parliament: And now we desire them to shew any Act of Parliament giving the Assembly power to erect any such Table of Commissioners.

Thirdly, In the erection of this Table, they out-do any thing which yet hath been either said or done by the Jesuits in defence of the Churches Authority, and the Authority of her visible Head over Kings and Princes: For they did never yet affirm, that the Ecclesiastical Authority could be exercised but by Ecclesiastical persons: But these men do hold, that Noblemen, Gentlemen, and Burgeses may execute this Authority: But they say, they do not exercise it, as any such Lay-men, but as Ruling-elders, and so in the capacity of Ecclesiastical persons; but can there any Child be found who will not laugh at this, if ever he have heard but the common names, of Church-men and Lay-men? Can these two be confounded? Can the calling of a man by the name of an Elder make him an Ecclesiastical person, if by his place and calling he is never to discharge any office of a Church-man? They have declared it to be unlawful for Bishops to have voices in Parliament, Council, or any secular Judicatory, because these places are incompatible with the places of Ecclesiastical persons: And shall not Lay-persons be as incapable at least to meddle with Divine and Ecclesiastical businesses? Or if they shall, then let these Ecclesiastical Elders renounce their places in Parliament and other secular Courts of Justice, and become Ruling-elders only.

Fourthly, They alledge that they meddle only in Ecclesiastical causes; Although it be unlawful for them to do that, yet it were the more tolerable, if they did as they say: But they do make good what they say, by telling the World what they mean by things Ecclesiastical, and their meaning they do express in the very terms of the Jesuits; for by Ecclesiastical, they mean, as their practice sheweth, any thing which is in ordine ad Ecclesiastica: Nay more, in ordine ad Spiritualia, whatsoever may be thought conducive to the good of the Church, or to any spiritual good, and yet more vastly to the glory of God; by which latitude of the word Ecclesiastical, we would know, what they have left without the compass of their cognisance? Just nothing: For in this sense they may set the price on victuals, they may censure the actions of all men in what kind soever, because St. Paul biddeth us, *Whether we eat or drink, or whatsoever we do, do it all to the glory of God.* And truly, from this false and Jesuitical interpretation of this word Ecclesiastical, have issued most of all their acts of Sedition and Rebellion: They have provided Arms for our Subjects, they first blocked up all our Forts and Castles, and since have taken them, stopped our Officers from carrying victuals or ammunition into them, they have raised Forts, taxed our Subjects, levied Souldiers against us, not only turned us out of the possession of our Castles, but, so far as in them lies, defeated our title to them, by declaring that they are not our Castles but the Kingdoms; they have incroached upon the undoubted bounds and marks of our Sovereignty, by sending Warrants to our Sheriffs for choosing Commissioners for the Shires for the next Parliament; they have discharged our own Printer for printing any thing which concerneth these Troubles, or may make against them, though commanded by

us and by our Council, so that if we have any thing to print there, we must first be a suiter to Johnston their Clerk for his hand to it, else it cannot pass; they have injoyed, or at least suffered, the Preachers of their own side to pray and preach most bitterly against us and our Authority: Those Preachers who continued in their loyalty towards us, they have most unjustly against our Laws deprived of their Benefices, and most unmercifully and unchristianlike exposed them to misery and beggery, they have most contemptuously and rebelliously used our Councillors and Judges: When they are asked, why they do these things, and by what Authority they do them?

To the first they answer only, That they do them for the good of the Church, and the glory of God, that Religion may be preserved, the honour of God maintained, and his glory increased: Who would think that there should be men found in the world, who call themselves after the name of Christ, and invoke the name of God, and yet dare profane and abuse the names of Religion, God, and his glory, and to intitle those glorious names to such lewd actions of Treason and Rebellion, as can proceed from none but the Devil?

To the second: By what Authority do they these things, which are expressly against the Acts of Parliament, Acts of Council, and Acts of General Assemblies? They answer, that these Acts of Assembly were unduly obtained, and that now they have rescinded them. For Acts of Parliament and Acts of Council, they express great wonder and admiration, that any man should question their Authority over them: For that Question they use to answer with another of their own, viz. *Whether any man doth hold Christ or us to be Supream? And being answered that Christ is Supream, then they conclude, That they being his Council, must likewise be Supream; That the Parliament is but the Council of the Kingdom, That our Privy Councillors and Judges are but the Council and Judges of the King; but that they themselves are the immediate and independent Councillors of, and Judges under Christ, who is the King of all Kings and Kingdoms; and that therefore in all causes which they conceive to concern Christ and his Kingdom, which is his Church, they are Supream and independent, above us, our Parliament, our Council, our Judges: And that if our Councillors or Judges do not obey their commandments, they will proceed to the Sentence of Excommunication against them, and by the same reason (though as yet they have not said it) they may proceed against us with the same Sentence: For we acknowledge Christ to be the Supream King, as much as our Councillors and Judges do acknowledge him to be the Supream Lord and Judge. These furious frensies have not been heard of in the world, since the Anabaptists madnes reigned in Germany in Charles the Fifth his time, which was most strongly and vehemently opposed by the Protestant Princes, who adhered to the Augustan Confession; and if Luther and Melancthon, whom God used as the chief Instruments in reforming the abuses of the Church of Rome, had not shewed themselves in their Sermons; Lectures in the Universities, and publick writings which they published, stout Champions against them, and thereby had drawn all Protestations to detest and persecute them, undoubtedly the Reformation of the Church,*

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falling out to be about the same time when these Anabaptists raged most in their madness, had laboured and suffered extremely under the scandal of their frensies, in the opinion of all those who were attending and looking after the issue of that Reformation: And yet these same fooleries and frensies are daily acted by these who call themselves Commissioners of the Table, and presented to the Readers of their Pamphlets and Protestations, with the Titles of irrefragable, undeniable, convincing, unquestionable, Sun-shine truths, and twenty more such false impudent epithets, as one would wonder from whence they fetch the faces that can bear them out in saying so, when the whole Christian World who shall read them, upon the very first view or reading, must discern that there is not the least step or shadow of truth to be found in them. We confess we were amazed at, and aggrrieved with their horrible impudence, expressed in their last Petition sent unto us, in which they did invoke the name of God, calling him not only as a Witness, but as an approver of their actions; at their pretended assurance of our justification of them all, when they undoubtedly know, that we do abhor and detest them all as rebellious and treasonable; at their shameless asseveration of their confidence that their neighbour Churches will approve all their proceedings, that they are afraid they should be thought to have offended in nothing so much as in lenity, when they have proceeded to the deposition and excommunication of the Bishops and others their opposers, which is the utmost of that power which ever any Church did yet challenge to it self; and many more such audacious untruths, which after we once heard read, we resolved never to answer, and now do answer it only thus, That in the main points of it there is not one true word. To say nothing of the boldness of this Petition, which expecteth our Answers in such terms, as it doth not only seem to require our approbation of their wicked proceedings, but almost to command it. And lastly, it is subscribed only by the hands of the Moderator and Clerk of the Assembly, as if it were an ordinary citation served upon the meanest Subject of that our Kingdom. And besides all these, we would know what Ecclesiastical Assembly, just or pretended, did ever use any coercive power, but that which was Ecclesiastical, viz. suspension, deprivation, degradation, or excommunication. But this pretended Assembly hath, besides all these, enforced her Acts with Arms and all manner of violence both against the persons and fortunes of such as do not agree unto them, but continue loyal unto Us.

BY this time we hope the Reader is well satisfied that we have been from time to time well acquainted with, and rightly informed concerning all the particular passages of these Troubles: For since we produce their own original foul and black Acts, and the Counsels which we took, and courses which we held for meeting with them, and hindering them, so far as then on the sudden We could, every man will now hold their ordinary and so often repeated calumny sufficiently confuted, viz. That all the proceedings and proffers on their parts were quite concealed from us, That their Petitions, Remonstrances, and Grievances were kept from us, That we understood no more of the

estate of the affairs of that Kingdom, then the malice of their Adversaries and bad Patriots were pleased to impart unto us; That our Commissioner in his several journeys between us and them never made us acquainted with the true state of the business, or with their requests and protestations; That he at his several returns did do that which he thought fittest to be done, and not what we had commanded him, or, that if we did command him, our commandments were according to the information which he had given unto us of their counsels and confes; which information was never true nor right, but only such as he and the Bishops had contrived for mis-informing of Us: All which most wicked calumnies, invented only to keep our people unsatisfied, as they are attended with want of truth, so they are accompanied with a most undeserved ingratitude. For we do profess, that there was no man since the time of these Troubles, who hath more zealously stood between our wrath and them, then our Commissioner, and who hath more constantly laboured us to admit any probable construction which might be made of their actions, ever until such time as they came to that height, that they could neither probably nor possibly receive any good construction; and yet even then all his persuasions were to pardon and forgiveness, if they should acknowledge their errors, and with a submissive humility return to our obedience. And here we must needs justify all his proceedings with them, as being punctually and exactly ordered and performed according to our instructions and commandments to him, and condemn their ingratitude to him, not doubting but ere long they will heartily wish that they had some such about us, who might sollicit us for their peace and pardon so carefully as he did, so long as he had any hope of their amendment.

The same course which they held with him their own Country-man, they held likewise with some of this Kingdom of great place, especially some of the Prelates near us, and intrusted with the greatest business of this Church and Kingdom: For, during the time of all these Troubles, they have likewise slandered them amongst our Subjects of that Kingdom, both for mis-information of us, and giving us counsel and advice to shun all ways of peace; whereas we must profess that those Prelates, whom (in their last seditious and treasonable information to the good Christians of England) they have traduced for their greatest enemies, and chiefly some of them whom they especially glance at with our Commissioner, have been their greatest friends; their counsels were always counsels of peace, and their solicitations to us were vehement and earnest for granting unto them those unexpected and undeserved favours, which we were graciously pleased to bestow upon our people, published in our Proclamation at Edinburgh the 22. of September 1638. and afterward made good to them in our name by our Commissioner at the Assembly in Glasgow: These Prelates and our Commissioner advising us rather to descend to these particulars, then to be put to the effusion of any drop of our Subjects blood.

But the misery and misfortune of many of our well meaning Subjects in that Kingdom, hath in all this business been this, that they trusted the mis-informations of their Leaders, even in those things of which their Leaders themselves

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‘ selves did not believe so much as one word: Such were their false reports of Our inclination to Popery, of Our intentions never to hold an Assembly, although We had indicted it, of Our intention of never performing any thing in that Assembly which We had promised in Our gracious Proclamation of the indictment of it: All which false reports We have since sufficiently confuted by Our commanding the renovation of the subscription of that Confession of Faith which cannot subsist with Popery, by Our indicting a free General Assembly (the freedom whereof they quite destroyed by their proceedings both before it and in it) by Our making good in that Assembly (such as it was) all Our gracious promises; and therefore We cannot now but hope and expect, that all Our good and loyal Subjects of that our ancient and native Kingdom, will, by their former experience of the falshood of their Seducers and Leaders, learn to give no trust or credit to their posterious and new mis-informations, which by their last seditious Pamphlets, printed or written, and by many intercepted Letters We find to be these three especially, but all of them most notoriously false.

‘ First, They go about to perswade Our good Subjects, that We intend an invasion of that Our Kingdom: But they must have a great power over the faith of such as they can make believe that a King would invade his own Kingdom: Invasions made by Princes of other Princes Dominions have been usual; but for a Prince to invade his own Kingdom is a prodigious untruth. But they tell Our people that We are coming thither attended with English troops: We wonder if they should be afraid of them whom Our people in their Pulpits, and elsewhere, have been made believe were all of their own party, and would take Arms with them in their defence against Us. But the truth is, these English Troops go along to secure this Our Kingdom of England from invasion by them, which they have so frequently threatned; and if for the securing of Our person they should offer themselves to be Our guard wheresoever We go, what do they else but shew themselves to be true and loyal Subjects, and lay an obligation on Us to continue in our breast that full assurance of their loyalty and fidelity towards Us, of which We have always by unanswerable demonstrations been fully perswaded; as also upbraid the disloyalty of many of Our Subjects of that our native Kingdom, amongst whom they are loth to trust Us without offering their persons to be our Guard?

‘ But these two things we do desire all our good Subjects of that Kingdom firmly to believe: First, We are confident that we shall not much stand in need of English Troops to chastise the Heads of this late Rebellion, as being fully perswaded that our loyal Subjects, who have all this while adhered unto us; and our misled Subjects, who upon this our Declaration will adhere unto us, but above all the Justice of the Cause of God and of Us his Anointed, shall be strength enough to bring those principal Rebels to undergo the trial of our Laws. Next, We desire all our good Subjects there, to believe that we are so far from intending any Invasion of that our native Kingdom, as that according to our Duty and Oath taken at our Coronation, we shall by the grace of God always be ready with our whole power, estate, and expence of our blood (if the case shall so require) to defend that

our Kingdom and Subjects thereof against all invasions whatsoever. For we do at this time only intend to reduce the principal Heads of these Tumults to the obedience of Us and our Laws, and in case of their Rebellious obstinacy, to bring them to those deserved punishments, which in such cases the Laws of that our Kingdom have provided: Nor can this either be called or accounted an Invasion, more then the Judges sentencing Malefactors to punishment, can be called an invasion of them.

‘ The second mis-information whereby we find the Heads of this Rebellion go about to keep our people from returning to our obedience, is this: They make them believe, that since they have not accepted of our gracious offers, made in our Declaration at *Edinburgh* the 22. of September last, and made good by our Commissioner in our name at the Assembly in *Glasgow*, that now we will certainly perform none of them: But these wicked mis-reporters speak both according to their own defects (as knowing that their rebellious misdemeanours have indeed deserved no such favour at our hands) and likewise, according to their own desires (as fearing that if we should make them good, then our people might and must receive satisfaction thereby) but they do not speak according to our Royal intentions, which are to assure our Subjects, that (as we have before expressed in our Preface) their faults and disloyal courses shall not make us go back from any thing which we have promised in either of those two our gracious Declarations made at *Edinburgh* and *Glasgow*, but that we will perform them all for the securing of all our good Subjects from any further fears of these pretended innovations.

‘ The third mis-information whereby the Heads of this Rebellion go about to continue our people in disobedience to us, is this: They would make them believe, that if they shall now yield, we do intend to make that our native Kingdom a Province, and to dispoile them of all their Laws and Liberties, and to give them new Laws, as if they were a conquered Kingdom: A most devillish and false suggestion; for we profess we never harboured any such thought in our Royal breast, but do intend by the grace of God to continue that our native Kingdom in the government of our Laws, and confirm unto them all their liberties, and when it shall please God to translate us, to leave the same in charge to our Successor.

‘ These foul, but false aspersions, being thus wiped off, we are now desirous to remove their grand and main calumny, whereby they do at once endeavour both to disparage our just, and to justify their own most unjust proceedings. They give out that we have no quarrel against them but Religion; and when they are asked in what points of Religion we will not yield to them, they do not name any one of which they have complained in their Petitions, and which in them they called innovations in Religion (for they know, that in our gracious Declarations we have given full satisfaction concerning them) but they instance in other two particulars: First our not admitting the introducing of Lay-elders into their Presbyteries, and that in equal number with the Ministers, and that these Lay-elders shall have voices, and always the casting voice in the election of the Ministers Commissioners from the Presbyteries to the General Assembly.

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'The second, That we will not give way to the abolishing of Episcopal Government. For the former, We profess that we cannot give way to it, it being a course unheard of, not only in that Church of Scotland, but in any Church in any age: For how can We yield, that Noblemen, Gentlemen, Commoners shall be made Ecclesiastical persons, which must needs bring in a confusion of these two *Ecclesiastical and Secular persons*, which have always been distinguished? Next, how can We betray the Ministers of that Kingdom unto perpetual slavery? For if Episcopal Government should be gone (which they intend) and the Ministers in their Presbyteries shall be over-swayed by the voices of the Lay-elders, what face of Ecclesiastical Government can remain, when it shall be quite pulled out of the hands of Ecclesiastical persons? And therefore We cannot choose but account it a great ingratitude in those Ministers who oppose Us, for whose maintenance as We first stood against the Laity, so We are now resolved to stand against them for their Liberty. For the second, which is the abolishing of Episcopal Government, We profess we cannot yield unto it (though it were not warranted by Apostolical institution at the first, and since by the perpetual practice of the Church of Christ in all ages and places, as We hold it is warranted by both.)

'First, Because it is established in that Kingdom, and hath ever been by Acts of Parliament, and is so now, and hath been for many years by Acts of the General Assembly.

'Secondly, Because of the course which they have taken to abolish it, to wit, by an Assembly, holding that an Assembly may abolish Acts of Parliament; a Proposition which must not be endured in any Monarchy: For then the Convocation in England, or General Assembly in Scotland, might introduce in either of these Kingdoms, Popery, and the Popes authority if they had a mind to do so, notwithstanding the Acts of Parliament in both Kingdoms which have ejected them, and which Acts of Parliament were posterior to the Acts of these Ecclesiastical Assemblies, and were confirmations of what was passed before in them.

'Thirdly, We cannot destroy Episcopal Government without destroying one of the three Estates of Parliament, which We will not do: But these men in an Ecclesiastical Assembly, without Our consent, or consent of Parliament, have gone about to destroy the first of the three Estates of Parliament.

'But say that none of these things were so, yet We would be satisfied in this point, Whether Our refusing of the intrusion of Lay-elders, and the extrusion of Episcopal Government, can be to the Conscience of any man a sufficient warrant or ground for his taking Arms against his lawful King and Sovereign? For now their very Leaders, acknowledging that We have given them satisfaction in the rest, make these two the only ground of all their Arms. And We appeal to the Consciences of most of Our Subjects Covenanters, if, when they entered into that Covenant at the first they did ever imagine that they should be persuaded to take Arms against Us, for these two points of Lay-elders and Episcopal Government, if they should receive satisfaction from Us in their other Grievances, and feared innovations, as We have before declared. We are confident that no such matter was then within the compass of their thoughts: We then having fully removed those

'pretended fears which occasioned their Covenant, We cannot but hope that Our seduced Subjects will return to their former obedience; but for their seducers, We know that some of them, from the very first, were resolved never to receive any satisfaction.

'This grand imposture and calumny, with the other three, being removed, We will now declare fully and freely to all Our Subjects of our three Kingdoms, and to all Forreigners besides, the true and only causes which do enforce Us at this time to use force for the repressing of the insolencies of such of Our Subjects in that Kingdom as shall stand out against Us; first protesting that none of the causes before mentioned, suggested by their Leaders, have settled in Us this resolution, but only these causes which now follow.

'First, We will never endure that any of Our Subjects, say that all Our Subjects (if they could possibly be all of one mind) out of Parliament shall ever abolish or destroy any Act of Parliament, especially not Noblemen and others assembled in an Ecclesiastical Assembly: For to hold that any Assembly of Subjects out of Parliament, or in Parliament without Our consent, may abolish any Act of Parliament, destroyeth the very foundation of Government and Justice in all Monarchies; and the doing of it by Ecclesiastical persons in their Councils and Synods, hath been the cause of infinite Calamities and miserable Wars and devastation of Kingdoms in the Christian World, since the Pope and his Conclave did usurp that unlawful and unlimited power; which, being in that Our Kingdom in all these late Troubles practised against the express Laws of the same, We are resolved to punish, unless the Offenders betake themselves to Our mercy.

'Secondly, We are resolved not to endure that any of Our Subjects, without our consent, and the consent of the Parliament, shall destroy any of the three Estates of Parliament; which they in their late pretended Assembly have gone about to do.

'Thirdly, We are resolved not to endure that any General Assembly shall be called but by Our indiction, according to an express Act of Parliament in that case provided; or that it shall continue after that We by our Authority have dissolved it; and are resolved to punish them who shall do so, as Our Royal Father punished those who did the like at *Aberdene*.

'Fourthly, We are resolved to punish those who have imposed Taxes upon Our Subjects, levied Men or Arms, raised any Fortifications in that Our Kingdom without our leave, and first blocked up, and then taken Our Castles and Forts, and by violence dispossessed our Loyal Subjects of their Houses and Castles, detaining them by force; for all these, by the express Laws of that our Kingdom, are acts of Treason and Rebellion.

'Fifthly, We are resolved not to endure that the Protestations of Subjects against Us, Our Council, Our Judges and Laws, shall discharge the obedience of the Protesters unto these Laws, unless they be admitted before the competent Judges, and legally discussed before them; the contrary whereof hath been practised by the Covenanters all the time of these Tumults.

Sixthly,

Anno. 1638. *Sixthly*, We are resolved not to endure that Our Subjects shall enter into any Covenant or Band of mutual defence, *Without Our leave asked and obtained*, it being expressly forbidden by divers Acts of Parliament of that Our Kingdom; for this hath been, and still is, the ground of all this Rebellion.

Seventhly, And principally, We are resolved not to endure that any of Our Subjects, under the name of a Table, or Committees of the General Assembly, or under any other name, title or pretence whatsoever, *shall sit without Our consent and Authority, and order business of the Church and Kingdom at their Pleasure*; and if they shall be called in question for the same by Us, Our Council, or Judges, shall appeal from Us and them, and refuse to be judged by either, alledging that they will be judged by none but by the general Assembly, which is Christ's own immediate Council, and therefore hath no dependency from, or subordination either to Our Council or Judges, or Our Parliament, which is the Council of Our Kingdom, and so that both Church-men and Lay-men under Ecclesiastical names shall exempt themselves from the Authority of Us and Our Laws, and the Assembly it self shall hold the Members of it free from being judged in all matters of Assembly by any but by it self; which by the Laws of that Our Kingdom is Treason, as appeareth by the Act cited in the body of this Narration: Now all this hath been practised, and is practised by those which call themselves of the Table.

From all which We hope it is evident, that the offences, which We resolve to punish in some of Our Subjects, do not concern Religion: So that the question is not, Whether there shall be a Service-Book, Book of Canons, High Commission; nay, nor whether there shall be no Lay-Elders in Assemblies, or no Episcopal Government, (though We are resolved to reject the one, and retain the other:) But the question indeed is neither more nor less than this, *Whether We and Our Successors shall be any more Kings of that Kingdom*: For if these traitorous Positions shall be maintained and made good by force of Arms, then We and Our Successors can be no more Kings there, Our Parliament, Council, and Judges have no more authority there; So that unless We will give over to be King, and so betray and desert that charge wherewith God hath intrusted Us, We must use that power which God hath put in Our hands, and by fair, just and legal waies, to Our great grief, force them to obedience.

These are the true reasons which have forced Us to undertake this Journey, and to make use of the Arms and aid of Our loyal Subjects here, for the security of this Kingdom, and safeguard of Our person, as likewise of the Arms and aid of Our Subjects of that Kingdom for the same purposes.

And here *first*, We call God to witness what an unwelcome Journey this is unto Us, and how unwillingly We do undertake it.

Secondly, We do profess and protest, that as We (like God himself, whose Vicegerent We are) have shewn Our Self all this while slow to anger; so now like him We shall shew Our selves ready to forgive, upon the repentance of such of Our Subjects as have been misled, their deserting the Heads of their Rebellion, and returning to Our obedience.

Thirdly, That We intend to use no Arms against that Our Kingdom, but only against some Rebels in it, for their apprehension and bringing them to Justice.

Fourthly, That such even of those who shall be apprehended, shall have their fair and legal Tryals according to the Laws of that Our Kingdom, without the denial of the least favour which can be allowed them by the course of Justice, if they will offer and submit their persons to a legal Tryal.

Fifthly, That all Our Subjects of that Kingdom, who shall now adhere unto Us, shall be protected and defended by Us in their Persons and Fortunes, with the uttermost of Our power: For We profess that We do not hold it a National defection, but a revolt of some Rebels, who have misled a great many of the rest, We having a great many Subjects of all ranks in that Our Kingdom, who for their constancy in their Loyalty and Fidelity towards Us, shall justly expect both protection and reward from Us.

Sixthly, That whosoever shall go about to make any of Our Subjects believe that this is a National quarrel between these two ancient Kingdoms, both now being under Our Government, shall be punished as a disturber of the peace of both: and therefore We exhort and require all Our Subjects of both Kingdoms, who shall accompany Us in this Journey, to live and converse peaceably and lovingly, whereby as they shall do Us most singular and acceptable service, so they shall notably disappoint the Heads of that Rebellion, who now labour no point so much as this, to make Our Subjects of that Kingdom believe, that this Journey of Ours bringeth along with it a National Invasion; and if Our Subjects of both Nations shall keep that Friendly and Loving correspondence in their attendance upon Us in this Journey, We do not doubt but it will be a means to tye them in a stronger band of Love for ever hereafter, when Our Scottish Subjects shall here see the alacrity and forwardness of the English, and the English shall there perceive the alacrity and forwardness of the Scottish, both of them meeting in this point and center, *viz.* the defence of Our Person, and of Our Royal Crown and Dignity.

To Conclude: As We have found the Aid and Assistance of Our loving Subjects here towards this Journey, so We do heartily desire their Prayers all the time of Our absence for a good success unto it, and that if it be possible We may return with peace, and without the effusion of any drop of Our Subjects blood: And We do require all Our good Subjects of that Our Kingdom of Scotland, especially the Ministers who should be the Messengers of Peace, to frame and settle Our Subjects minds to the courses and waies of Peace, and to lead them on in the way of returning to Our obedience, who doth resolve to maintain them in the Religion now established amongst them, that so We be not forced to draw Our Sword of Justice against any of them, which in case of their obstinacy how unwillingly We shall do, We call the King of Kings to witness: But if nothing else will serve, it must be, and their blood will rest upon their own Heads.

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DR. Williams Lord Bishop of Lincoln being in disgrace, and a Prisoner in the Tower of London, having no kindness for the Archbishop of Canterbury, was about this time solicited by his Friend Mr. Osbaldstone, School-master of Westminster to assist the Lord Treasurer Weston as one of his Faction, against the Lord Archbishop, whom he reproachfully called, *The Little Urchin*, and meddling Hocus Pocus, and the Lord Treasurer was Nick-named the great Leviathan, betwixt whom (said Mr. Osbaldstone in a Letter to the Lord Bishop) I find for certain, and report it sub sigillo, there is a very great distance, insomuch that your Lordship hath been enquired for more than once, if you were come, and when you will? And the great Man was heard to justify the words which you were questioned for, namely, That you had as good a right to the Deanery of Westminster, as the King to his Crown. And he was heard to say, That they were no more than he himself would say. The jealousie grows great and sharp between the Leviathan, and the little meddling Hocus Pocus; and if it increase, there is hopes your Lordship will enjoy the Blessing of the King's Grace. Your Lordship will hear, that the Lord's Grace of Canterbury is come to lodge in Court, so is the Lord Treasurer; Your Lordship, I hope, will pick out my meaning.

Westminster-Colledge,
Jan. 9. 1633.

And in another Letter.

My dear Lord,

I Cannot be quiet but I must write to your Lordship. The Sport is grown Tragical, any thing would be given for a sound and thorough Charge to push at and confound the little Urchin. The Spaniards and the Hollanders are both approvedly and firmly joined to effect the same, if your Lordship lend your Assistance, which I am bound to implore and require. Let them in the mean time scratch one another to the Bones. I use freedom of heart, it is something of revenge that a brave Soul (as your Lordship is) hath some hopes of support in the midst of a Flood of Destruction.

Westminster-School,
Jan. 30. 1633.

These Letters being received by the Bishop of Lincoln, who had wrote privately to his Friend to enquire of that difference, and whether any advantage might accrew to him thereby, It was desired that I should contribute my endeavours to be useful to the Lord Treasurer against the little great Man, and assured me that they were mortal Enemies. But for my part I refuse to meddle with any such thing; yet I pray you learn whether it be so or no, lest some have gullied Mr. Osbaldstone in his three last Letters. If the Lord Treasurer would be served by me, he must free me from the Bonds of the Star-Chamber, otherwise let them fight it out for me.

Mr. Osbaldstone denied he meant by the Little Hocus Pocus his Grace of Canterbury, or by the Great Leviathan the Lord Treasurer Weston, and affixed these appellations on one Spicer, a mean and obscure person; and that by the Great Leviathan, he meant the Lord Chief Justice Richardson, betwixt whom and the said Spicer there had been

Jarrings, &c. but these things were only evasive. The Bishop denied the receipt of any such Letters from Osbaldstone, and said that he was the fittest Interpreter of them, if any such were sent; but the receipt of the Letters were proved by the Bishops Servants, &c. And hereupon their Sentence was, That Osbaldstone should be amerced 5000 l. to the King's Majesty, and pay to the Archbishop 5000 l. damages, be deprived of all Spiritual Dignities and Promotions; imprisoned during the King's Pleasure, and make Submission.

That the Bishop of Lincoln be fined in Five thousand pounds to the King, and Three thousand pounds to the Archbishop; to be imprisoned during the King's Pleasure, and to make Submission.

And Osbaldstone was Sentenced to stand in the Pillory in the Deans-Yard, before his own School, and his Ears to be only nailed to the Pillory.

And in regard something was found in his Study reflecting upon the Archbishop, Mr. Rushworth, who is ever a faithful Collector of such stuff, he faith (take the Relation from himself;) That it so happened, though the report was that Osbaldstone was run away, that he was in Court standing in the Croud at the Censure; and when he heard the said Censure of some of the Lords, he guessed the Cause would go against him, and knowing the Rule of the Court, That if the Warden should espy him in Court, he might command his Tipstaff to apprehend him; as soon as the major part of the Court had past Censure upon him, although the Lord Keeper had not then given his sense; therefore he got out of Court, went to his Study at the School, burnt some Papers, and writ on a Paper, which he left on his Desk, That if the Archbishop inquire after me, tell him, I am gone beyond Canterbury. Whereupon Messengers were sent to the Port-Towns to apprehend him; but he lay hid in a private House in Drury-Lane, till the Parliament met in November 1640.

The Scotch Rebellion grew more worse and worse, his Majesty puts forth his Proclamation Royal for the Nobility to attend his Person and Standard at York as followeth:

Carolus Rex.

Right trusty and wel-beloved Cousins and Councillors, We greet you well.

The late Disorders in Our Realm of Scotland, begun upon pretence of Religion, but have been raised by factious Spirits, and fomented by some few ill treacherous affected Persons, whose aim hath been, by troubling the Peace of that Our Kingdom, to work their own particular Ends, and indeed to shake off all Monarchical Government; although We often assure them, that We resolve to maintain constantly their Religion established by the Laws of that Kingdom; is now grown to so high and dangerous Consequence, that under their sinister Pretences, they have so far seduced many of Our People there, that great and considerable Forces are raised and assembled in such sort, as We have reason to take into Our consideration, the Defence and Safety of this Our Kingdom of England: And therefore upon due and mature consultation with the Lords

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A Copy
of the
King's
Letter to
the Nobility, &c.

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Lords of Our Privy-Council, We have resolved to repair, in Our Royal Person, to the Northern Parts of this Our Kingdom, there by the help of Almighty God, and the assistance of Our loving Subjects, to make Resistance against any Invasion that may happen. And to the end that this with expedition may be effected as We desire, to the Glory of God, and the Safety of Us and this Our Kingdom of England, We have directed, that a considerable Army, both of Horse and Foot, shall forthwith be levied out of all the Shires of this Our Kingdom, to attend Us in this Action; wherein We nothing doubt, but that the Affection, Courage, and Fidelity of Our People will appear. We in the mean time have thought fit to give you notice of this Our Resolution and of the State of these Affairs: And withal hereby do require you to attend Our Royal Person and Standard at Our City of York, the first day of April next ensuing, with such Equipage, and such Forces, as your Birth, Honour, and Interest in the Commonalty both oblige you to, &c. And We do, and have reason to expect from you a performance hereof; and these Our Letters shall be as sufficient and effectual a Warrant and Discharge unto you, to put your self and such as shall attend you, into Arms and Order as aforesaid, as if you were authorized thereunto under Our Great Seal of England. And We do hereby require you to certify under your Hands, within fifteen daies after the receipt hereof, what Assistance We shall expect from you herein, and to direct the same to one of Our Principal Secretaries of State.

Given under Our Signet, at Our Palace of Westminster, the 15 day of February, in the 14 Year of Our Reign.

And during that interval of Parliaments, for that his Majesty could have no Parliamentary Aids for the Supplies of his necessities for the carrying on of the War, the Clergy being called upon by his Majesty for their Contribution for his assistance herein, they did in most places cheerfully answer his Majesties expectations herein; whereat the discontented Party amongst us were clamorous enough according to their accustomed manner; but they were sensible enough of the endeavours and attempts that then were on foot to undo both King and Kingdom. And in like manner the Queens Majesty did endeavour as much as in her lay to sollicite and importune the Romanists to Contribute to the charge of the War likewise, which some Parliament-men of the Parliament in 1640. seemed to be much concerned, as if by all Obligations both Sacred and Civil she had not been obliged to promote so honest, so lawful, and so just a Cause and Design as then his Majesty had undertaken. A Copy of her Majesties Letter here under followeth:

Henrietta Maria R.

WE have so good a belief in the Loyalty and Affection of his Majesties Catholic Subjects, as we doubt not but upon this Occasion, that hath called his Majesty into the Northern Parts, for the Defence of his Honour and Dominions, they will express themselves so affected, as we have al-

waies represented them to his Majesty: So in this common consent which hath appeared in the Nobility, Judges, Gentry, and others, to forward his Majesties Service by their Persons and States; we have made no difficulty to answer for the same correspondence in his Catholic Subjects, as Catholics: Notwithstanding they all have already concurred to this his Majesties Service, according to the Qualities whereof they are, when others of the same Quality were called upon: For we believe that it became us, who have been so often interested in the Solicitation of their Benefits, to shew our selves now in the perswasion of their Gratuities. Therefore having already, by his Majesty and by other means, recommended to them this earnest desire of Ours, to assist and serve his Majesty by some considerable sum of Money freely and cheerfully presented: We have thought fit (to the end that this our desire may be the more publick, and the more authorized) hereby to give you Commission and Direction, to distribute Copies under your hand of this Testification thereof, unto those that have met in London by our Direction about this Business, and unto the several Collectors of every County. And as we presume the sum they will raise, will not be unworthy our presenting to the King; so shall we be very sensible of it, as a particular respect to our selves, and will endeavour, in the most efficacious manner as we can, to improve the Merit of it, and to remove any apprehension of Prejudice, that any (who shall employ themselves towards the Success of this Business) may conceive by this, and be assured, That we will secure them from all such objected Inconveniences. And we are very confident, that this our first Recommendation will be so complied withal, as may not only afford us particular satisfaction, but also facilitation towards their own Advantages.

Sir Kenelm Digby, and Mr. Walter Montague wrote to the Popish Recufants in each County to the same effect.

IT is sufficiently already known to every one, the extraordinary Graces and Protections we owe the Queens Majesty, to whose favourable Intercession we must ascribe the happy Moderation we live under; so as we doubt not but an occasion of the expression of our Gratuities will joyfully be embraced by every Body, which the present estate of his Majesties Affairs doth now offer us. We have already, by our former Letters, endeavoured to prepare you to a cheerful Assistance of his Majesty, in his declared Journey to the Northern Parts, for the securing of his Kingdom, and such other purposes as his Royal Wisdom shall resolve of; that so you may really demonstrate your selves as good Subjects as God and Nature requires of you. Now her Majesty hath been graciously pleased to recommend unto us the Expressions of our Duties and Zeal to his Majesties Service, by some considerable Gift from the Catholics. And to remove all Scruples, (that even well-affected Persons may meet with) she undertakes to secure us, and all that shall employ themselves in this Business, from an inconvenience that may be suspected, by their or our forwardness and Declaration in this kind; it will easily appear to every Body how much it imports us, in our sense of his Majesties Desires, to press every Body to strain himself, even

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Now for the best Expedition of this Business, (which is the chief Circumstance that importeth in it) we have thought fit to recommend it to your nominations of such Persons as shall in your Opinions be agreed, for the ablest and best disposed in every several County, not only to solicit, but to collect such voluntary Contributions, as every Bodys Conscience and Duty shall proffer. And we shall desire you to give us an account of what acceptance it receives from Friends, which we cannot but expect very successful, and answerable to the forwardness we meet with here about London; for which we shall offer up our Prayer to God.

Wal. Montague.

Ke. Digby.

And in regard exceptions had been taken hereat by Mr. Pym and others of that way in the Parliament 1640. her Majesty did then by the Comptroller give the House to understand, 'That her Majesty has been ready to use her best endeavours for the removing of all misunderstanding between the King and Kingdom.

'That at the request of the Lords, who Petitioned the King for a Parliament, her Majesty at that time writ effectually to the King, and sent a Gentleman expressly to perswade the King to the holding of a Parliament.

'That she hath since been most willing to do all good Offices between the King and the People, which is not unknown to divers of the Lords, and so shall ever continue to do, as judging it the only way of happiness to the King, her Self, and Kingdom.

'That all things be justly settled between the King and his People; and all Causes of misunderstanding taken away and removed.

'That her Majesty having taken into consideration, that one being sent to her from the Pope, is distastful to the Kingdom, she is desirous to give satisfaction to the Parliament within convenient time, and will remove him out of the Kingdom.

'That understanding likewise, that exception hath been taken at the great resort to her Chapel at Denmark-House, she will be careful not to exceed that which is convenient and necessary for the exercise of her Religion.

'She further taketh notice, That the Parliament is not satisfied with the manner of raising Money for the Assistance of the King in his Journey to the North, in the Year 1639. at her entreaty from the Catholics; she saies, That she was moved thereunto, meerly out of her dear and tender affection to the King, and the Example of other his Majesties Subjects, she seeing the like forwardness in others for the Assistance of the King.

'If any thing be illegal, she was ignorant of the Law, and was carried therein only out of a great desire to be assisting to the King in so pressing an Occasion; but promiseth to be more cautious hereafter, and not to do any thing but what may stand with the established Laws of the Kingdom.

'Her Majesty being desirous to employ her own Power to unite the King and People, de-

'sireth the Parliament to look forwards, and pass by such Mistakes and Errors of her Servants as they may be guilty of formerly; and this your respect she promiseth, shall be repayed with all good Offices she can do to the House, which you will find with real Effect as often as there shall be occasion.

And in regard it is not to be doubted but that the Popish Party were then acting their part, and had also their Game to play, for that we find one Mortimer then Superiour of Scotland acting upon that Stage, as likewise one Chambers, said to be Chaplain to Cardinal Richlen, and then sent by him to observe the posture of our Affairs, and to blow the Coals amongst us, that great Statesman knowing well it did not only import the good of his Master the French King, but of their Religion also, to keep things in as bad a condition as they could make them, and to exasperate all Parties towards a Rupture, for that the Jesuite, the cunning Angler, ever fisheth best in troubled Waters; nay, some have been so curious and so knowing herein as publickly to avouch that Walo Messelinus the famous Salmassius his Book against Episcopal Government was Printed in the King's Printing-house in Paris, and that thence many thousand Copies thereof were dispersed both into England and Scotland, to inflame the Presbyterian Party, and arm them with Arguments against Episcopal Government; and for that I find Mr. Rushworth expressly avowing the same endeavour of the Papists, who saith, At this time the Church of Rome had Agents in Scotland as well as in England, one of them who subscribes a Letter, probably was Cardinal Richlen's Chaplain, by name Chambers, or Chamberlain, who was then present in Scotland, blowing the Coles of Fire there kindled; which Letter concerned the Affairs of Scotland, and wasto the effect following, dated June 28.

My Reverend Father,

I Have not been at London five daies in all since I came from France, else I had not failed to salute your Reverence, &c. I know not what to say of Mortimer the Superiour of Scotland, as knowing not whether he hath leave to go or not, nor yet their Procurer who resides in this Court. Scotland is in a very ill posture, and in evident danger to sever it self from this Crown.

And in another Letter of the same date, the same Party writes this ensuing Letter.

S I R,

BY all these Proceedings, the King evidently seeth, that they (the Scots) will not submit themselves to Reason, by fairness or sweetness, and therefore he hath taken a Resolution to tame them by Force, and to this purpose goeth about to raise an Army in Ireland, nor daring to trust himself with the English, who already are much irritated against him, by reason of the † Monies which he pretends to raise to maintain his Fleet, the which they refuse down-right to pay. This counsel of raising an Army, has been suggested unto him by the Bishop of Canterbury, and the President of Ireland, which are they alone that Govern him, for he hath never yet opened his Mouth, or spoken one sole word of it to his Council of State, but seeks very much to keep all close from them. The which highly displeaseth all these Lords; and Men hold

Anno 1638. hold this Counsel of the Army for Ireland, a most pernicious Counsel: But I know not what better he could take, for it is most dangerous to raise it in England, where all the World is discontent; and for to raise an Army here, it were to give them the Sword in their hands to defend themselves; for the part of the Puritans is so great, and they have such a correspondence with the Scots, that they begin already to break the Altars which the Bishops had erected, and to accuse the Bishops of Crimes, and to demand the re-establishment of many silenced Ministers, with a thousand other Insolences, &c.

June 28.

Your humble and most
obliged Servant.

At the same time there was another Letter of the same date writ to one Monsieur Ford, by some Priest or Romish Recusant, to the effect following: All which said Letters were found amongst the Papers of one of his Majesties Privy-Council.

OUR Scots Business troubles us shrewdly, and grows worse and worse; they will have a Parliament, and the King (for the Consequence of it in this Kingdom) will never permit it, and so they have taken a Resolution to levy an Army in Ireland, so to trouble them and subdue them; which is held there by wise Men to be a very desperate Counsel. But the King consults with none but the Arch-Bishop and the Deputy of Ireland; which disgusts all, and makes Men see more weakness in him than was ever imagined: other News we have none. Fitten (the Agent for the Secular Priests at Rome) is here, and was presented to the King by my Lord Arundel, to whom he had sent from Italy many little Toys, but now he knows he is a Priest. Pray tell my dear Amiable, I thank him heartily for his Note, and have seen his Man Jaques Depuis, who is a good Cutter or Graver in Stone, and continues Catholick, Honest, and known to the Capuchins.

Yours,

Will. Heill.

The Scots all this while were not idle, but made secret Conventions herein, with those of the Presbyterian strain, as plainly appeared in the ensuing Parliament in 1640. when the miseries of the Northern Countries lay under, by reason of the Scots quartering in those Countries, and the danger to England in general thereby were complained of openly in that Parliament, some of the Lower-House saying, there were no dangers or inconveniencies to be feared from that Scotch Army, his Majesty wisely foreseeing and understanding these conserreations of the Scotch and English Presbyterians, caused a Proclamation and Declaration to be emitted to inform his loving Subjects of his Kingdom of England of the seditious practices of some in Scotland, seeming there to over-throw his Royal Power, and here also to raise Sedition and Disturbance under false pretence of Religion.

Reciting, That whereas We have endeavoured now, for a long time together, by all calm and fair waies, to appease the Disorders, and Tumultuous Carriages caused by some evil-affected Persons in Our Realm of Scotland, but hitherto all in vain; We have now thought it not only fit, but necessary in general,

to inform all our loving Subjects in this our Realm of England, what the Truth is of our Proceedings, what our lenity and gentleness hath been towards them, and what froward and perverse Returns they have made to us, notwithstanding all their specious Pretences, the better to insinuate themselves and their odious Cause, into the minds of our Loyal Subjects here. These Disorders and Tumults have been thus raised in Scotland, and fomented by Faction Spirits, and those traiterously affected, began upon pretences of Religion, (the common Cloak for all Disobedience) but now it clearly appears, the aim of these Men is not Religion, as they falsely pretend and publish, but it is to shake all Monarchical Government, and to vilifie our Regal Power, justly descended upon us over them: Nay, their Malice reaches so far, both against our Power and Person, as that in a most cunning and subtil way they have endeavoured to poison the Hearts of our good and Loyal Subjects of this our Kingdom, and to seduce them (were it in their power) to the like Rebellious Courses with themselves. Now though we are most confident of our Peoples Affections towards us (of which they have given us a clear testimony, by their ready and chearful assistance in this Cause) and have not the least thought that those turbulent Spirits shall any way prevail with them, yet we cannot but hold it requisite to give them timely notice of their traiterous Intentions, which very many waies appear unto us.

As First, By the multitude of their Printed Pamphlets, or rather indeed infamous Libels, stuffed full of Calumnies against our Regal Authority, and our most just Proceedings, and spreading of them in divers parts of this our Kingdom.

Secondly, By their sending of Letters to private Persons, to incite them against us; and sending some of their Fellow-Covenanters to be at private Meetings in London and elsewhere, to pervert our good People from their Duty; and some of these Meetings we know, and some of those Letters (lewd enough) we have seen.

Thirdly, By their publick contemning of all our just Commands, and their mutinous protesting against them, a course not fit to be endured in any well-ordered Kingdom.

Fourthly, By their rejecting of the Covenant commanded by our Authority, because it was commanded by us; whereas no Covenant or Band of that nature, in that Kingdom, hath ever been, or can be legal and warrantable, which hath not been commanded, or at least assented unto by Royal Authority. As for instance, That Covenant in our dear Father's time was condescended unto by him, and so the Subject (at the humble Petition of the General Assembly it self) permitted by him to sign it; We say it again, That our Covenant was rejected by them, because commanded by us; and this is manifest, because for Matters of Religion ours agreed in all things with their own Covenant. By which Covenant of theirs, they have traiterously induced many of our People to swear to a Band against us: which Band and Covenant (or rather Conspiracy) of theirs, could not be with God, being against us the Lord's Anointed over them. And it was, and is, a Band and Covenant pretended to be with God, that they may with the better countenance do the

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Works of the Devil, such as all Treasons and Rebellions are.

And *Lastly*, By their most Hostile Preparations in all kinds, as if we were not their King, but their sworn Enemy. For what can their Intentions be, being thus prepared, but to invade this Kingdom, should they nor find us ready, both to resist their Force, and to curb their Insolences? For many, and some of the chiefest amongst them, are Men, not only of unquiet Spirits, but of broken Fortunes, and would be very glad of any occasion (especially under the colour of Religion) to make them whole upon the Lands and Goods of our Subjects in *England*, who we presume (besides their Allegiance to us) will look better to themselves and their Estates, than to share them with such desperate Hypocrites, who seek to be better and cannot well be worse. We demand again, What Intentions else they can have? For we have already often assured them by our published Proclamations, That we are so far from thinking of any Innovation or Alteration of Religion, that we are resolved to maintain the same constantly, and as it is established by Law in that our Kingdom. Nay, so desirous have we been to give content unto them, as that we have in a manner condescended to all which they Petitioned for: Nay, our Princely Clemency in these produced no better effect, than increasing and daring Insolencies, to our dishonour both at Home and Abroad; Yet we passed by all, till they struck at the very Root of Kingly Government, for they have now assumed to themselves Regal Power. For where as the Print is the Kings in all Kingdoms, these seditious men have taken upon them to Print what they please, though we forbid it; and to prohibit what they dislike, though we command it; and with the greater affront, have forbid and dismissed the Printer whom we established. Besides, they have taken upon them to convene our Subjects, raise Armies, block up and besiege our Castles, to lay Impositions and Taxes upon our People, threatening such as continue in Loyalty to us, with Force and Violence. To this we shall add, That they have slighted the Directions and Power of our Council-Table in that Kingdom, and have set up Tables of their own, at which some of their Leaders sit under the Name of *Committees*, from the late pretended General Assembly, or their Deputies; and thus they meet when and where they please, Treat and Conclude what they please, and send their Edicts through all parts of the Kingdom without any consent, nay, without all knowledge of Us, our Commissioner, or Council, and directly contrary to many standing Laws at this day in force in that Kingdom, and yet pretend Violation of their Laws, as one of the main Causes of their Brain-sick Distempers.

Here therefore we take God and the World to Witness, we hold our Self forced and constrained to Arm, not only to reclaim them, and to set our Kingly Authority right again, in that our Ancient and Native Kingdom, but also for the Safety of this Kingdom, our Loyal Subjects in it, with their Wives, Children, and Goods, as well as our own, against the Rage and Fury of these Men and their Covenant. And this we think fit to let you further know, that we hope in Time to make the best of them see, that we will endure no such Covenant and Band in our

Kingdom to which we shall not consent. So the Question is not now, Whether a Service-Book is to be received or not? Nor whether Episcopal Government shall be continued, or Presbyterian admitted? But whether we are their King or not? For though in some of their Libels they give us good words, and speak us fair for their own ends, especially in the last Printed at *Edenburgh*, *Februarii quarto 1639*; yet some of them refused both the Oath of Allegiance and Supremacy, and publickly maintain, That they are not obliged to take the same. Now how can we think these Men are Dutiful and Loyal in their Hearts, that broach such dangerous Opinions? Or religiously minded, that teach such rebellious Doctrine, and so contrary to all, which Protestant Divines teach towards the King and the Civil Magistrate? Nay, they have infected divers of their Country-men which are come into other Parts with the same Venom; for three *Scotch-men* taken in *Wales*, are at this day imprisoned, for direct denial of our Supremacy and their Allegiance, saying, *They cannot take those Oathes, because they have sworn to the Covenant.* But though we have been thus mild towards them, and continued so long, yet we would not have any of them, or any of our other Subjects think, that we can or will permit Episcopal Government, established by many Acts of Parliament in that our Kingdom, to be abolished, seeing it is known to the whole Christian World, that the same is most Christian in it self, and most peaceable for the Civil State, and most consonant to Monarchical Government.

And we would have our Subjects of that Kingdom consider, what will become of the third Estate there in Parliament, if Episcopacy should be abrogated?

And further we think fit to declare unto you, and to the Christian World, That by our Intention of introducing the Service-Book into that Kingdom, we had not the least thought of Innovation of Religion in this or that, but merely to have a Conformity with that Worship of God, which is observed within both our other Kingdoms, though ill minded Men have wrested some things in it to a sinister sense.

We further give you to understand, That there is a large Declaration coming forth, containing all the particular Passages which have occurred in this Business, from the very beginning, attested with their own foul Acts, to disanul and shame their fair, but false words. But because this cannot so soon be made ready, we hold it most expedient to let this short Declaration fore-run it, that our Loyal Subjects here and elsewhere, may not be infected with their false, wicked, specious, but most seditious Informations: For Example sake, in their last Pamphlet (besides divers other false, base, and fawning Passages) there are these scandalous and most notorious Untruths: As first, they say, *That we have committed the Arms we now take, and the Armies we now raise, into the Hands of professed Papists*; which is not more dishonourable to our Self, and the Noble Persons intrusted by us, than odiously and notoriously false. Again they say, *That some of Power in the Hierarchy of England, have been the Cause of our taking Arms to invade our Native Kingdom, and of meddling with their Religion*: whereas it is most certain, that no one of them have done any thing therein, but by our own Princely Direction and Com-

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 Command. And for Arms, it is notoriously known to all our Council then present, that their counsels were for Peace, and have been the persuaders (as much as in them lay) of the undeserved Moderation wherewith we have hitherto proceeded towards so great Offenders.

And further they say, *That they intend no Act of Hostility against England, unless they shall be necessitated in their own Defence.* We would fain know, Defence of what? Is it of Disobedience? Defence against whom? Is it not against us their True and Lawful Sovereign? If they will defend against us, it ought to be by Law, and not by Arms; that Defence we shall never deny them, this by Arms we shall never permit them. Now our Laws which they seem so much to value, are in a manner oppress'd by them, in so much that our Judges are so awed, as that they dare hardly proceed according to Law.

With these and the like mutinous Libels, we desire our good Subjects should not be infected, but that all of them might know the present necessity we have to Arm our Self, which is for no other End, save only for the Safety and Security of this our Kingdom, the re-establishment of our Authorities in that, and the suppressing of such as have misled and abused our Subjects there, and would (if not prevented) do the like here, but is no way to enforce any Innovation of Religion established in that Kingdom, or any waies to infringe the Laws thereof, or any of their Liberties whatsoever, which are according to Law.

These are therefore to Will and Command all our Loving Subjects of this our Kingdom, that they receive no more of their seditious Pamphlets sent from Scotland, or any other place concerning those Affairs, which can have no other use or influence, than to draw the Hearts of our Loyal People to the like Rebellious Courses; and that such of our Subjects here, as have already received any of these Rebellious Pamphlets, do presently deliver them to the next Justice of Peace, that he may send them to one of our Secretaries; as both they and the Justices of Peace will answer it at their utmost perils.

And our further Will and Pleasure is, That this our Proclamation and Declaration be read in time of Divine Service in every Church within the Kingdom, that all our People, to the meanest, may see the notorious Carriages of these Men, and likewise the Justice and Mercy of all our Proceedings.

Given at our Court at White-Hall the 27th day of February, in the four and twentieth Year of our Reign, of England, Scotland, France, and Ireland.

To the preceding Declaration the Scots answer in their Canting manner, by theirs of the 22 of March, 1638. *That though the secrets of Gods way cannot be sounded, yet considering his Providence in their personal affairs, the Lord is about some great Work on Earth, for the Cup of Affliction propined to other Reformed Kirks is now presented to them, for instead of a gracious Return of their humble Petitions from time to time, the Return is a late Declaration of the seven and twentieth of February last Libelled against them, though the Gates of Hell shall not prevail against their Cause and the Kingdom of our Lord Jesus Christ, now in question; which Declaration*

proceeds from the unchristian Prelates and their party, inserting the image of their Hierarchy into the Kings Portrait, and by their unequal poise over-turn the Boat of all the Passengers, and the Steer-man himself to perish. And in good earnest they rip up their Reasons, first by their long suffering of the Prelates insolency, against their Ministry, purity of Doctrine, their Reformation, the wonderful Work of Gods Mercy to that Nation: and so most falsly setting down the aforesaid Passages to their own ends; fearing Popery to be introduced; and because all the particular Mischiefs, Calamities, and Curses recited, shall not fall upon them, to prevent the after-quelling of their childrens return, wherefore hath the Lord done thus and thus against them? Then the men shall say, because they have forsaken the Covenant of the Lord, therefore have all these Evils come upon them.

And for doing any harm to England, cursed be their breasts if they harbour any such thought. Improve the good opinion of their well affected Brethren in England. And so to conclude their War Defensive, they cite the Law Natural and Civil, that Ad defensionem sufficit quod præcedat offensa, vel justus timor offensæ, nec debet quis expectare primum istum; melius enim jura intacta servare, quam post vulneratam causam remedium querere; quando præcedunt signa & actus manifestæ offensionis, & quando aliter nosmet tueri non possumus, tum inculpata & necessaria dicitur tutela, ac in dubia; insultus quicquid facit in incontinenti, præsumitur ad sui defensionem facere. It is enough for defence, that the offer of offence, or just fear of offence go before, as we profess it to be our case at this present, even the defence of God and his Religion. Edinburgh the 22 of March, 1639.

Both the English Clergy, as well as the Nobility and Gentry, contributed freely and largely to that War, whereby his Majesty was enabled to raise a gallant Army, and to Equip a competent Fleet to enter the Fryth of Edinburgh, which they did under the Command of the Lord Marquess of Hamilton, who entertaining his Mother a most rigid Covenanting Lady on Board gave great umbrage of discontent to some that wished well to his Majesties Affairs, as likewise did frequent entertaining correspondence with some of the hottest of the Scottish Lords, then in actual Rebellion against his Majesty, nay, the very Scots themselves are reported to have said thus much, *That the Son of so gude a Mother would not hurt them.* Moreover, he was said to have given a very unfaithful account to the King in his Leaguer at Barwick of the Scotch Army, representing their strength and power to have been much greater than it was, as that the Army was twenty five thousand effective under General Lesley, that they had twenty thousand marching as a Supply and Recruit for the other; however by his Letters to his Majesty as well as those he wrote to the Earl of Rothes, and other the Covenanting Scotch Lords, that time, others would have us to have a much better opinion of him.

And thus we have largely given you an account of the Scotch Rebellion, and of the Causes and progress thereof, the Covenanters of Scotland, and some here also of the same Leaven, gave it the name of *Episcopale Bellum, The Bishops War*; but how falsly, you may gather from what hath been said; for his Majesty was by those undutiful and rebellious courses of these Scots put upon a necessity of that War; For, first of all, they without, nay positively against his Majesties Command, enter into a Combination or Covenant

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being no other than Subjects to Subvert and overthrow the Government of the Church of Scotland by Bishops ever owned and acknowledged by sundry Acts of their Parliaments then in force to be one, and the first of the three Estates of their Kingdom, as they are here undoubtedly with us. Secondly, To reform Religion (so they call'd it) without, nay against the Command of their Prince, who hath the same power (maugre the Scotch Assembly) in the Kingdom of Scotland, as they have here in England. Thirdly, They besieged and attacked his Majesties Castles and Houses, seized his Magazines and Stores of War. And Lastly, Arrayed, Raised and Armed that people against his Command to act according to Ordinances of a General Assembly of the Kirk of Scotland actually dissolved by his Majesties Command, so that it was not so much a War of his Majesty to maintain the Bishops Hierarchy however established by Law, or the Scottish Liturgy, and Service-Book, though to establish these is his Majesties undoubted right, as to assert, maintain, and justify his own Kingly Power, derived from his Ancestors, and not from the People; The plain truth (saith one) Religion was the Vizard to their Rebellion, but Covetousness, Sacrilege, and Rapine of the Church Revenues, the things mainly aimed at by the great ones in that Rebellion, who took in the Ministers only as their Instruments to vent their spite and malice against the Bishops, their legal Governours, and Superiours.

Before we conclude this year, we shall make bold to insert a very strange and Prodigious Eruption of a Sulphurous flame out of the bottom of the Sea in the Ferrara Islands in the Atlantique Ocean, in the height of eight and thirty Degrees and an half, North Latitude, there is a site of Water called Ferrara, distant two Leagues from the Ile of St. Michael; from the bottom of that Sea, an hundred and fifty Fathoms deep, there arose with an horrible noise a space of Earth, half an Acre, with a vehement force of an impetuous fire, against which the Sea could not make resistance, disgorging into the Air the height of three Pikes length both Water and Stones, with an hideous clattering noise, the broken pieces thereof being carried into the Neighbour Island, and taken up mouldred into black Ashes, all the circuit of the Water thereabout covered with the same sulphurous matter, appeared like black Cinders, and became of an Aliment continually burning; and by the multitude of stones mixing, it became a new Island, which is increased to a League and an half in length, and sixty Fathoms high, continually burning for ten daies, choaking all the Fish within eight Leagues, which were cast up by the force of the Sea upon the Coasts of the Neighbour Islands, in number sufficient to lade many Ships, and were buried from infecting the Air. The Sea round about boiling up, the smoak and rubbish in the Air darkened the light of the Sun.

There preceded this Fire an Earthquake for eight daies, the Inhabitants of the Neighbour Islands fled into the Fields from the danger, and had not the Wind blown the Fire from the Islands, it might have endangered their Habitations into another Cineration, which happened eight years there before.

The Counties that were appointed to set forth Horfe and Foot against the Scots, were

| Kent | Foot. | Horse. |
|-------------|-------|--------|
| Cornwal | 1200 | 150 |
| Somerset | 1500 | 000 |
| Wilt | 1200 | 150 |
| Bedford | 700 | 78 |
| Berks | 200 | 40 |
| Middlesex | 400 | 44 |
| Buckingham | 750 | 40 |
| Oxon | 300 | 40 |
| Cambridge | 300 | 40 |
| Suffolk | 400 | 40 |
| Dorset | 1500 | 50 |
| Devon | 700 | 50 |
| Essex | 2000 | 60 |
| Glocester | 1500 | 125 |
| Warwick | 1000 | 100 |
| Hartford | 300 | 44 |
| Norfolk | 500 | 40 |
| Northampton | 1800 | 200 |
| Southampton | 700 | 150 |
| Surrey | 1000 | 85 |
| Sussex | 500 | 65 |
| London | 640 | 80 |
| | 3000 | 000 |

W A L E S.

| Flint | Foot. | Horse. |
|------------|-------|----------------|
| Anglesey | 60 | 25 |
| Brecknock | 100 | 22 |
| Cardigan | 100 | 17 |
| Cardigan | 50 | 17 |
| Carmarthen | 50 | 17 |
| Caernarven | 100 | 17 |
| Denbigh | 500 | 12 |
| Glamorgan | 250 | 25 |
| Monmouth | 1000 | 100 + If not a |
| Pembrook | 500 | 56 mistake. |
| Montgomery | 150 | 50 |
| Radnor | 100 | 100 |
| Hereford | 50 | 50 |
| Shropshire | 150 | 40 |
| Worcester | 300 | 35 |
| Merioneth | 300 | 35 |
| Bristol | 150 | 23 |
| | 50 | 000 |

The sum of Foot — 23670
The sum of Horse — 2366

A more Exact List hereafter followeth.

| | | | |
|----------------|------------|------------|-----------|
| Cumberland | 125 Pikes. | 125 Musq. | 50 Drag. |
| Northumberland | 250 Pikes. | 250 Musq. | 100 Dra. |
| Westmerland | 125 Pikes. | 125 Musq. | 50 Drag. |
| Newcastle | 250 Pikes. | 250 Musq. | 350 Dra. |
| York | 6720 Musq. | 5521 Pik. | 60 Horse. |
| Durresme | 532 Musq. | 500 Pikes. | |
| Lancashire | 420 Musq. | 180 Pikes. | 50 Drag. |
| Northumberland | 282 Musq. | 125 Pikes. | |
| Cheshire | 356 Musq. | 244 Pikes. | 50 Car. |
| | | | Stafford |

| | | | |
|-----------|------------|-----------|-----------|
| Stafford | 248 Musq. | 152 Pikes | 30 Horse. |
| Derby | 239 Musq. | 161 Pikes | 74 Horse. |
| Lincoln | 1080 Musq. | 720 Pikes | 230 Car. |
| Leicester | 290 Musq. | 110 Pikes | 38 Horse. |
| Rutland | 60 Musq. | 40 Pikes | 30 Horse. |

Westmerland, Cumberland, Northumberland, and the Town of Newcastle, are not to March into the Field but upon special Direction.

The Total of all the Foot in the ten Counties ————— 19483

The Total of all the Horse ————— 1233

The more Southern Countries were to provide Horses and Carriages for the Artillery, Ammunition, &c.

| | Horses. | Carters. |
|-------------|---------|----------|
| Bedford | 50 | 17 |
| Berke | 30 | 10 |
| Buckingham | 50 | 17 |
| Cambridge | 50 | 17 |
| Derby | 60 | 20 |
| Dorset | 20 | 7 |
| Essex | 60 | 20 |
| Gloucester | 50 | 17 |
| Hereford | 50 | 17 |
| Hereford | 30 | 10 |
| Huntington | 50 | 17 |
| Kent | 20 | 07 |
| Leicester | 70 | 23 |
| Lancaster | 50 | 17 |
| Lincoln | 60 | 20 |
| Middlesex | 30 | 10 |
| Norfolk | 60 | 20 |
| Northampton | 70 | 23 |
| Nottingham | 50 | 17 |
| Oxon | 40 | 13 |
| Rutland | 20 | 07 |
| Salop | 40 | 13 |
| Somerset | 20 | 07 |
| Southampton | 50 | 17 |
| Stafford | 50 | 17 |
| Suffolk | 60 | 20 |
| Warwick | 60 | 20 |
| Worcester | 50 | 17 |
| Wills | 50 | 17 |

Total of Horses 1350

The Names of Ships and their Commanders for the Summers Expedition, 1639.

| | The Captains. |
|------------------|----------------------|
| The Rainbow | Sir John Pennington. |
| The Vanguard | Capt. Povey. |
| The Victory | Capt. Minns. |
| The Unicorn | Capt. Murrey. |
| The James | Capt. Figg. |
| The Leopard | Capt. Cartwright. |
| The Anselope | Capt. Stroddling. |
| The Bonaventure | Capt. Feilding. |
| The Dreadnought | Capt. Kirk. |
| The Mary-Rose | Capt. Hall. |
| The Expedition | Capt. Shurgsby. |
| The Providence | Capt. Flemmin. |
| The second Whelp | Capt. Barlow. |

| | |
|------------------|----------------|
| The eighth Whelp | Capt. Fox. |
| The Roebuck | Capt. Wolward. |
| The City Ship | Capt. Popham. |

Car. 14.

The General Officers take from His Majesty Commission to the Earl Marshal, &c. here following.

K Now we, that We reposing special trust and confidence in your approved Wisdom, Fidelity, Valour, and great Ability, have assigned, made, constituted, and ordained you to be the General of Our Army intended forthwith to be raised: And over all Our men, which be, or shall be levied in all Our Counties of this Our Realm, or Dominion of Wales; and assembled, or to be assembled to any Army, or Armies, to resist and withstand all Invasions, Tumults, Seditions, Conspiracies, or Attempts that may happen to be made against Our Person, or State; and to Rule, Govern, Command, Dispose and Employ the same Army, and all Officers so employed, or to be employed concerning the same, with all such farther forces, of what Nation soever, as shall be hereafter joyned thereunto for their supply, for the accomplishment of such Executions, Defences, Offences, and other Services as are or shall be by Us from time to time directed, limited, and appointed, in or by such private Instructions as are herewith delivered unto you under Our Signet Manual. And farther, We have given you full Power and Authority, That the same Persons so levied or assembled, or so to be levied or assembled by you, or sent, conducted, or brought, or that otherwise shall come to you, either by Our several Orders, or by Authority of this Our Commission as aforesaid, to try, array, and put in readyness; and them, and every of them after their Abilities, Degrees, and Faculties, well and sufficiently cause to be Weaponed and Armed, and take, or cause to be taken, the Masters of them, or any other our Trained Bands, which within this Our Realm of England, and Dominion of Wales, from time to time, in places most meet for that purpose, after your good Discretion. And also the same Our Subjects so Arrayed, Trained, and Armed, as well Men of Arms, as Horsemen, Archers, and foot-men of all kinds and degrees, meet and apt for the Wars, to Govern, Lead, and Conduct, against all and singular our Enemies attempting any thing against Us, Our Crown and Dignity; and Our said Army to divide, distribute, and dispose, and the same, or any part thereof, to convey by Land, or by Water, as occasion shall require, according to your good discretion; and with the same Enemies, Rebels, and Traitors, to fight, and them to Invade, Resist, Repulse, Pursue, and follow into any Our Dominions; and them to subdue, and to do, fulfil and execute all and singular other things which shall be requisite for the Leading, Government, Order, and Rule of Our said Armies and Subjects, and for conservation of Our Person and Peace. And farther to do, offer, and execute against the said Enemies, Rebels, Traitors, and their Adherents, and

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and other Delinquents and Offenders, as need shall require, by your Discretion, by the Law Martial, as our General: And of such apprehended and brought into subjection, to save whom you shall think good to be saved, and to slay, destroy, and put to execution of Death, such and so many of them as you shall think meet by your discretion, to be put to death by any manner of means, to the terror of all other Offenders. And We do farther give unto you Our General, full Power and Authority, for Us, and in Our Name, as occasion shall require, according to your good discretion, by publick Proclamation, to make tender of Our Royal Grace and Pardon, to all such Traitors, Rebels, and all other Offenders as shall submit to Us, and design to be relieved by Our Mercy. And further, Our will and pleasure is, and by these Presents We do give you full Power and Authority, that in case any Invasion of Enemies, Insurrection, Rebellion, Riots, Riots, or unlawful Assemblies, or any like Offences shall happen to be moved, That then, as often as you shall perceive any such Misdemeanors to arise, You, with all the Power you can make, shall with all diligence repair, and send convenient Forces to the Places where any such Attempt, Invasion, unlawful Assembly, Insurrection, or Rebellion shall happen to be made; and subdue, repress, and reform the same, as well by Battel, or other kind of force, as otherwise by the Law of the Realm, or the Law Martial, according to your good discretion. And for the better execution of this Our Commission, &c. And farther, for your better assistance in this Our Service, We do hereby assign, make, constitute, and ordain, Our Right Trusty, and Right well-beloved Cousin, Robert Earl of Essex and Eme, Vicount Hereford and Bouchier, Lord Ferrers of Chartley, Lord Bouchier, to be Our Lieutenant General of this Our Army; and our Right Trusty, and Right well-beloved Cousin and Councello, Henry Earl of Holland, Lord Chief Justice and Justice of Eyre of all the Forests, Chaces, Parks, and Warrens on this side Trent, first Gentleman of Our Bed-chamber, and Knight of the most noble Order of the Garter, to be Our General of our Troops of Horse, to serve in Our said Army for the Execution of this Our Commission, according to such Directions as from time to time you shall think fit to give unto them. And farther, We do give you Power and Authority, to appoint within Our said Army, a Provost-Marshal, to use and exercise that Office, in such case as you shall think fit to use the said Law-Martial, &c.

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His Majesty on the 27th of March, being the day of his Coronation, sets forward from London towards York, where the general Rendezvous of the Army Royal was to be where the Nobility & Gentry assembled to the Standard Royal in very great numbers, and very well appointed, and stomachly enough for an Encounter, had not some General Officers of his Majesties Army, as well as some Court Lords, been at that time in their hearts and thoughts of the Scorized and Presbyterian Faction; but before the King's departure from London; it was in his Majesties breast, for the general good and satisfaction of his People, and it was after-

ward at York, April 13. publickly proclaimed, That a Revocation should be made of sundry Grants, Licences, obtained from his Majesty upon false and untrue suggestions, we shall give you an account of them in the ensuing Proclamation; only desiring the Reader to take notice that the persons mostly concerned in all those Monopolies, were the Lord Marquess of Hamilton, and some other Scotch Courtiers, whom we shall not now name.

Car. 15.

The Proclamation.

CHARLES R.

Whereas divers Grants, Licences, Priviledges, and Commissions, have been procured from his Majesty, some under his Great Seal of England, and some others under his Privy Seal, Signet, or Sign Manual, upon pretences that the same would tend to the common Good and Profit of his Subjects: Which since upon experience have been found prejudicial and inconvenient to his People, contrary to his Majesties Gracious Intention in granting the same. And whereas also upon like suggestions, there hath been obtained from his Majesty, and the Lords, and others of his Privy Council, divers Warrants and Letters of Assistance for the execution of those Grants, Licences, Priviledges, and Commissions, according to his Majesties good intention and meaning therein. Forasmuch as his most Excellent Majesty (whose Royal care and providence is ever intentive on the publick Good of his People) doth now discern that the particular Grants, Licences, and Commissions hereafter expressed, have been found in consequence far from these Grounds and Reasons whereupon they were founded, and in their execution have been notoriously abused, He is now pleased of his meer Grace and Favour to all his Loving Subjects (with the Advice of his Privy Council) by his Regal Power to publish and declare the several Commissions and Licences hereafter following, whether the same have passed his Great Seal, Privy Seal, Signet, and Sign Manual, or any of them, to be from hence utterly void, revoked, and hereby determined, that is to say,

A Commission touching Cottages and Inmates.

A Commission touching Scriveners and Brokers.

A Commission for compounding with Offenders touching Tobacco.

A Commission for compounding with Offenders for transporting of Butter.

A Commission for compounding with Offenders in the importing or using of Log-wood.

A Commission to compound with Sheriffs, and such as have been Sheriffs, for selling their Under-Sheriffs places.

A Commission for compounding for destruction of Woods in Iron Works.

A Commission for Concealments and Incroachments within twenty miles of London.

A Licence to transport Sheep-Skins and Lamb-Skins.

A

1639. A Commission to take men bound to dress no Venison, Pheasants, or Partridges in Inns, Ale-houses, Ordinaries, and Taverns.

A Commission touching the licensing of the use of Wine-Cask.

A Commission for licensing of Brewers.

A Licence for the sole transporting of Lampers.

And that all Proclamations, Warrants, or Letters of Assistance for putting in execution any of the said Commissions or Licences, be from henceforth declared to be void, determined, and hereby revoked to all Intents and Purposes.

And his Majesty in like labour and ease of his Subjects, is further pleased to declare his Royal Will and Pleasure to be, that the particular Grants hereafter mentioned (upon feigned suggestions obtained from him to publick damages) whether the same have passed his Majesties Great Seal, Privy Seal, Signet, or Sign-Manual, or any of them, shall not hereafter be put in Execution, viz:

A Grant for weighing Hay and Straw in London and Westminster, and three Miles compass.

An Office of Register to the Commission for Bankrupts in divers Counties of the Realm.

An Office or Grant for gauging of Red Herrings.

An Office or Grant for the marking of Iron made within the Realm.

An Office or Grant for Sealing of Bone-Lace.

A Grant for marking and gauging of Butter Casks.

A Grant of Priviledge touching Kelp and Sea-Weed.

A Grant for Sealing of Linen-Cloth.

A Grant for the gathering of Rags.

An Office or Grant of Factory for Scottish Merchants.

An Office or Grant for searching and Sealing of Foreign Hops.

An Office and Grant for the Sealing of Buttons.

All Grants of Fines, Penalties, and forfeitures before Judgment, granted, or mentioned to be granted, by Letters Patents, Privy Seals, Signet, Sign-Manual, or otherwise.

All Patents for new Inventions, not put in practice within three Years next after the date of the said Grants.

And the several Grants of Incorporation made unto Hatband-makers, Guttering-makers, Spectacle-makers, Comb-makers, Tobacco-Pipe-makers, Butchers, and Hozeners.

And his Majesty doth further Require and Command, that there shall be a proceeding against the said Patentees by quo Warranto, or Scire Facias, to recall the said Grants and Patents, unless they will voluntarily surrender and yield up the same.

And also all Proclamations, Warrants, or Letters of Assistance obtained from his Majesty, or the Lords and others of his Privy Council for execution thereof, from henceforth utterly to cease and be determined, and are hereby absolutely revoked and recalled.

And his Majesty doth further expressly Charge and Command all and singular the Patentees, Grantees, or others any ways interested, or claiming under the aforesaid Grants, Licences, or Commissions, or any of them, and their Deputies, that they or any of them do not at any time hereafter presume to put inure or execution any of the said Grants, Commissions, or Licences, or any thing therein contained, or any Proclamations, Warrants, or Letters of Assistance obtained in that behalf, upon pain of his Majesties Indignation, and to be proceeded against as contemners of his Majesties Royal Commands, whereof he will require a strict account.

Given at Our Mannor at York, the 9th day of April, in the 15th Year of Our Reign, 1639.

And how grievous these Projects of Monopolies were to the people, an honest Gentleman of Kent, Sir John Culpeper, Kt. a sufferer for his Majesties Cause in the late Rebellion which followed, may sufficiently inform the World in his Speech to the Parliament begun Novemb. 3. 1641. The purport thereof hereafter followeth.

Mr. Speaker,

Seeing I have been thus long speaking of Grievances to you, I shall take leave to mention hitherto this Honourable House but one more; but this one is the *Trojan-Horse*, and compriseth many: It is a Nest of Wasps, or Swarm of Verming, which have over-crept the Land, I mean the Monopolies and Polers of the People; these, like the Frogs of Egypt, have gotten possession of our Dwellings, and we have scarce a Room free from them. They sup in our Cup (a.) They dip in our Dish (b.) They sit by our Fire (c.) We find them in the Dye-Fat, Wash-Bowl (d), and Powdring-Tub (e). They share with the Butler in his Box (f). They have Marked (g), and Sealed (g) us from Head to Foot. Mr. Speaker, they will not bate us a Pin (h). We may not buy our own Cloaths without their Brokage. These are the Leeches that have sucked the Commonwealth so hard that it is almost become Hectical. And Mr. Speaker, some of these are ashamed of their Right Names; They have a Vizard to hide the Brand, made by that good Law in the last Parliament of King James, they shelter themselves under the Name of a Corporation, they make By-laws, which serve their turn to squeeze us, and fill their Purses: Unface these, and they will prove as bad Cards as any in the Pack. These are not Petty-Chapmen, but Whole-Salemen. Mr. Speaker, I have echoed to you the Cries of the Kingdom, I will tell you their Hopes, They look to Heaven for a Blessing upon this Parliament. They hang upon his Majesties exemplary Piety and great Justice, which renders his Ear less open to the just Complaints of his Subjects; We have had lately in his Speech a Gracious Assurance of it. The other great Affairs of the Kingdom, and this our Grievance of no less import, may go hand in hand, in preparation and resolution. Then by the blessing of God, we shall return home with an Olive Branch in our Mouths, and full Confirmations of the Priviledges which we received from our Ancestors, and owe

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(a) Patent for 4 l. per Tun on Wine.

(b) Licence to dress Meat in Taverns.

(c) Imposition on Coals.

(d) Patent for Soap.

(e) Tax upon Salt.

(f) Patent for Cards and Dice.

(g) Beavers, Felt, Bonelace, &c.

(h) Patent for Pins.

to our Posterity, which every Free-born English man hath received with the Air he breathed in.

These are our Hopes, these are our Prayers.

His Majesty by slow Marches approacheth Berwick upon Tweed, where upon the 29th of May the Earl Marshal, Lord General, caused the Army Royal to be drawn up in Battalia, where it was viewed by his Majesty; and according to the Opinion of all able Judges upon the place, it was as gallant and well accoutred an Army, and as fit, and as ready and willing to act, as ever any Army that attended any King of England; I speak as to the Inferiour Commanders and Officers as well as Common Souldiers, whose unanimous Voice it was, after the Earl of Holland's retreat from Dunc and Kelsey, *Let us march on in the Name of God, and rather be in action than lye here idle in the Fields, where at last we may want Provisions, or perhaps otherways contract Diseases.* An infallible assurance of English courage and an undoubted success, had but the Counsel of General Officers, and others of the Court Lords, concurred therewith, which in all human probability had prevented the ensuing Troubles in both the Kingdoms of England and Scotland. In short, theirs was the most unfortunate advice and counsel that ever was given to an English King. Nay yet more particularly, That some great persons were not over-hearty to his Majesties Service in that Expedition, will appear by a Letter wrote by Sir Henry Vane to the Marquess of Hamilton, which followeth.

Sir Henry Vane's Letter to Marquess Hamilton concerning the March to Kelsey.

My Lord,

By the Dispatch Sir James Hamilton brought your Lordship from his Majesties Sacred Pen, you were left at your liberty to commit any Act of Hostility upon the Rebels, when your Lordship should find it most opportune. Since which my Lord Holland with 1000 Horse and 3000 Foot marched towards Kelsey, himself advanced towards them with the Horse (leaving the Foot three miles behind) to a place called Maxwell-heugh, a height above Kelsey; which when the Rebels discovered, they instantly marched out with 150 Horse, and (as my Lord Holland says) eight or ten thousand Foot; five or six thousand there might have been. He thereupon sent a Trumpet, commanding them to Retreat, according to what they had promised by the Proclamation. They asked whose Trumpet he was? He said, My Lord Holland's. Their Answer was, He were best to be gone. And so my Lord Holland made his Retreat, and waited on his Majesty this night to give him this Account.

† That some of the Officers in that Army were not, would not, perhaps be too forward to engage the Scots.

This morning Advertisement is brought his Majesty, That Lesley with 12000 Men is at Corkburnspath, that 5000 Men will be this night or to morrow at Dunc, 6000 at Kelsey; so his Majesties Opinion is, with many of his Council, to keep himself upon a Defensive, and make himself here as fast as he can; for his Majesty doth now clearly see, and is fully satisfied in his own Judgment, that what passed in the † Gallery, betwixt his Majesty, your Lordship, and my self, hath been but too much verified on this occasion. And therefore his Majesty would not have you to begin with

them, but to settle things with you in a safe and good posture, and your self to come hither in Person, to consult what Counsels are fit to be taken, as the Affairs now hold. And so wishing your Lordship a speedy Passage, I Rest,

From the Camp at Huntley-field, this 4th of June, 1639.

Your Lordships
most humble Servant,
and faithful Friend,
H. Vane.

A Perfect List of the Army, both Horse and Foot, that attended his Majesty in his Northern Expedition.

| | |
|---|------------------------------------|
| The Four old Regiments | Lord General, Earl of Essex. |
| commanded by the | Earl of Newport, Sir Jacob Ashley. |
| These contained | Foot. |
| Sir Henry Vane's Regiment | 6000 |
| Lord Willoughby's Regiment | 1099 |
| Sir William Savile's Regiment | 807 |
| Sir William Penniman's Regiment | 886 |
| Colonel Hamond's Regiment | 1070 |
| Sir Thomas Morton's Regiment | 1007 |
| Sir Simon Harcourt's Regiment | 1637 |
| Sir John Hotham's Regiment | 1637 |
| Sir Thomas Metham's Regiment | 867 |
| Mr. Henry Percy's Regiment | 867 |
| The Lord Fairfax's Regiment at Carlisle | 867 |
| Captain Musgrave's Company | 1300 |
| Captain Hudlestone's Company | 160 |
| Lord Barimore's Regiment | 110 |
| | 1300 |

In toto 19614

Besides the Foot-Companies under the Lord Marquess Hamilton, and the two Garrisons at Berwick and Carlisle.

The Charge of the Train of Artillery in four Months, did amount to 5800 l.

The Officers General of the Troops.

| | |
|--|--------|
| | Horse. |
| The General of the Horse his Troop of | 100 |
| The Earl Marshal's Troop, containing | 100 |
| The Earl of Essex his Troop, containing | 100 |
| The Earl of Newport's Troop | 100 |
| The Lieutenant General Goring's Troop | 100 |
| The Commissary-General Wilmot's Troop | 100 |
| The Lord Vicount Grandison's Troop | 100 |
| The Lord Wentworth's Troop | 100 |
| The Lord Clifford's Troop | 100 |
| The Earl of Newcastle's Troop, not paid by his Majesty | 100 |
| The Lord Dungarvan's Troop | 100 |
| Sir John Sucklin's Troop | 100 |
| Six Troops under the Command of the Lord Chamberlain, containing | 600 |

Dragoons

Dragoons.

| | |
|--|-----|
| Six Companies under the Command of
Colonel Francis Trafford, containing | 600 |
| Captain Widdrington's Troop | 120 |
| Captain Douglass's Troop | 100 |
| Captain Charlton's Troop | 50 |
| Captain Elliot's Troop | 100 |
| Sir William Lambton's Troop, Duresme | 100 |
| Sir Thomas Fairfax's Troop | 160 |
| Captain Bulter's Troop | 130 |
| Mr. Henry Pierce's Troop | 100 |

Sum of the Horse 3260

The Scots hearing of his Majesties advance, design'd first to try what they could do upon his Majesty by the way of Treaty, and the rather for that Marquess Hamilton being now in the Frith with 5000 Land Souldiers on board him, they were fearful of his descent, and so not being willing to have their Enemies in their Front and in their Rear, they first tamper with the Marquess to write to his Majesty on their behalf, which he did as followeth.

Marquess Hamilton's Letter to the King, May 29.

Most Sacred Majesty,

Every day may produce new Counsels, and if I alter in them, impute it not to fickleness, but to the reality of my Intentions to your Majesties Service, that writes what I think.

Hearing for certain that the Covenanters have given Obedience to your Majesties last Proclamation, and will not come within ten miles of the Borders, there is now no more doubt to be made, but that you will be so fast in your Leaguer, that it will not be in their Power to do the least affront to your Army. So as my farther Treary in these Parts where I am is to no end, since that is effected which was only labour'd for, your Majesty being in security. So I conceive it will now be time to speak other Language than hitherto hath been done, and they to be enjoyned a total Obedience to your just Commands. This will be best put in execution by your own immediate directions, you being now so near the Rebels; for if your Pleasure should be sent to me, the Winds being uncertain, and I more uncertain how to put the same in execution, (I mean, if they be Commands of Treaty) your Service might receive prejudice by delays, and to deal really with your Majesty (which I humbly desire your Majesty to pardon me for expressing) I have no desire at all to be employ'd in Treary with this People, for many Reasons: Amongst which this is not one of the least, That as I hear the Earl of Traquaire, and Southesk are desirous to have leave to come to me, which (whatsoever course your Majesty shall be pleas'd to take) I beseech you not to grant; for the effects of their coming to me, will produce no great good to your Service, and prove infinitely prejudicial to me; for so unhappy am I still, that if by the Faults of others your Service miscarieth, the Fault is still laid on me, by those whom I have not deserved it from.

Norwithstanding my oversense of farther Treary, I have not refus'd as yet to admit any that shall be sent with their Petitions; but this I only do till the return of Sir James, by whom I expect the signification of your Majesties Pleasure: In the interim, if any desires of theirs be sent me, my Answers shall be such as your Majesty shall be no ways engaged by them.

I have writ of some other Particulars to Mr. Treasurer, so your Majesty shall be no more for the present troubled by

From aboard the Rainbow in Leith-Road,
May 29. at 7 Morning, 1639.

Your Majesties

Most Loyal Subject

and humble Servant,

Hamilton.

His Majesty willing to prevent as much as in him lay the effusion of his Subjects blood, caused the Marquess of Hamilton to cause to be published his Majesties Proclamation Royal, commanding the Scotch Army to disband, promising pardon to all who should peaceably depart and accept of this his Majesties Grace; but withal denouncing the pain of high Treason upon all those who should continue in Arms. This Proclamation the Marquess sent on shore (lying then in the Frith of Edinburgh) to the Magistrates thereof, commanding the publication thereof of those Magistrates in due form of Law, and that the Clerk of the Council be assistant according to his place herein. The Magistrates desire a respite of some few days to return an Answer; and in the mean time the chief Lords and others engaged in their Covenant, wrote the following Letter to the Lord Marquess.

Please it your Grace,

Being here convey'd to attend the Parliament indicted by his Majesty, the Provost of Edinburgh presented unto us your Grace's Letter to him, and the Magistrates here to cause to be published his Majesties Proclamation, which we having perused, we find it doth contain divers points not only contrary to our National Oath to God, but also to the Laws and Liberties of the Kingdom, for it carries a denunciation of the high Crime of Treason, against all such as do not accept the offer therein contained; albeit it be only a Writing put in Print without the Kingdom, and not warranted by Act and Authority of the Council, lawfully convey'd within this Kingdom. And your Grace in your Wisdom may consider, whether it can stand with the Laws, Liberties, and Customs of this Kingdom, that a Proclamation of so great and dangerous consequence, wanting the necessary Solemnities, should be published at the Market-cross of this City. Whereas your Grace knows well, that by the Laws of this Kingdom, Treason and Forfeiture of the Lands, Life, and Estate of the meanest Subject within the same, cannot be declared but either in Parliament, or in a Supream Justice Court, after Citation and lawful Probation; how much less of the whole Peers and Body of the Kingdom, without either Court proof or Trial. And albeit we do heartily and humbly acknowledge and profess all dutiful and civil Obedience to his Majesty, as our Dread and Gracious Sovereign; yet since this Proclamation does import in effect the renouncing of our Covenant made with God, and of the necessary means of our lawful Defence, we cannot give Obedience thereto, without bringing a Curse upon this Kirk and Kingdom, and Ruin upon our selves and our Posterity; whereby we are perswaded, that it did never proceed from his Majesty, but that it is a deep Plot contrived by the Policy of the devillish Malice of the known and cursed Enemies of this Church

F f f f f

and

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and State, by which they have intended so to dis-
joyn us from his Majesty, and among our selves,
as the Rupture, Rent, and Confusion of both
might be irreparable; wherein we hope the Lord
(in whom we trust) shall disappoint them. And
seeing we have left no means possible unessayed
since his Majesties coming to York (as before)
whereby his Majesties Ear might be made Patent
to our just Informations, but have used the help
(to our last Remonstrance) of the Lord Gray, the
Justice Clerk, the Treasurer, and the Lord Da-
liel, as the Bearer can inform your Grace, and yet
have never had the happiness to attain any hopes
of our End, but have altogether been frustrate
and disappointed; and now understanding, by
the sight of your Grace's Letter, That your
Grace, as his Majesties High Commissioner, is
returned with full Power and Authority to ac-
commodate Affairs in a peaceable way, we will
not cease to have recourse to your Grace, as one
who hath chief Interest in this Kirk and King-
dom; desiring your Grace to consider, (as in
our judgment we are perswaded) That there is
no way so ready and assured to settle and com-
pose all Affairs, as by holding of the Parliament
according to his Majesties Indiction, either by
his Sacred Majesty in Person, (which is our chief-
est desire) or by your Grace, as his Majesties
Commissioner, at the time appointed; wherein
your Grace shall find our Carriage most humble,
loyal, and dutiful to our Sovereign, or to your
Grace, as representing his Majesties Person; and
in the mean time, That your Grace would open
a safe way, whereby our Supplications and In-
formations may have access to his Majesties Ears:
And we are fully perswaded, that we shall be a-
ble to clear the lawfulness and integrity of our
Intentions and Proceedings to his Majesty, and
make it evident to his Majesty and to the World,
that our Enemies are Traitors to the King, to the
Church and State; and that we are, and ever
have been, his Majesties Loyal and Obedient
Subjects. So we Rest,

Edinburgh, May 9.
1639.

Your Graces

Humble Servants,

| | |
|------------|---------------|
| A. Lesley. | Elcho. |
| Argile. | Lindsey. |
| Marr. | Balmerino. |
| Roths. | Montgomery. |
| Eglinton. | Forrester. |
| Cassils. | Erskins. |
| Wigtown. | Boyd. |
| Dalbousy. | Napier. |
| Lothian. | Burghly. |
| Angus. | Kirkudbright. |

And about thirty Commissioners for Shires and
Burroughs.

To this Letter the Lord Marquess returned
Answer, directing his Letter to the E. of Rothse.

My Lord,

I Received a Letter yesterday morning, signed by
your Lordship, and divers Noblemen and others,
wherein you alledge you are come to attend the Parlia-
ment; but considering your Preparation and Equipage,
it appears rather to fight a Battel, than to hold a civil
Convocation for the good of the Church and Common-
wealth. You may perceive by his Majesties Gracious

Proclamation, That he intended, in his own Sacred
Person, to be present at the Parliament, so soon as
with honour and safety he might do it, and for that end
express therein what was fit to be done. But these
courses which you and your adherents take, and your
disobedience to his just Commands, daily more and more
shewed, will necessitate him to have them put in execu-
tion another way. It is true, That his Majesty sent
me hither to accommodate these Affairs in a peaceable
manner, if it were possible, which I have laboured to
do, and accordingly my deportment hath been, which
hath been met with that Retribution, as if I had been
your greatest Enemy; but your refusing to publish his
Majesties Grace to his People, signified in his Royal
Proclamation, hath taken away that Power which o-
therwise I had, that being a Liberty taken to your
selves, which never any loyal Subjects assumed in any
Monarchy. You alledge many Reasons for your selves
of the Illegality of that Proclamation: But you can-
not be ignorant that your Carriage hath forced many of
these principal Councillors, for safeguard of their lives,
to forsake the Kingdom, out of which they remain; yet
for the same cause you have suppressed the printing of all
Writings, but what is warranted by Mr. Alexander
Henderfon, and one Mr. Archibald Johnston.
Neither was the Clerk of the Council, whom I sent for
twice to give him Directions in this Business, permit-
ted to come aboard to me; upon conference with
whom (for anything you know) I might have resolved
to come ashore and convened a Council for the publica-
tion thereof in the ordinary way. But your extraor-
dinary proceedings in all things, must needs force from
his Majesty some things which perhaps you may think
not ordinary. Whereas you desire me to be a means
that your Supplications may have free access to his Ma-
jesties Ears: It is a work of no difficulty, for his Ma-
jesty hath never stopt his Ears to the Supplications of a-
ny of his Subjects, when they have been presented to
him in that humble and fitting way which became dui-
ful Subjects: Nor did I ever refuse any, all the time
I was among you, or conceal any part of them from
his Majesty; so that your Allegation of not being
heard, is grounded upon the same false Foundations
that your other Actions are, and serves only for a
means to delude the simple People, that by making
them believe what you have a mind to possess them with,
they may become backers of your unwarranted Actions;
which as it is generally lamented by all his Majesties
good Subjects, so it is more particularly by me, who
have had the honour to be employed in this Business
with so bad success.

May 10.

My Lord,

Your humble Servants,

Hamilton.

To this Letter from the Lord Marquess, the
Earl of Rothse, in behalf of himself and the rest
of his Confederates, rejoyns as followeth.

May it please your Grace,

WE should have taken far more satisfacti-
on to have seen your Grace here in Par-
liament with his Majesty, then with your
Navy and Army in the Frish, to constrain us be-
yond the limits of our Religion and lawful Obe-
dience, which we are always willing to perform
to his Majesty. It was far by my expectation,
and your Grace's oath and promise, that you
should never come in any chief Command against
your Native Country. Whereas your Grace
doth

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doth challenge our coming in such numbers to attend this Parliament, I hope you conceive that this Navy and Army upon the Borders, and the Invasion threatned in the West, do sufficiently warrant our preparations to defend these places, and divert such dangers. That Proclamation that is said to carry so much Grace and Goodness, is as destitute of that, as your Invasion is of a good Warrant; which perswades me, That neither of the two proceeds from his Majesties own Gracious disposition. I cannot stand here to answer all these misconceived Particulars contained in your Grace's Letter; but if I had the honour to see your Grace, before any more mischief be done, I dare engage my Honour and my Life, to clear all these Imputations laid on our proceedings; and I can demonstrate how hardly we have been used, without any just reason. I dare not be answerable to God Almighty, and to that Duty I owe my Prince and Country, if I do not shew your Grace, that your going a little further in this violent and unjust way, will put all from the hopes of Recovery; from which both a great deal of blame from Men, and Judgment from Above shall attend you as the special Instrument, which I wish you labour to evite. If our destruction be intended, we are confident in that Majesty who owns this Cause, and is able to defend it; and if only Terrors to fright, and prepare us to accept of any Conditions, will be offered, that intention is already as far disappointed, as any of these many former: But as we are ready to defend, so ever to insist in supplicating, in using all humble and lawful means as becomes us.

Mr. Borthwick will deliver to your Grace our Supplication to his Majesty, and both his and my Mind, till I shall have the occasion to disburthen my self, surcharged with grief at your proceedings, being most desirous (as I have been formerly) to have all these Occasions removed, that may divert me from being still

Your Grace's humble Servant,

Rothes.

Some days following the Marquess returns his Answer to the foregoing of the Earl of Rothes.

My Lord,

I Have received your Lordships's Letter, signed by you, but I cannot conceive it of your Lordship's inditing; for I believe you would not have sent such an one to me, if you had not had some malignant Spirits busied in the framing of it: For you cannot but remember that my words were never other, then that I would dye at my Master's feet; and that I would prove an Enemy, to the uttermost of my power, to this Kingdom, if my Country-men continue in their Obstinacy: And here I set it under my hand, That I will (by God's grace) make it good. It is true, knowing my own inability, I neither desired, nor indeed willingly did accept the Conduct of an Army against this Nation; but my backwardness proceeded not out of a desire not to be employed against such in this Country as were disobedient, but that his Majesty might have found many more able to have served him; but since he hath been pleased to trust me, I will not deceive him.

You pass by many Particulars in your Answer to my Letter untouched, saying, You cannot stand here to answer them. It is most true, they are not to be answered, and so I take it.

As for your own Justification, it is the same which you have ever used, and so continue; but the best is, *Car. 15.* none that were ever truly informed of your Proceedings, doth or can give any approbation of them.

You say, If I go any further in a violent Course, it will be past all hope of Remedy. If I do, none can blame my Master; for that can never be called Violence, which is only to suppress Rebellion: And if I proceed to execute his Commands therein, you are the Cause of it. As Mr. Borthwick told me, I expected to have heard further from you before now; but nothing coming, I would forbear no longer to give you this Answer under my hand, that both you and all the World may take notice what my Inclinations are: Which notwithstanding I do infinitely desire they may be stopt, by your speedy and real submission to his Majesties just Commands. And this is the Prayer of him, that wisheth it may be still lawful for him to call himself

From on Board the
Rainbow, May 17.
1639.

Your Lordship's
Humble Servant,

Hamilton.

Upon the 4th of June his Majesty mustered his own Guards, where was a gallant Appearance of the Nobility and Gentry, who were no sooner dismissed, but word was brought by Sir John Byron that the whole Scots Army was on their March on this side Dunce-hill, which proved to be a mistake, for that they were then encamped, as his Majesty afterwards discovered, who as he had great cause was much offended with Mr. Widdrington the Scout-Master, for not giving notice of their advance, which it seems was caused by the Earl of Hollands march to Kelsy in Scotland, else (say the Scots) they had not come within 10 miles of the Borders, [you may believe them if you please.] And now the Armies were in view of each other, expecting action every moment, when comes the Earl of Dunfermling with a Trumpet from the Scotch Camp to the King's Pavilion, and brings with him a Petition from the Scots following;

To the King's most Excellent Majesty,

The humble Petition of his Majesties Subjects of Scotland.

Humbly Sheweth,

That whereas the former means used by us have not yet been effectual for receiving your Majesties favour, and the Peace of this your Native Kingdom, we fall down again at your Majesties feet, most humbly supplicating, That your Majesty would be graciously pleased to appoint some few of the many worthy Men of your Majesties Kingdom of England, who are well-affected to the True Religion, and our Common Peace, to hear, by some of us, of the same Affection, our humble Desires, and to make known unto us your Majesties gracious Pleasure; That as by the Providence of God we are here joyned in one Island, under one King; so by your Majesties great Wisdom and tender Care, all Mistakings may be speedily removed, and the two Kingdoms may be kept in peace and happiness under your Majesties long and prosperous Reign. For the which we shall never cease to pray, as becometh your Majesties most faithful Subjects.

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To which his Majesty commands the Secretary to return the following Answer :

The King's Majesty having read and considered the humble Supplication presented unto him by the Earl of Dunfermling, commanded Sir Edmond Verney, Knight-Marshal, to return with the Messenger this Answer.

That whereas his Majesty hath published a Gracious Proclamation to all his Subjects of Scotland, whereby he hath given them full assurance of the free enjoying both of the Religion and Laws of that Kingdom; as likewise a free Pardon, upon their humble and dutiful Obedience. Which Proclamation hath been hitherto hindered to be published to most of his Majesties Subjects; therefore his Majesty requireth, for the full information and satisfaction of them, that the said Proclamation be publickly read. That being done, his Majesty will be graciously pleased to hear any humble Supplication of his Subjects.

Signed, John Cooke.

Sir Edmond Verney, Knight-Marshal, was sent along with the Earl of Dunfermling, to see his Majesties Proclamation proclaimed accordingly in the Scotch Army; which done, the aforesaid Earl returns to his Majesty with another Petition, much to the same purpose with the former: To which his Majesty gave Answer :

That his Majesty having understood of the Obedience of the Petitioners in reading his Proclamation, as was commanded them, is graciously pleased so far to condescend unto their Petition, as to admit some of them to repair to his Majesties Camp upon Monday next, at eight of the Clock in the Morning, at the Lord General's Tent; where they shall find six Persons of Honour and Trust appointed by his Majesty to hear their Desires.

His Majesty nominated the Lords following his Commissioners; The General, the Lieutenant-General Essex, the Earls of Holland, Salisbury and Berkshire, and Mr. Secretary Cooke: And the Scotch Commissioners were the Earls of Rothes and Dunfermling, the Lord Lowdon, Douglass Sheriff of Tivendale, Henderson and Johnston, two Ministers, who being come to the King's Camp, they were entertained by the English Commissioners; where it pleased his Majesty to come in Person, who viewing the Scotch Deputies, said, *I am informed that you complain you cannot be heard, and therefore I come hither myself to know what you would say.* To his Majesty the Earl of Rothes makes a profession of their Loyalty to his Majesty, and that their Desires were to be secured in their Religion and Liberties; who was succeeded by Lowdon, who began an Harangue in excuse of their former rebellious courses and actions. But the King told him, *Sir, I will not admit of any of your excuses for your by-past Actions; but if you come to sue for Grace, set down your desires particularly in writing, and you shall receive your Answer.* Whereupon after some short Conference amongst themselves, they exhibited their Desires in the Paper following.

The humble Desires of his Majesties Subjects of Scotland.

Car. 15.

First, It is our humble desire, That his Majesty would be pleased to assure us, that the Acts of the late Assembly holden at Glasgow by his Majesties Indiction, shall be ratified in the ensuing Parliament to be holden at Edinburgh, July 23. since the Peace of the Kirk and Kingdom cannot endure further Prorogation.

Secondly, That his Majesty, out of his tender Care of the preservation of our Religion and Laws, will be graciously pleased to declare, and assure, That it is his Royal Will, that all Matters Ecclesiastical be determined by the Assemblies of the Kirk, and Matters Civil by Parliament. Which for his Majesties Honour, and keeping Peace and Order amongst his Subjects, in the time of his Majesties personal Absence, would be holden at set times, once in two or three years.

Thirdly, That a blessed Pacification may be speedily brought about, and his Majesties Subjects may be secured; Our humble Desire is, That his Majesties Ships and Forces by Land be recalled; That all Persons, Ships, and Goods Arrested, be restored, and we made safe from Invasion. And that all Excommunicate Persons, Incendiaries, and Informers against the Kingdom, who have out of malice caused these Commotions for their own private Ends, may be returned to suffer their deserved Censure and Punishment, and some other Points, as may best conduce to this happy Pacification.

As these are our humble Desires, so it is our Grief that his Majesty should have been provoked to Wrath against us his most humble and loving Subjects. And it shall be our delight, upon his Majesties gracious assurance of the Preservation of our Religion and Laws, to give example to others of all Civil and Temporal Obedience which can be required or expected of Loyal Subjects.

To which his Majesty said, *For the clearing of Particulars, I require you to set down the Grounds and Reasons of your Desires.* Which the Lord Lowdon did in hæc verba.

Memorandum, That our Desires are only the enjoying of our Religion and Liberties, according to the Ecclesiastical and Civil Laws of his Majesties Kingdom.

To clear by sufficient Grounds that the Particulars are such, we shall not insist to crave any Point which is not so warranted. And we humbly offer all Civil and Temporal Obedience to your Majesty, which can be required or expected of Loyal Subjects.

Signed, Lowdon.

To which his Majesty answered, **T**hat whereas his Majesty, the 11. of June, received a short Paper of the general Grounds and Limits of their humble Desires; his Majesty is graciously pleased to make this Answer.

That if their Desires be only the enjoying of their Religion and Liberties, according to the Ecclesiastical and Civil Laws of his Majesty's Kingdom of Scotland, his Majesty doth not only agree to the same, but shall always

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1639. protect them to the uttermost of his Power: And if they shall not insist upon any thing but that is so warranted, his Majesty will most willingly and readily condescend thereunto; so that in the mean time they pay unto him that Civil and Temporal Obedience which can be justly required and expected of Royal Subjects.

At his Majesties Camp, the 13th of June, 1639.

And accordingly the Scotch Commissioners exhibit the Reasons and Grounds of their desires in writing, as followeth:

Reasons and Grounds of our humble Desires, delivered the thirteenth of June.

WE did first humbly desire a Ratification of the Acts of the late Assembly in the ensuing Parliament.

First, Because the Civil Power is Keeper of both Tables; and where the Kirk and Kingdom are one Body, consisting of the same Members, there can be no firm Peace, nor stability of Order, except the Ministers of the Kirk in their Consultations may press the obedience of the Civil Laws and Magistrate, and the Civil Power add their Sanction and Authority to the Constitutions of the Kirk.

Secondly, Because the late General Assembly indicted by his Majesty, was lawfully constituted in all the Members, according to the Institution and Order prescribed by Acts of former Assemblies.

Thirdly, Because no Particular is enacted in the late Assembly, which is not grounded upon the Acts of preceding Assemblies; and is either expressly contained in them, or by necessary Consequence may be deducted from them.

That the Parliament be kept without Prorogation, his Majesty knows how necessary it is, since the Peace of the Kirk and Kingdom calls for it without further delay.

We did secondly desire, That his Majesty would be pleased to declare and assure, That it is his Royal Will that all Matters Ecclesiastical be determined by the Assemblies of the Kirk, and Matters Civil by the Parliament, and other Inferiour Judicatories established by Law; because we know no other way of the preservation of our Religion and Laws.

And because Matters so different in their Nature, ought to be treated respectively in their own proper Judicatories, it was also desired, That Parliaments might be holden at set Times, as once in two or three Years, by reason of his Majesties personal Absence, which hindreth his Subjects in their Complaints and Grievances, to have immediate access unto his Majesties Presence.

And whereas his Majesty requires us to limit our Desires, to the enjoying of our Religion and Liberties, according to the Ecclesiastical and Civil Laws respective, We are heartily content to have the occasion to declare, That We never intended it farther than the enjoying of our Religion and Liberties.

And that all this time past, it was far from our Thoughts to desire to diminish the Royal Authority of our Native King and Dread Sovereign, or to make an Invasion upon the Kingdom of England, which are the Calumnies forged and spread against us by the Malice of our Adversaries; and for which we humbly desire, That in his Majesties Justice they may have their own Censure and Punishment.

Thirdly, We desire a blessed Pacification, and did express the most ready and powerful Means which we could conceive for bringing the same speedily to pass, leaving other Means serving for that End, to his Majesties Royal Consideration and great Wisdom.

To this Paper, his Majesties Commissioners answer, That the King would give them his answer on Saturday following, and so the Scots ending with the English General, departed to their Camp.

On Saturday the fifteenth of June following the Scotch Commissioners in the forenoon came to the Lord General's Tent, whither his Majesty after a while came also, and commanded to be read his gracious answer to their desires, which with a few alterations, the Scots agreed to carry to their Camp, and, on Monday following, returned from their fellow Covenanters with their most humble [Formal] thanks to his Majesty for his most gracious answer to their Petition by his Declaration which with the Articles of accommodation hereafter follow.

His Majesties Declaration.

WE having considered the Papers, and humble Petitions presented unto us by those of our Subjects of Scotland, who were admitted to attend our Pleasure in the Camp; and after a full hearing by our Self of all that they could say or alledge thereupon, having communicated the same to our Council of both Kingdoms, upon mature deliberation, with their unanimous Advice, We have thought fit to give this just and gracious Answer.

That though we cannot condescend to ratify and approve the Acts of the pretended General Assembly at Glasgow, for many grave and weighty Considerations which have happened before and since, much importing the Honour and Security of that true Monarchical Government lineally descended upon us from so many of our Ancestors: Yet such is our gracious Pleasure, That notwithstanding the many Disorders committed of late, we are pleased not only to confirm and make good whatsoever our Commissioner hath granted and promised in our Name, but also we are further graciously pleased to declare and assure, that according to the Petitioners humble Desires, all Matters Ecclesiastical shall be determined by the Assembly of the Kirk, and Matters Civil by the Parliament, and other inferiour Judicatories established by Law. Which Assemblies accordingly shall be kept once a Year, or as shall be agreed upon at the General Assembly.

And for settling the general Distractions of that our Ancient Kingdom, our Will and Pleasure is, That a free General Assembly be kept at Edinburgh, the sixth day of August next ensuing,

Anno 1639. fuing, where we intend (God willing) to be personally present. And for the legal Indiction whereof, we have given Order and Command to our Council; and thereafter a Parliament to be held at *Edenburgh* the twentieth day of August next ensuing, for ratifying of what shall be concluded in the said Assembly, and settling such other things as may conduce to the Peace and Good of our Native Kingdom; and therein an Act of Oblivion to be passed.

And whereas We are further desired, that our Ships and Forces by Land be recalled, and all Persons, Goods, and Ships restored, and they made safe from Invasion, We are graciously pleased to declare, That upon their disarming and disbanding of their Forces, dissolving and discharging all their pretended Tables and Conventicles, and restoring unto us all our Castles, Forts, and Ammunition of all sorts; as likewise our Royal Honours, and to every one of our good Subjects, their Liberties, Lands, Houses, Goods, and Means whatsoever, taken and detained from them since the late pretended General Assembly, we will presently thereafter recall our Fleet, and retire our Land-Forces, and cause restitution to be made to all Persons of their Ships and Goods, detained and arrested since the aforesaid time. Whereby it may appear, that our intention of taking up of Arms, was no waies for invading of our Native Kingdom, or to innovate the Religion and Laws, but meerly for the maintaining and vindicating of our Royal Authority. And since that hereby it doth clearly appear, that we neither have nor do intend any alteration of Religion or Laws, but that both shall be maintained by us in their full Integrity, we expect the performance of that humble and dutiful Obedience which becometh Loyal and Dutiful Subjects, as in their several Petitions they have often professed. And as we have just reason to believe, that to our peaceable and well affected Subjects this will be satisfactory, so we take God and the World to witness, That whatsoever Calamities shall ensue by our necessitated suppressing of the Insolences of such as shall continue in their disobedient Courses, is not occasioned by us, but by their own procurement.

Articles agreed upon.

I.

THE Forces of Scotland to be Disbanded and Dissolved within eight and forty hours after the publication of his Majesties Declaration, being agreed upon.

II.

His Majesties Castles, Forts, Ammunitions of all sorts, and Royal Honours to be delivered after the said publication, so soon as his Majesty can send to receive them.

III.

His Majesties Ships to depart presently after the delivery of the Castles, with the first fair Wind, and in the mean time no interruption of Trade or Fishing.

IV.

His Majesty is graciously pleased to cause to be restored, all Persons, Goods, and Ships, detained and arrested since the first day of November last past.

V.

There shall be no Meetings, Treatings, Consultations, or Convocations of his Majesties Lieges, but such as are warranted by Act of Parliament.

VI.

All Fortifications to desist, and no further working therein, and they to be remitted to his Majesties Pleasure.

VII.

To restore to every one of his Majesties good Subjects, their Liberties, Lands, Houses, Goods, and Means whatsoever, taken or detained from them by whatsoever means since the aforesaid time.

The next day the Scotch Commissioners came to his Majesties Pavilion, where the King signed the foregoing Declaration which the Scotch Commissioners did accordingly, and two Copies thereof were made interchangeably signed, one by Mr. Secretary Cook and the Earl of Sherland remaining with the Scots, and the other signed by them, remained with the Secretary; the former by his Majesties Command was published openly in their Army by Lyon King at Arms of Scotland, on Thursday, June 20. which day their Army also was Disbanded according to their promise and submission hereafter following.

In the Camp, June 18. 1639.

IN Obedience to his Majesties Royal Commands, We shall, upon Thursday next the twentieth of this June, dismiss our Forces, and immediately thereafter deliver his Majesties Castles, &c. And shall ever in all things carry our selves like Humble, Loyal, and Obedient Subjects.

Subscribed,

| | |
|------------------|--------------|
| Roths. | London. |
| Dunfermling. | Douglas. |
| Alex. Henderson. | A. Johnston. |

How well the Scots performed their Articles it will not be amiss to acquaint the World. 1. They publish a false and scandalous Paper, intituled, *Some Conditions of his Majesties Treaty with his Subjects of Scotland, before the English Nobility, are set down here for remembrance.* So untrue and Seditious as that it was burned by the hand of the common Hangman, they kept in body diverse of their Forces, and all their Officers in pay. The Cittadel at *Leith* kept up as at the first, they continued after the appointed time to meet and debate matters Ecclesiastical and Civil, contrary to Laws and Acts of Parliament, they enforce upon the Subject a subscription to Acts of the late Assembly at *Glasgow*, contrary to the King's Proclamation they brand all the King's Friends and

Ad-

Anno Adherents with the asperſion of Incendiaries and Traytors to God and their Country.

1639. The wiſe Deputy of Ireland foreſaw the foregoing Peace, but now concluded, would not laſt long, and therefore adviſed his Maſteſty to take an Oath of Fidelity from the Scots in Ireland, *As holding* (ſaith he in his Letter to his Maſteſty) *it ſtill to be of very great uſe and advantage, a little to allay and render leſs poſitive thoſe Demands your Maſteſty perchance may meet with in the next Aſſembly of the Covenanters, when they find that all are not minded as themſelves, nor dancing after their Pipe.*

Likewiſe we ſhall, if not otherwiſe directed, go on to provide (againſt all Events) your Magazines here, of ten thouſand Foot, and one thouſand Horſe Arms, with all other Ammunition proportionable thereunto.

All your gracious Directions, tending to an univerſal and laſting Peace, ſhall be on this ſide punctually purſued and fulfilled; may all Affections be rightly ſet and inclined for the accompliſhment of ſo bleſſed a Work.

Yet admit my attention to your Sacred Perſon, and proſperity of your Affairs, moſt humbly to beſeech your Maſteſty, not only to keep your Garrisons of Berwick and Carlisle ſtrong, and well provided of all kind of Stores, but to perfect the Fortifications at Leith; and if poſſible, to put in a good Power there alſo, of men approved for their Faith and Zeal to the Service of your Crown, for ſo total a defection as hath appeared in that People, is not to be truſted with your Sacred Perſon over-early, if at all; and this the rather, for that I conceive your Deſigns, and Royal Purpoſes thus ſuſtained, will have alſo an excellent furtherance and operation amongſt the Subjects in England.

I ſhould not write thus much, but that I full well know the Goodneſs, Wiſdom, and Secreſie of my Maſter, having otherwaies ſufficiently contracted already the ill-will of many of the Scottiſh Nation: Howbeit for which Tranſgreſſions, in good Faith I know not, the beſt is I apprehend not much, being already ſeated ſo low, as I have not far to fall. God long preſerve your Maſteſty.

A Parliament and General Aſſembly being to be convened in *Auguſt* following, his Maſteſty Commanded fourteen of the Principal Covenanting Lords to attend him at *Berwick*, but they being conſcious to themſelves, and fearing Confinement, or the like, ſend only three, *Montroſs, Lowdon, and Lothian*, who being conferred with by ſome appointed by his Maſteſty, were very much wrought upon, and ſome of them came to ſee their own Errors and danger, and never after ſided with the Covenanters. His Maſteſty appoints the Earl of *Traquair*, Lord High Commiſſioner for *Scotland*, and his Inſtructions were as followeth:

CHARLES REX,

AT the firſt meeting of the Aſſembly, before it be brought in diſpute who ſhall preſide, you ſhall appoint him who was Moderator in the laſt Aſſembly, to preſide in this till a new Moderator be choſen.

We allow that Lay-Elders ſhall be admitted Members of this Aſſembly; but in caſe of the Election of Commiſſioners for Presbyteries, the Lay-Elders have had Voice, you ſhall declare againſt the informality thereof; as alſo againſt

Lay-Elders having Voice in Fundamental Points of Religion.

Car. 15.

At the firſt opening of the Aſſembly, you ſhall ſtrive to make the Aſſembly ſenſible of our Goodneſs, that notwithstanding all that is paſt, whereby we might have been juſtly moved not to hearken to their Petitions, yet we have been graciously pleaſed to grant a free General Aſſembly; and for great and weighty Conſiderations, have commanded the Archbishops and Bishops not to appear at this Aſſembly.

You ſhall not make uſe of the Aſſeſſors in publick, except you find you ſhall be able to carry their having Vote in the Aſſembly.

You ſhall labour to your utmoſt, that there be no Queſtion made about the laſt Aſſembly; and in caſe it come to the worſt, whatever ſhall be done in Ratification, or with relation to the former Aſſembly, our Will is that you declare the ſame to be done as an Act of this Aſſembly, and that you conſent thereto only upon theſe terms, and no waies as having any relation to the former Aſſembly.

You ſhall by all means ſhun the Diſpute about our Power in Aſſemblies; and if it ſhall be urged, or offered to be diſputed, whether we have the Negative Voice, or the ſole Power of Indicting, and conſequently of Diſſolving; except you ſee clearly that you can carry the ſame in our Favour, ſtop the Diſpute; and rather than it be decided againſt us, ſtop the courſe of the Aſſembly until we be advertiſed.

For the better facilitating of our other Services, and the more peaceable and plauſible Progreſs in all Buſineſſes recommended to you, we allow you at any time you ſhall find moſt convenient, after the opening of the Aſſembly, to declare, That notwithstanding our own Inclination, or any other Conſiderations, we are contented, for our Peoples full ſatisfaction, to remit Episcopacy, and the Eſtate of Bishops to the freedom of the Aſſembly; but ſo, as no reſpect be had to the determination of the Point in the laſt Aſſembly.

But in giving way to the abolishing of Episcopacy, be careful that it be done without the appearing of any Warrant from the Bishops; and if any offer to appear for them, you are to enquire for their Warrant, and carry the Diſpute ſo, as the concluſion ſeem not to be made in prejudice of Episcopacy as unlawful, but only in ſatisfaction to the People for ſettling the preſent Diſorders, and ſuch other Reaſons of State: But herein you muſt be careful that our Intentions appear not to any.

You ſhall labour, that Miniſters depoſed by the laſt Aſſembly, or Commiſſions flowing from them, for no other cauſe but the ſubſcribing the Petition or Declinator againſt the laſt Aſſembly, be upon their ſubmiſſion to the determination of this Aſſembly, reponed in their own Places; and ſuch other Miniſters as are depoſed for no other Faults, that they be tried of new; and if that cannot be, ſtrive that Commiſſions may be directed from this Aſſembly for trying and cenſuring them, according to the nature of their Proceſs.

That immediately upon the concluſion of this Aſſembly, you Indict another at ſome convenient time, as near the expiring of the Year as you can; and if you find that *Aberdeen* be not a Place agreeable, let *Glaſgow* be the Place; and if that cannot give content, let it be elſewhere.

The

Anno 1639. The General Assembly is not to meddle with any thing that is Civil, or which formerly hath been established by Act of Parliament, but upon his Majesties Special Command or Warrant.

We will not allow of any Commissioner from the Assembly, nor no such Act as may give ground for the continuing of the Tables, or Conventicles.

In case Episcopacy be abolished at this Assembly, you are to labour that we may have the Power of choosing of so many Ministers as may represent the fourteen Bishops in Parliament; or if that cannot be, that fourteen others whom we shall present be agreed to, with a power to choose the Lords of the Articles for the Nobility for this time, until the Business be further considered upon.

We allow that Episcopacy be abolished, for the Reasons contained in the Articles, and the Covenant 1580. for satisfaction of our People be subscribed, provided it be so conceived, that thereby our Subjects be not forced to abjure Episcopacy as a Point of Popery, or contrary to God's Law, or the Protestant Religion; but if they require it to be abjured, as contrary to the Constitution of the Church of Scotland, you are to give way to it rather than to make a breach.

After all Assembly-Business is ended, and immediately before Prayers, you shall, in the fairest way that you can, protest, That in respect of his Majesties Resolution of not coming in Person, and that his Instructions to you were upon short advertisement, whereupon many things may have occurred, wherein you have not had his Majesties Pleasure; and for such other Reasons as occasion may furnish, you are to protest, That in case any thing hath escaped you, or hath been condescended upon in this present Assembly prejudicial to his Majesties Service, that his Majesty may be heard for redress thereof in his own Time and Place.

At Berwick the 27th of July, 1639.

To these Instructions were added these following:

CHARLES REX.

Right Trusty,

The King writes to Traquair, and gives him positive Instructions how further to proceed.

WE have hitherto commanded Hamilton to answer several of your Letters, but that of the sixteenth of August being of more weight than any of your former, we have thought fit to answer it our Self.

And whereas you say, That nothing will satisfy them, except in *Terminis*, the last Assembly be Named and Ratified, or that way be given to the discharging of Episcopacy as abjured in that Church, as contrary to the *Confession of Faith*, 1580. and the Constitutions of the same, you being yet in some hope that the word Abjured may be got changed; and that in drawing up the words of the Act, it be only condemned as contrary to the Constitution of the Church: We in this point leave you to your Instructions,

they being full, if you consider what we have said concerning *Episcopacy*, and subscribing the *Confession of Faith*, 1580. We thinking it fit to declare hereupon unto you, That let their madness be what it will, further than we have declared in our Instructions, in these Points we will not go.

For the *Service-Book*, and Book of *Canons*, though we have been and are content they be discharged, yet we will never give our Voice nor assent that they be condemned, as containing divers Heads of Popery and Superstition: in like manner, though we have been, and are content that the *High-Commission* be discharged, yet we will never acknowledge that it is without Law, or destructive to the Civil and Ecclesiastical Judicatories of that our Kingdom: Nor that the *Five Articles of Perth*, though discharged with our Approbation, be condemned, as contrary to the foresaid *Confession*. As concerning the late Assemblies, we cannot give our consent to have them declared Null, since they were so notoriously our Father (of happy Memory) his Acts; it seeming strange, that we having condescended to the taking away of these things that they complained of, which were done in those Assemblies, they will not be content therewith, without laying an Aspersions on our Father's Actions. Wherefore if the Assembly will, in despite of your endeavour, conclude contrary to this, you are to protest against their Proceedings in these Points, and be sure not to ratify them in Parliament.

Concerning the yearly Indiction of General Assemblies, and the *Confession of Faith*, we commanded *Hamilton*, in his of the sixteenth, to Answer that Point to this effect, That we think it infinitely to our prejudice that we should consent to tie our Self for the keeping yearly of their Assemblies, not needing to repeat the Reasons, they being well enough known to you; seeing at *Berwick* it was conceived upon debate of that Point, That your having Power to Indict a new one within the Year, would save that Dispute, which you are by all means to eschew. But if this will not give satisfaction, you are by no means to give your Assent to any such Act, nor to ratify the same in Parliament.

The Article in your Instructions, which is only that the *Covenant*, 1580. shall be subscribed, you must have an especial care of, and how you proceed therein; That the Bond be the same which was in our Father's Time, *Mutatis mutandis*; and that you give your assent no other waies to the interpretations thereof, than may stand with our future Intentions well known to you; nor is the same otherwise to be Ratified in Parliament.

Thus you have our Pleasure fully signified in every particular of your Letter; which you will find no waies contrary to our Resolution taken at *Berwick*, and our Instructions given to you there. But if the madness of our Subjects be such, that they will not rest satisfied with what we have given you Power and Authority to condescend to, which notwithstanding all their Insolencies we shall allow you to make good to them, we take God to witness, That what misery soever shall fall to the Country hereafter, it is no Fault of ours, but their own procurement. And hereupon we do Command you, That if you cannot compose this Business according to our Instructions, and what we have now written, that you Prorogue the Parliament till the

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the next Spring; and that you think upon some course how you may make publickly known to all our Subjects, what we had given you Power to condescend to. And because it is not improbable that this may produce a present Rupture, you are to warn and assist *Rushwien* for the Defence of the Castle of *Edenburgh*; and to take in general the like care of all our Houses and Forts in that Kingdom; & likewise to advertise all such who are affected to our Service, that timoussly they may secure themselves; and so we bid you heartily farewell.

And his Majesty being ever careful of the concerns of Christ, writes the following Letter to the Archbishop of *St. Andrews*, to be communicated to the rest of his Brethren.

Right trusty and well-beloved Counsellor, and Reverend Father in God, We greet you well.

YOur Letter, and the rest of the Bishops (sent by the Elect of *Cathness*) to my Lord of *Canterbury*, hath been by him communicated to us: And after serious consideration of the Contents thereof, we have thought fit our Self to return this Answer to you for Direction, according to our Promise, which you are to communicate to the rest of your Brethren.

We do in part approve of what you have advised, concerning the prorogating of the Assembly and Parliament, and must acknowledge it to be grounded upon Reason enough, were Reason only to be thought on in this Business: but considering the present state of our Affairs, and that we have promised in the Articles of Pacification, we may not (as we conceive) without great prejudice to our Self and Service condescend thereunto; wherefore we are resolved (rather necessitated) to hold the Assembly and Parliament at the Time and Place appointed; and for that end we have nominated the Earl of *Traquair* our Commissioner: to whom we have given Instructions, not only how to carry himself at the same, but a Charge also to have a special care of your Lordships, and those of the Inferiour Clergy, who have suffered for their Duty to God and Obedience to our Commands. And we do hereby assure you, That it shall be still one of our chiefest Studies, how to rectifie and Establish the Government of that Church aright, and to repair your Losses, which we desire you to be most confident of.

As for your Meeting to treat of the Affairs of the Church, we do not see at this Time how that can be done; or within our Kingdom of *Scotland*, we cannot promise you any place of Safety; and in any other of our Dominions we cannot hold it convenient, all things considered; wherefore we conceive that the best way would be for your Lordships to give in, by way of Protestation or Remonstrance, your Exceptions against this Assembly and Parliament to our Commissioner, which may be sent by any mean man, so he be trusty, and deliver it at his entring into the Church; but we would not have it to be either Read or Argued in this Meeting, where

nothing but partiality is to be expected, but to be represented to us by him; which we promise to take so into Consideration, as becometh a Prince sensible of his own Interest and Honour, joined with the Equity of your Desires; and you may rest secure, that though perhaps we may give way for the present to that which will be prejudicial both to the Church and our own Government, yet we shall not leave thinking in time how to remedy both.

We must likewise intimate unto you, That we are so far from conceiving it expedient for you, or any of my Lords of the Clergy to be present at this Meeting, as we do absolutely discharge your going thither; and for your absence, this shall be to you, and every of you, a sufficient Warrant: In the interim, your best course will be to remain in our Kingdom of *England*, till such time as you receive our further Order, where we shall provide for your Substantance; though not in that measure as we could wish, yet in such a way as you shall not be in want.

Thus you have our Pleasure briefly signified unto you, which we doubt not but you will take in good part: You cannot but know, that what we do in this, we are necessitated to, so we bid you farewell.

Whitehall, Aug. 6.
1639.

C. R.

And in obedience to the Kings command the Bishops of *Scotland* presented their Declinator following to the Lord Commissioner the Earl of *Traquair*.

Whereas his Majesty, out of his surpassing Goodness, was pleased to Indict another National Assembly for rectifying the present Disorders in the Church, and repealing the Acts concluded in the late pretended Assembly at *Glasgow* against all Right and Reason, charging and commanding us the Archbishops and Bishops of the Church of *Scotland*, and others that have Place therein, to meet at *Edenburgh* the twelfth of *August* Instant, in hopes that by a peaceable Treaty and Conference, Matters should have been brought to a wished Peace and Unity: and that now we perceive all these hopes disappointed, the Authors of the present Schism and Division proceeding in their wonted Courses of Wrong and Violence, as hath appeared in their presumptuous Protestation against the said Indiction; and in the business they have made throughout the Country, for electing Ministers and Laicks of their Faction to make up the said Assembly; whereby it is evident that the same or worse Effects must needs ensue upon the present Meeting, than were seen to follow the former. We therefore the Underscribers, for discharge of our Duties to God, and to the Church committed to our Government under our Sovereign Lord the King's Majesty, Protest, as in our former Declinator, as well for our Selves, as in the Name of the Church of *Scotland*, and so many as shall adhere to this our Protestation, That the present pretended Assembly be holden and reputed null in Law, as consisting and made up partly of Laical Persons that have no Office in the Church of God, partly of Refractory, Schismatical, and Perjured Ministers, that contrary to their Oaths and Subscriptions, from which no human Power could absolve them, have filthily resiled, and so made themselves to

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the present and future Ages most infamous, and that no Church-man be bound to appear before them, nor any Citation, Admonition, Certification, or Act whatsoever proceeding from the said pretended Meeting, be prejudicial to the Jurisdiction, Liberties, Privileges, Rents, Possessions, and Benefices belonging to the Church, nor to any Acts of former General Assemblies, Acts of Council or Parliament made in favour thereof; but to the contrary, that all such Acts and Deeds, and every one of them, are and shall be reputed Unjust, Partial, and Illegal, with all that may follow thereupon.

And this our Protestation we humbly desire may be presented to his Majesty, whom we do humbly supplicate, according to the Practice of Christian Emperours in Ancient Time, to Convene the Clergy of his whole Dominions, for remedying of the present Schism and Division, unto whose Judgment and Determination we promise to submit our Selves and all our Proceedings.

Given under our Hands, at Morpeth, Berwick, and Holy-Island, the 10th and 11th of August, 1639.

Signed,

St. Andrews.

Da. Edinburgh.

Jo. Rossen.

Tho. Galloway.

Wal. Brechinien

Ja. Lismoren.

Ad. Aberdeen.

In pursuance of the forgoing Pacification a General Assembly sate at *Edinburgh* in the Month *August*; the Principal matters Transacted there were (for you may know the Assembly was to prepare the preliminaries that were after to pass into Laws, if by any means the Royal assent could be procured thereto.)

First. Mr. *George Graham's*, Bishop of *Orkney* and of the *Illes*, his Abjuration of Episcopacy, having, for wordly respects, embraced the same, that it had no warrant from the Word of God, that it drew along with it many evil consequences more particularly here in the Kirk of *Scotland*, and more particularly for that it had been abjured by the whole Kirk there by vertue of the National Oath, and yet more particularly by the Acts and Consultations of the late Assembly holden at *Glasgow* 1638. &c. In testimony of all which he subscribed his hand, &c.

Secondly, An Act containing the causes and remedies of the by-gone evils of the Kirk; with Observations Marginal thereon.

The King's Majesty having graciously declared, That it is his Royal Will and Pleasure, that all Questions about Religion, and Matters Ecclesiastical, be determined by Assemblies of the Kirk; having also by publick Proclamation indicted this Free National Assembly, for settling the Distraction of this Kirk, and for establishing a perfect Peace, against such Divisions and Disorders as have been sore displeasing to his Majesty, and grievous to all his good Subjects.

And now his Majesties Commissioner, *John Earl of Traquair*, intrusted and authorized with a full Commission, being present, and sitting in this Assembly, now fully Convened, and orderly Constitute in all the Members thereof, according to the Order of this Kirk, having at large declared his Majesties Zeal to the Reformed Religion, and his Royal Care and Tender

Affection to this Kirk, where his Majesty had both his Birth and Baptism, his great displeasure at the manifold Distractions and Divisions of this Kirk and Kingdom, and his desires to have all our Wounds perfectly cured, with a fair and fatherly Hand: And although in the way approved by this Kirk, trial hath been taken in former Assemblies before, from the Kirk-Registers, to our full satisfaction; Yet the Commissioner's Grace making particular enquiry from the Members of the Assembly, now solemnly convened, concerning the real and true Causes of so many and great Evils as this time past had so sore troubled the Peace of this Kirk and Kingdom, it was represented to his Majesties Commissioner by this Assembly, that besides many other, the main and most material Causes were;

First, The pressing of this Kirk by the Prelates with a *Service-book*, or Book of *Common-Prayer*, without Warrant or Direction from the Kirk; and containing, besides the Popish Frame thereof, divers Popish Errors and Ceremonies, and the Seeds of manifold gross Superstitions and Idolatry, with a Book of Canons, without Warrant or Direction from the General Assembly, establishing a Tyrannical Power over the Kirk in the Persons of Bishops, and overthrowing the whole Discipline and Government of the Kirk by Assemblies; with a Book of *Consecration and Ordination*, without Warrant or Authority Civil or Ecclesiastical, appointing Offices in the House of God, which are not warranted by the Word of God, and repugnant to the Discipline and Acts of the Kirk; and with the *High-Commission*, erected without consent of the Kirk, and subverting the Jurisdiction and ordinary Judicatories of this Kirk, and giving to Persons meerly Ecclesiastical, the power of both Swords; and to Persons meerly Civil, the power of the Keys and Kirk Censures.

A Second Cause was the *Articles of Perth*, viz. The Observation of Festival Daies, Kneeling at the Communion, Confirmation, Administration of the Sacraments in private Places, which are brought in by a null Assembly, and are contrary to the *Confessions of Faith*, as it was meant and subscribed Anno 1580. and divers times since, and to the Order and Constitutions of this Kirk. Observations thereupon.

Thirdly, The changing of the Government of the Kirk from the Assemblies of the Kirk, to the Persons of some Kirk-men, usurping Priority and power over their Brethren, by the way and under the name of Episcopal Government, against the Confession of Faith in 1580. against the Order set down in the *Book of Policy*, and against the Intention and Constitution of this Kirk from the beginning. It was ratified by Parliament.

Fourthly, The Civil Places and Power of Kirk-men, their sitting in Session, Council, and Exchequer; their riding, sitting, and voting in Parliament; and their sitting in the Bench as Justices of Peace: Which according to the Constitutions of this Kirk are incompatible with their Spiritual Sanction, lifting them up above their Brethren in worldly Pomp, and do tend to the hindrance of the Ministry. A Spurious piece and never ratified by Parliament. † Never prohibited by any Act of Parliament. (a) These were confirmed by Parliaments and never repealed, and now first most illegally called in question without authority of Parliament.

Fifthly, The keeping and authorizing corrupt Assemblies at *Linlithgow* 1606, and 1608; at *Glasgow*, 1610; at *Aberdeen*, 1616; at *St. Andrews*, 1617. at *Perth*, 1618. (a) Which are all null and unlawful, as being called and constituted quite contrary to the Order and Constitutions of this

'this Kirk, received and practised ever since the Reformation of Religion; and withal labouring to introduce Novations into this Kirk, against the Order and Religion established.

* Is this Assembly without the King's consent of more validity than six former Assemblies confirm'd by King and Parliament?

'A Sixth Cause, Is the want of lawful and free General Assemblies, rightly constitute of Pastors, Doctors, and Elders, yearly or oftner, *pro re nata*, according to the Liberty of this Kirk, expressed in the Book of Policy, and acknowledged in the Act of Parliament, 1592. After which * *the whole Assembly in one heart and voice did declare*, That these and such other, proceeding from the neglect and breach of the National Covenant of this Kirk and Kingdom made in 1580. have been indeed the true and main Causes of all our Evils and Distractions: And therefore ordain, according to the Constitutions of the General Assemblies of this Kirk, and upon the grounds respective above specified, That the aforesaid Service-Book, Books of Canons, and Ordination, and the High-Commission, be still rejected: that the Articles of Perth be no more practised; that Episcopal Government, and the Civil Places and Power of Kirk-men, be holden still as unlawful in this Kirk; That the above-named pretended Assemblies, at Linlithgow, 1606. and 1608. at Glasgow 1610. at Aberdeen 1616. at St. Andrews 1617. at Perth 1618. be hereafter accounted as null, and of none effect. And that for preservation of Religion, and preventing all such Evils in time coming, General Assemblies right-ly constitute, as the proper and competent Judge of all Matters Ecclesiastical, hereafter be kept yearly, and oftner, *pro re nata*, as occasion and necessity shall require; the necessity of these occasional Assemblies being first remonstrated to his Majesty by humble Supplication: As also, that Kirk-Sessions, Presbyteries, and Synodal Assemblies, be constitute and observed according to the Order of this Kirk.

After the voicing of the Act (anent the Causes of our by-gone Evils) his Majesties Commissioner consented [verbally] to the said Act, and promised to give in to the Clerk in Writ, the Declaration of his Consent, and that he should ratifie this Act in the ensuing Parliament.

Thirdly, An Act for the keeping of the Lord's Day, by prohibiting the going of Milnes, Salt-pans, Salmon Fishing, or any such like labour, and accordingly the Act of the Assembly holden at Holy-wood-House thereanent was revived.

Fourthly, The Supplication of that Assembly to the Lord Commissioner against a Book call'd the large Declaration (*whereat they were much troubled, and with good reason for that therein their actions were laid open and exposed to their perpetual Infamy to the whole World*) that the said Book might be called in, and that the suspected Author Dr. Bolcanqual, Dean of Durham, a Native of their Kingdom, might be sent thither to abide his Trial [which would have been more than Ordeal] &c. Herewith the Lord Commissioner said he would acquaint his Majesty.

Fifthly, The Supplication of the Assembly to the Lord Commissioner, and the Lords of the Secret Council.

WE the General Assembly, considering with all humble and thankful acknowledgment, the many recent Favours bestowed upon us by his Majesty; and that there resteth nothing for crowning his Majesties incomparable Goodness towards us, but that all the Members of this Kirk and Kingdom be joined in one and the same Confession and Covenant with God, with the King's Majesty, and amongst our selves. And conceiving the main Let and Impediment to this so good a Work, and so much wished by all, to have been the Informations made to his Majesty, of our Intentions to shake off Civil and Dutiful Obedience due to Sovereignty, and to diminish the King's Greatness and Authority: And being most willing and desirous to remove this, and all such Impediments which may hinder and impede so full and perfect an Union, and for the clearing of our Loyalty, We in our own Names, and in the Names of all the rest of the Subjects and Congregations whom we represent, do now in all humility represent to your Grace, his Majesties Commissioner, and the Lords of his Majesties most Honourable Privy-Council, and declares before God and the World, that We never had nor have any thought of withdrawing our Selves from that humble and dutiful Obedience to his Majesty, and to his Government; which by the descent, and under the Reign of one hundred and seven Kings, is most cheerfully acknowledged by us and our Predecessors; and that we never had, nor have any intention or desire to attempt any thing that may tend to the dishonour of God, or the diminution of the King's Greatness and Authority: But on the contrary, acknowledging our quietness, Stability, and Happiness, to depend upon the safety of the King's Majesties Person, and maintenance of his Greatness and Royal Authority, who is God's Vicegerent set over us, for the maintenance of Religion, and ministration of Justice, we have solemnly sworn, and do swear, not only our mutual Concurrence and Assistance for the Cause of Religion, and to the uttermost of our power, with our Means and Lives, to stand to the defence of our Dread Sovereign, his Person and Authority, *In preservation and defence of the true Religion, Liberties, and Laws of this Kirk and Kingdom*; but also in every Cause which may concern his Majesties Honour, shall accordingly to the Laws of this Kingdom, and the Duties of good Subjects, concurr with our Friends and Followers, in quiet manner, or in Arms, as we shall be required of his Majesty, his Council, or any having his Authority. And therefore being most desirous to clear our selves of all Imputation of this kind, and following the laudable Example of our Predecessors, 1589. do most humbly supplicate your Grace, his Majesties Commissioner, and the Lords of his Majesties most Honourable Privy-Council, to enjoin by Act of Council, that the Confession and Covenant, which, as a Testimony of our Fidelity to God, and Loyalty to our King, we have subscribed, be subscribed by all his Majesties Subjects, of what rank and quality soever.

Not otherwise if they did imagine their Religion or Liberties invaded.

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1639. The King's Majesties Commissioners
Declarations.

THE which day his Majesties Commissioner, and Lords of Council, after the receiving of the Supplication of the General Assembly, anent the *subscribing of the Covenant*, having returned to the Assembly, his Majesties Commissioner, in Name of the Council, declared, That he had received the Supplication of the Assembly, desiring that the *Covenant* might receive the force of an Act of Council, to be subscribed by all his Majesties Subjects, that they had found the Desire so fair and reasonable, that they conceived themselves bound in duty to grant the same, and thereupon have made an Act of Council to that effect; and that there rested now the Act of Assembly. And that he himself was so fully satisfied, that he came now as his Majesties Commissioner, to consent fully unto it; and that he was most willing that it should be Enact here in this Assembly, to oblige all his Majesties Subjects to subscribe the said *Covenant*, with the Assemblies Explanation. And because there was a third Thing desired, his Subscription as the King's Commissioner, unto the *Covenant*, which he behoved to do, with a Declaration in Writ; and he declared as a Subject, he should subscribe the *Covenant* as strictly as any, with the Assemblies Declaration: But as his Majesties Commissioner, in his Name behoved to prefix to his Subscription, the Declaration following, which no Scots Subjects should subscribe, or have the benefit of, no nor himself as Earl of *Traquair*; the Tenour whereof follows.

SEeing this Assembly, according to the laudable Form and Custom heretofore kept in the like Cases, have in an humble and dutiful way, supplicate to us his Majesties Commissioner, and the Lords of his Majesties most Honourable Privy-Council, That the *Covenant*, with the Explanation of this Assembly, might be subscribed. And to that effect, that all the Subjects of this Kingdom, by Act of Council, be required to do the same; and that therein, for vindicating themselves from all suspicions of Disloyalty, or derogating from the Greatness and Authority of our Dread Sovereign, have therewith added a Clause, whereby this *Covenant* is declared one in substance with that which was subscribed by his Majesties Father (of blessed Memory) 1580, 1581, 1590, and often since renewed. Therefore as his Majesties Commissioner, for the full satisfaction of the Subjects, and for settling a perfect Peace in Church and Kingdom, do, according to my foresaid Declaration and Subscription, subjoined to the Act of this Assembly, of the Date the seventeenth of this Instant, allow and consent that the *Covenant* be subscribed throughout all this Kingdom. In Witness whereof I have subscribed the Premises.

Like as his Majesties Commissioner Car. 15.
read and gave in the Declaration
following, of his consent to the Act
of the Assembly, August 17, anent
the Causes of our By-gone Evils.

John Earl of *Traquair*, his Majesties Commissioner in this present Assembly, do in his Majesties Name declare, That notwithstanding of his Majesties own Inclination, and many other grave and weighty Considerations, yet such is his Majesties incomparable Goodness, that for settling the present Distractions, and giving full satisfaction to the Subject, He doth allow, like as I his Majesties Commissioner do consent to the foresaid Act, and have subscribed the Premises.

Like as his Majesties Commissioner read
and gave in the Declaration fol-
lowing.

IT is alwaies hereby declared, by me his Majesties Commissioner, That the Practice of the Premises, prohibited within this Kirk and Kingdom of *Scotland*, shall never bind nor infer Censure against the Practices without the Kingdom. Which when the Commissioner desired to be Insert in the Register of the Kirk, and the Moderator, in the Name of the Assembly, refused to give Warrant for such practice, as not agreeable with a good Conscience. His Grace urged, that it should be recorded at least that he made such a Declaration, whatsoever was the Assemblies Judgment in the contrary; and so it is to be understood to be insert here only recitative.

Act ordaining the Subscription of the
Confession of Faith and Cove-
nant, with the Assemblies Declara-
tion.

THE General Assembly considering the great Happiness which may flow from a full and perfect Union of this Kirk and Kingdom, by joining of all in one and the same *Covenant* with God, with the King's Majesty, and amongst our Selves, having by our great Oath declared the Uprightness and Loyalty of our Intentions in all our Proceedings; and having withal supplicated his Majesties High Commissioner, and the Lords of his Majesties Honourable Privy-Council, to enjoin by Act of Council, all the Lieges in time coming to subscribe the *Confession of Faith and Covenant*, which is a Testimony of our Fidelity to God, and our Loyalty to our King, We have subscribed. And seeing his Majesties High Commissioner, and the Lords of his Majesties Honourable Privy-Council, have granted the desire of our Supplication, ordaining by Civil Authority, all his Majesties Lieges in time coming, to subscribe the foresaid *Covenant* that our Union may be the more full and perfect, We by our Act and Constitution Ecclesiastical, do approve the foresaid *Covenant*, in all the Heads and Clauses thereof, and Ordains of new under all
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Ecclesiastical Censure, That all the Masters of Universities, Colledges, and Schools; all Scholars at the passing of their Degrees; all Persons suspect of Papistry, or any other Error; and finally, all the Members of this Kirk and Kingdom subscribe the same, with these words prefixed to their Subscription. The Article of this Covenant, which was at the first Subscription referred, the Determination of the General Assembly being determined, and that thereby the Five Articles of Perth; the Government of the Kirk by Bishops; the Civil Places and Power of the Kirk upon the Reasons and Grounds contained in the Act of the General Assembly, declared to be unlawful within this Kirk, We subscribe, according to the Determination aforesaid; and ordains the Covenant, with the Declaration, to be insert in the Registers of the Assembly of this Kirk, General, Provincial, and Presbyterial, *ad perpetuam rei memoriam*; and in all humility humbly supplicates his Majesties High Commissioner, and the Honourable Estates of Parliament, by their Authority to ratifie and enjoyn the same under all Civil Pains, which will tend to the Glory of God, Preservation of Religion, the King's Majesties Honour, and perfect Peace of this Kirk and Kingdom.

Sess. 24. 30 Aug. a meridie.

The Assemblies Supplication of the King's Majesty.

Most Gracious Sovereign,

WE your Majesties most humble and loyal Subjects, the Commissioners from all the parts of this your Majesties ancient and native Kingdom, and Members of the National Assembly, convened at Edinburgh by your Majesties special Indiction, and honoured with the presence of your Majesties High Commissioner, have been waiting for a day of Rejoycing, and of solemn Thanksgiving to be rendred to God by this whole Kirk and Kingdom, for giving us a King so Just and Religious, that it is not only lawful for us to be Christians under your Majesties Government, which sometime hath been the greatest praise of great Princes, but also that it hath pleased your Gracious Majesty to make known, That it is your Royal Will and Pleasure, that all Matters Ecclesiastical be determined in free National Assemblies, and Matters Civil in Parliament; which is a most noble and ample expression of your Majesties Justice; and we trust shall be a powerful means of our common Happiness under your Majesties most blessed Reign. In the mean while we do most humbly from our hearts, bless your Majesty for that Happiness already begun in the late Assembly at Edinburgh; in the Proceedings whereof, next under God, we have laboured to approve ourselves unto your Majesties Vicegerent, as if your Majesties Eyes had been upon us; which was the desire of our Souls, and would have been the Matter of our full rejoycing; and do still continue your Majesties most humble Suppliants for your Majesties Civil Sanction and Ratification of the Constitutions of the Assembly in Parliament; that your Majesties Prince's Power,

and the Ecclesiastical Authority joyning in one, the mutual Imbracements of Religion and Justice, of Truth and Peace, may be seen in this Land, which shall be to us as a Resurrection from the Dead; and shall make us, being not only so far recovered, but also revived, to fill Heaven and Earth with our Praises, and to pray that King Charles may be more and more blessed, and his Throne established before the Lord forever.

Car. 15.

And the Assembly (without asking the Commissioners leave) appoint the next Assembly to convene at Aberdeen, the last Tuesday of July next, in the Year 1640.

And now we come to the Parliament which met in August, at the time appointed, where the Covenanters deny to his Majesty the most essential and inherent Prerogatives of his Crown; as that no Coyn should be medled with, but by advice of Parliament; a Prerogative peculiar to the Crown, and in any other person High Treason in all Kingdoms in the World: No Stranger to be admitted to command any of the King's Towns, Cities, or Castles, but by advice of Parliament; as if the King had been an Infant, or not an absolute Prince. That no Honour should be given by the King in Scotland to any Stranger, but to such who had a competency of Land there; and this they did to cry Quit with the English Nobility, who had formerly petitioned against the Scots. That no Lieutenantcy or Justiciary should be granted by the King to any, but for a limited time; whereas many of themselves, at that instant, had Hereditary Rights Judiciary, &c. and now they will limit their Prince for the future. Lastly, they protested against the precedency of the Lord Treasurer and Lord Privy Seal, for which there was no Act of Parliament: Nor for the Chancellor neither. The King is the Fountain of Honour; and 'in the first Branch of his Crown to distribute Honours and Precedency as he pleaseth.

In the next place they strove to alter the Constitutions of Parliament, and frame of Government, as appears by their first Act, which was, that nothing done, or to be done in Parliament, should be valid, except the form of electing the Lords of the Articles (heretofore observed) were altered, contrary to former Parliaments, and the power of the Articles, which have been ever since King David Bruce, more then 300 years. (For the Lords of the Articles prepare all business, bring them to the Parliament, as appears, the fourth Parliament of King James the sixth, cap. 218. and indeed for eschewing impertinent confusion, all Propositions and Motions are to be delivered to the Clerk Register, and by him presented to the Lords of Articles, which now they will not endure.) They urge to confound the third Estate in Parliament, of Bishops, formerly called the first Estate, which King James the sixth, and all his Predecessors before and since the Reformation, were careful to preserve, as appears Anno 1560. when all Church Jurisdiction in the persons of Bishops is alledged to be dissolved. And in Anno 1587. when all Temporalities of Benefices were annexed to the Crown, the Clergy retained still their Vote in Parliament, and represented the third Estate; see the first Parliament of James the sixth, 1587, 1597, 1609. Nay, by a special Act, the eighth Parliament of King James the sixth, it is declared Treason to impugn the three Estates, or to procure the Innovation of the Power and Authority

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1639. Authority of the same three Estates, or any of them; and so these men are thereby now guilty of Treason. And to the Act of Oblivion, they seek to justify themselves, and all their former proceedings, and urge an Act of Justification to be recorded in Parliament, which in truth is contrary to the nature of an Act of Oblivion, as appears in that Act of Oblivion 1563. And whereas by their Article of Pacification, they were to restore to the Subject, Liberty, Lands, Goods, &c. the binding part of the Act, never intended (it seems) to restore Bishops and Ministers, &c. They urge that all Scots assistant to the King shall be made equal, if not more liable to the defraying of their pretended charge in the late Expedition; so that in this point, the King must not only justify his Subjects Rebellion, but contribute his consent to pay their wages.

His Majesty having knowledge of these Extravagancies, commands Traquair, his Commissioner, to prorogue the Parliament till the 14th of November following; which was done accordingly: But he had instruction from his Majesty, That if they should presume to sit still, he should discharge them upon pain of High Treason; but if they should yield obedience thereto, his Majesty would be graciously pleased to admit such persons to his presence, to represent their Desires as they should send. Against this Command they protest, and style it a Declaration of the Parliaments 18. Decemb, 1639.

Whereas John Earl of Traquair, his Majesties Commissioner, having closed the Assembly, and sitting in Parliament with them, did now take upon him, without their Consent, or Offence given, to Prorogue the Parliament upon a private Warrant; this being a new and unusual way, without President in this Kingdom heretofore, once being convened, have continuation by the express consent of the Estates. We therefore declare, That any Prorogation made by the Commissioner's Grace, without consent of Parliament, shall be of no Force, and the Actors to be censured in Parliament. And knowing that Declarations have been published against us, and our Proceedings made odious to such as do not consider that we are not private Subjects, but a sitting Parliament: We therefore declare, That whatsoever we might do lawfully in sitting still, yet we have resolved for the present to make Remonstrance to his Majesty, and some of each Estate to remain still at Edinburgh to attend his gracious Answer. And if it shall happen that our malicious Enemies do notwithstanding prevail against us, we profess our selves free of the Outrages and Insolencies that may be committed; in the mean time we do our best to prevent Confusion and Misery.

And the Committee appointed to expect the King's Answer, were, the Earls of Lothian and Dalhousie; the Lords Yester, Balmerino, Cranston, and Napier; for the Barons, the Commissioners of the Lothians, Fife, and Tweedale; the Burroughs named the Commissioners of Edinburgh, Lithgow, Steyning, Haddington, and Dunbar, to attend at Edinburgh the return of his Majesties Answer.

Their Deputies, the Earl of Dunfermling and the Lord Lowdon, coming to Whitehall, but without warrant from the King's Commissioner Traquair, were refused Audience, and commanded

home again: After this the Covenanters send their Petition to his Majesty for Audience, by one Cunningham, which his Majesty granted; and accordingly the foregoing Lords, together with Sir William Douglass and Berkley of Derreyn, were commanded to attend the King.

In this Interval his Majesty commands Traquair to come to Court, and to give an account of the proceedings in the late Assembly and Parliament, with whom certainly his Majesty was much displeased, for that he had subscribed the Covenant offered him by the Covenanters, he being his Majesties Commissioner, without his leave or approbation, and had permitted likewise the Lords of the Secret Council to do the like. Traquair to rid himself of this trouble, and to obtain his Majesties good Opinion, lays open to his Majesty the secret Practices and Intentions of the Scots, adviseth him to invade Scotland in Person, that there was no other way to deal with those Scots: Counsel perhaps plausible enough; in which, 'tis said, he had the assistance and concurrence of Hamilton, both of whom the Covenanters hereafter hated, and termed them Incendiaries; however, Traquair performed (be his Instructions what they will) one good piece of Service, in delivering to his Majesty a Letter which he had got from the Covenanters, written to the French King, desiring his Protection and Assistance. Absolute Treason by the Laws of Scotland, for any of his Subjects to treat with a Forreign Prince without his knowledge or permission; but of this Letter more hereafter: Notwithstanding all Traquair's endeavours to beget in his Majesty a good Opinion of his Fidelity, many persons did not stick openly to lay no less than Treason to his Charge, more particularly the Archbishop of St. Andrews, the Bishops of Ross and Breichen, Peers of Scotland, subscribed the Charge *sub pena talionis*, according to the Laws of Scotland, if they should not make good the Matters they accused him with: But this matter fell to the ground by reason of the Troubles which ensued.

It may not perhaps be amiss in respect frequent mention hath been made in this Collection of the Articles of Perth, to give the Reader an account of them: They were made 1618. and were these following:

First, Kneeling in the taking of the Communion, and out of the Ministers hands, whereas it was before taken sitting on their breech, and the Bread taken by themselves out of a Bason, and the Cup from one another, as if they were drinking to others, and the Beadle filling up the Cup, as it was emptied, out of a Flagon, which he filled in the Belfrey, as it was spent.

Secondly, Private Communion to sick persons that were not able to come to Church, to be given with three or four Communicants besides.

Thirdly, Private Baptism, in case of necessity that the Child is so sick, or weak, that he cannot be brought to Church without eminent danger of death, and to declare it to the Congregation the next Sunday thereafter.

Fourthly, Confirmation of Children after the Primitive way, which was, the bringing of them at eight, nine, or ten years of age, to the Bishop of the Diocese, to give him account of their Christian Faith, and receive his encouragement, commendation and benediction, to make them continue careful in it, as they were

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Fifthly, Festival days, only five to be kept, viz. The Days of our Saviour's Birth, Passion, Resurrection, Ascension, and Descent of the Holy Spirit.

Now let any man of reason judge, Whether any of these could truly fall under the Censure of Popery; and if any man of any Reason or Learning would not rather follow the practice of the purest Primitive times in these, as likewise in those that were condemned for *Arminianism* by the Council of *Dort*, than new *Calvinistical, Presbyterian* Inventions, contrary to all Antiquity.

If you desire to be further informed there-*anent*, see the four and twenty *Demands* or *Questions* of the six *Divines* of *Aberdeen*, and their *Replies* and *Duplies* never sufficiently answered; against *Alexander Henderson*, *David Dickson*, and *Andrew Gaunt*, the three leading *Covenanting* Ministers.

We have mentioned the *Articles* of *Pacification* subscribed in the King's Camp, which were afterwards falsified by the *Scots*, at their return home, that they might the better satisfy their own people. The false Paper was burnt here by order of Council, by the hand of the Common Hangman in *Smithfield*; and hereafter followeth.

The Scots false Paper which was burnt.

AS for the Preface and Conclusion of his Majesty's last Declaration, although it contained hard expressions of the Subjects in Scotland, yet his Majesty declared, that he had no such opinion of them, but required this Paper to stand for his credit, and for a point of honour with Foreign Nations, and required they should not stand with him for words and expressions, so be that they obtained the Matter.

Secondly, As for his calling the late Assembly, pretended; seeing the Subjects of Scotland professed they would never pass from the said Assembly and Decrees thereof, his Majesty professed, as he did not acknowledge that Assembly further than as it was registrate His Declaration, so would he not desire the Subjects to pass from the same.

Thirdly, Concerning the Constitution of the Assembly, it was shewn to his Majesty that none could be Members of the Assembly, but such as had a Commission, viz. two or three Ministers from every Presbytery, with a ruling Elder, one from each Burrough and University, and his Majesty's Commissioner. His Majesty contended that his Assessors had Vote, and upon an Expression in his Majesty's Declaration, that referred to some Reasons contained in former Proclamations, which were totally against the lawfulness of Ruling Elders; It was desired that according to the customs of this Kirk, all Controversies arising should be remitted to the Assembly it self. His Majesty had some Expressions craving these to be remitted to himself; but being told that it was against the Constitutions of the Kirk, to have any other Judge but the Voicer of the Assembly, where his Majesty or his Commissioner should

be present, and give the first voices. It was concluded, that the word free Assembly in his Majesty's Declaration, did import the freedom in judging all questions arising there, concerning Constitution, Members or Matter.

Observations. Then the King had no Negative Voice, only one Affirmative, as the meanest Ruling Elder had.

By the second Article of Pacification, all Acts were to be delivered presently to the King.

The fourth and seventh Articles of Pacification are absolute, and the King accordingly performed the fourth, but the Covenanters invented a backdoor to elude the seventh, contrary to the words of it.

Fourthly, Concerning the restitution of the Castles, as the Subjects did it freely, so did they express, that what might concern the safety of the Countrey they referred to the time of the Parliament, at which time they should signify their desires by Petition to his Majesty. As also they told, it had cost much Charges in fortifying and keeping thereof; the representation whereof to his Majesty they referred to that time.

Fifthly, Concerning the restitution of Persons Goods and Houses required by his Majesty, it was promised, providing that the great Sums contracted to the publick were repaid in an equal way by all, which behoved to be done either by Commission from his Majesty, or by Parliament. And when it was objected, That much Goods were already spent, the King answered, That as for Goods or Ammunition that was spent, they could not be restored, but these that are extant must be rendered.

Sixthly, His Majesty not allowing of the late Assembly, for the Reasons contained in the several Proclamations, being excepted against as a Declaration of his Majesty's Judgment against Ruling Elders, which prejudged the right Constitution of a free Assembly, his Majesty after a full Hearing deleted that Clause.

Seventhly, That part of his Majesty's Declaration which bears, that no other Oath be exacted of Jurants then that which is contained in the Act of Parliament; as also that Clause bearing, that the pretended Bishops, &c. shall be censurable by the General Assembly, being excepted against as presupposing and importing the continuance of Episcopacy, which we could not acknowledge as being incompatible with the Confession of Faith, and Constitution of the Kirk. His Majesty was pleased to delete both these Clauses.

Eighthly, And it being with all humility and instance pressed, Saturday, June 15. that his Majesty would satisfy that main desire of his Subjects, by declaring, that his Majesty would quit Episcopacy, did answer, That it was not sought in our Desires. And when it was replied, That our first desire to have the Acts of our General Assembly ratified, imported the same, His Majesty acknowledged it to be so, and averred, That he did not refuse it, but would advise till Munday the seventeenth. At which time his Majesty being pressed to give some signification of quitting Episcopacy, and it being shewn to his Majesty, that if he would labour to maintain Episcopacy, it would breed a miserable Schism in this Kirk, and make such a rupture and division in this Kingdom, as would prove incurable: And if his Majesty would let the Kirk and Country

Country be freed of them, his Majesty would receive as hearty and dutiful obedience as ever any Prince received of a People. His Majesty answered, That he could not prelimit and forestall his—voice, but had appointed a free Assembly which might judge of all Ecclesiastical Matters, the Constitutions whereof he promised to ratify in the ensuing Parliament.

His Majesties Declaration gives us the true Articles, and hereafter followeth.

That though we cannot condescend to ratify and approve the Act of the pretended General Assembly at Glasgow, for many grave and weighty considerations, which have happened both before and since, much importing the security and honour of that true Monarchical Government lineally descended upon us; yet we are pleased to confirm and make good whatever Our Hamilton Commissioner granted. And that all Matters Ecclesiastical shall be determined by the Assemblies of the Kirk, and Matters Civil by the Parliament, and other inferiour Judicatories established by Law, which Assembly shall be kept once a year, or as shall be agreed upon by the General Assembly, and Our Commissioner for the time being.

That a free and General Assembly be kept at Edinburgh the sixth of August next, where we intend, God willing, to be personally present, and thereafter a Parliament the twentieth of August, and there an Act of Oblivion to be passed.

And that upon their disarming and disbanding of their Forces, dissolving and discharging all their pretended Tables and Conventicles, and restoring to the King all his Castles, Forts, and Ammunition, as also his Royal Honours, and to every one of his good Subjects their Liberties, Lands, Houses, Goods, and Means whatsoever, taken and detained since the late pretended General Assembly; the King will presently thereafter recall his Fleet, and retire his Forces, and cause restitution of their Ships and Goods since the aforesaid time.

And since hereby it appears, His Majesty intends not any alteration of Religion or Laws, He expects their dutiful obedience. And he takes God to witness, That whatever Calamities shall ensue, by his necessitated suppressing of the Insolent Disobedience, is not occasioned by him, but by their own procurement.

The Articles of Pacification were these, the Seventeenth of June, 1639.

1. **T**he Forces of Scotland to be disbanded and dissolved, within twenty four hours after the agreement of the King's Declaration.

2. The King's Castles for Ammunition and Royal Honours to be delivered after the said Publication, so soon as he should send to receive them.

3. His Ships to depart presently after the delivery of the Castles, and in the mean time no interruption of Trade.

4. All Persons Goods and Ships detained by the King, since the first of November, to be restored.

5. No Meetings, Treatings, Consultations,

or Convocations of any of the Scots, but such as are warranted by Act of Parliament.

6. All Fortifications to desist, and to be remitted to the King's Pleasure.

7. To restore to every one their Liberties, Lands, Houses, Goods, and Means whatever, taken and retained from them by whatsoever means, since the first of November last.

The Eighteenth of June, the Declaration was signed by the King, and these Articles by the Scots, with this Submission.

IN Obedience to his Majesties Royal Commands, We shall upon Thursday next, the Twentieth of June, dismiss our Forces, and immediately thereafter deliver His Majesties Castles, &c. and shall ever in all things carry our selves like humble and loyal Subjects.

Signed,

| | |
|-------------|------------|
| Roths | Douglass. |
| Dunfirmlin. | Henderson. |
| Lowdon. | Johnston. |

His Majesty much resenting the falsification of the Treaty, published his Proclamation, called an Act of State, as followeth.

Whereas a Paper containing many Falshoods, and tending much to the Dishonour of his Majesties late Proceedings in the Pacification given to his Subjects of Scotland, hath ben dispersed in divers parts of this Kingdom; whereupon an Act of Council hath ben made in these words ensuing:

On Sunday the fourth of August, 1639: His Majesty being in Council, was pleased to acquaint the Lords with a Paper he had sen at Berwick, entitled, Some Conditions of his Majesties Treaty with his Subjects of Scotland are set down here for remembrance. Which Paper being in most parts full of falshood, Dishonour and Scandal to his Majesties proceedings in the late Pacification, given of his Princely Grace and Goodness to his Subjects of Scotland, hath been very frequently spread here in England, and avowed by some in Scotland to have been approved and allowed as Truth by some of those Lords of England, who attended his Majesty, and were present at the Pacification in the Camp. Whereupon the Paper having been read, and his Majesty commanding those English Lords to declare their knowledge therein; The Earl-Marshal first began to put his Majesty in remembrance, that some few days after the Pacification was concluded, some of the Scottish Lords coming to the Lord Chamberlain's Tent, sent to speak with him and the Earl of Holland, and offered them a certain Paper, which they pretended to have been collected for the help of their Memories, and not otherwise, nor to be published: But the said English Lords very dutifully and discreetly refused to accept that or any such Paper, but referred themselves totally to the Pacification in Writing. And the said Earl-Marshal further declared, That now upon

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upon the reading, he for his part held the said Paper for the most part false and scandalous, and no way agreeable to what his Majesty expressed at the Pacification.

Next the Lord Chamberlain declared, That he being ready to take Horse, and a number of his friends about him taking their leave, the Lord Lowdon pressed him with much importunity to receive a Paper, which he took, not knowing what it contained; but at night when he came to his Lodging, doubting it might be some such Paper as had been formerly offered, and was refused, took it, without reading it, and sealed it up, and so kept it till he presented it to his Majesty at Whitehall, professing that till that time he had never read any one word of it, nor seen any other Copy thereof. Which Paper being that which had been divulged, was the same which his Majesty had commanded to be read at the Board.

The Earl of Salisbury likewise desired to justify himself of a particular Scandal laid upon him, That he had received and brought Copies of this Paper from the North; which he declared could not be, because he was come away from the Camp before that Paper had been offered, and that he had never seen that, nor any Copy thereof, before his Majesties return to Theobalds.

After this the Lord Chamberlain, the Earls of Salisbury, Holland, and Barkshire, concurred with the Earl Marshal, That the Contents of that Paper were for the most part notoriously scandalous and false, and contrary to what his Majesty clearly expressed at the Pacification.

His Majesty likewise declared, That before his coming from Berwick, he shewed a Copy of this scandalous Paper to the Earl of Lindsey, the Earl of Holland, Master Treasurer, and Master Secretary Cook, who fully concurred in the aforesaid Opinion with the other Lords. All which Lords, and particularly the Earl of Holland, avowed the falseness thereof to the faces of those Scottish Lords who were believed to be the Divulgers of it, (the Lords of the Council of Scotland being there likewise present).

All which considered, the whole Board unanimously became humble Petitioners to his Majesty, That this false and scandalous Paper might be publicly burnt by the Hangman.

Not long after his Majesties return from Berwick, there hapned a notable Sea-fight in the Downs, betwixt the Spanish and Holland Fleet, which, because 'tis variously reported as to the Grounds of it, as if the Spaniards had some designs, either upon England or Scotland, (though altogether improbable) the Reader may make his judgment thereof as he pleaseth; and the Relation he may take from Sir John Pennington the English Admiral, as followeth.

The Engagement between the Spaniards and the Hollanders in the Downs.

Car. 15.

THE Spanish Fleet consisting of near seventy Sail, bound and designed for *Dunkirk* in *Flanders*, with a recruit both of men and money, met with the Vice-Admiral of the *Holland* Fleet, having in his Company seventeen tall Ships, *Septemb.* the 7. and entred a very fierce Dispute between them, until the *Hollander* perceiving himself too weak, got to the wind-ward, sailing along with them towards *Dunkirk*, continually firing their Ordnance to give warning to their Admiral, who lay before *Dunkirk* with the residue of the Fleet; in this Encounter the *Hollander* had two Ships sunk. The next morning by two of the Clock the Admiral came up, and joyned with the Vice-Admiral, between *Dover* and *Calais*, they set upon the *Spaniard*, and continued a very sharp Fight till past Noon, wherein they had much the better, having taken two *Gallions*, sunk another, and much shattered the rest, though they were but twenty five Sail, to the *Spaniards* sixty and upwards, and at length forced them upon the *English* Coast near *Dover*; where they left them, and bare off for the Coast of *France*, not willing to attempt any thing against them within the King of *England's* Liberties.

The *Spaniards* being now got, as they thought, under the lee of *England's* protection, began to plot how to get rid of their bad Neighbours. And the Spanish Resident importuned the King, that he would keep the *Hollander* in subjection two Tydes, that in the interim they might have the opportunity of shipping away for *Spain*; but the King being in amity with them both, was resolved to stand neuter, and whereas the *Spaniards* had hired some *English* Ships to transport their Souldiers to *Dunkirk*, the King upon complaint of the *Dutch* Ambassador, strictly commanded that none should take in any *Spaniards*, nor pass beyond *Graves-end* without License; but the *Spaniards* and the *Hollanders*, plotting a great while counter the one to the other, the *Spaniard* at length somewhat out-witted his Enemy, and by a stratagem in the night conveyed away fourteen *Dunkirk* Ships, and in them four thousand men.

In the beginning of *October*, the King sent the Earl of *Arundel* to the Admiral of *Spain*, *Don Antonio d'Oquendo*, desiring him to retreat upon the first fair wind, because he would not they should engage within his Seas; but the wind continued Eastwardly so long (a thing not usual at that season) as the *Hollanders* had daily fresh supply from *Zealand*, so that at length their Armado was compleated to an hundred Ships, wherewith they encompassed their Enemies within Pistol shot for some days. But that which was so long an interview of these two great Fleets, at last turned to an Engagement.

For the eleventh of the same Month *Van Trump* the *Dutch* Admiral, charged the *Spaniards* with Cannon and Fire-ships so furiously, as made them all cut their Cables, and being fifty three in number, twenty three ran on shoar and stranded in the Downs, whereof three were burnt, two sunk, and two perished on the shoar: One of these was a great Gallion the Vice-Admiral of *Gallatia*, *Don Andrea de Casiro*, and had fifty two brass Pieces of

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Anno 1639. Ordinance: The remainder of the twenty three deferred by the *Spaniards*, who went to land, were mann'd by the *English* to save them from the *Dutch*. The other thirty *Spanish* Ships under the command of the Admirals *Don Antonia's* Oquendo, and *Lopus* of *Portugal*, went to Sea, and kept in close order, until a great Fogg fell upon them, when the *Dutch* taking his advantage, interposed betwixt the Admirals and their Fleet, and fought them valiantly till the Fogg cleared up, when the Admiral of *Portugal* began to flame, being fired with two *Holland* Fire-ships, which *d' Oquendo* perceiving, he presently took his course towards *Dunkirk*, with the Admiral of that place, and some few Ships more; for most of the rest were taken; of these thirty, eleven were sent Prisoners into *Holland*, three perished upon the Coast of *France*, one near *Dover*, five sunk in the Fight, and only ten escaped. This Narration was sent from *Van Trump* himself to *Joachimi* the then *Dutch* Agent here.

The first apparition of this *Armado* upon our Coast, was beheld by Country people as a representation of that *Invincible* One in 88. and that the main Design of this, was like that, an Invasion. They thought the imbarquing of twenty five thousand Land-Souldiers, besides Mariners, were too many for a recruit. They thought the Admiral of *Naples* his refusal to shew his Commission, though required by the King, was but of ill signification; they wondered that the Town of *Dunkirk* should so much dispute the reception of the four thousand which were conveyed thither, till the Cardinal *Infanta* sent express order, had those Forces been designed for their recruit. And this perswasion is so implanted in many, as it is still very difficult to make them unbelieve it: Or not knowing, or not considering, that those Souldiers were unarmed, very few Officers amongst them, and the whole Fleet so poorly accommodated for Invasion, as they had not Powder enough for their own Defensive Offence, so that when they lay at Anchor in the *Downs*, *London* was their chief Magazine, from whence they had their constant and daily supply.

These two potent Enemies (saith one) being both Friends to *England*, the *British* Seas ought by rule of State to have been an Harbour of Retreat to secure the weaker from the stronger, not the Scene of their Hostile Engagement; and had this presumptuous attempt of the *Hollander* met with a King, or in Times of another temper, it would not, it's like, have been so silently connived at, and their Victory might have cost them the loss of *England's* Correspondence. But *Self-denial* is a *Christian*, not a *Martial* Vertue; and who is able to resist the temptation of an Advantage, whereby he may destroy his Foe, upon the nicety of exceeding his just limits? Besides the King, the *Dutch* well knew, was of a *genius*, as not querulous, so if provoked, very placable; and the disposition of his Affairs, as well as of his mind, dissuaded from expostulating the matter with them.

In regard of this Contempt of the *Dutch*, his Majesty and Council resolve for the Equipping of a good Fleet, to be set forth immediately, not only for the asserting of the Dominion of the *Narrow Seas*, but also for the Defence of the Realm, Nov. 10.

Writs to be issued for Ship-money, and a list of the Ships. Car. 15.

It was this day resolved by his Majesty, with Advice of the Board, that there shall be issued Writs forthwith to all the Counties of *England* and *Wales*, and to the Corporations within the same, for the setting forth and furnishing in warlike manner of Ships for the defence of the Realm, according to the List herewith sent; the said Ships to be ready at the same Rendezvous by the first of *April*; and the Time for the first Assessment to be within thirty days after the receipt of the Writs respectively. Whereof his Majesties Attorney General is to take notice, and to prepare a Warrant ready for his Majesties signature, directed to the Lord Keeper, to issue out the Writs accordingly. And a Minute of Letters and Instructions is to be prepared for the expedition of this Service.

Distribution of Ships to the several Counties of *England* and *Wales*, with their Tunnage and Number of Men, as the same was ordered to stand this present Year.

| | Ships. | Men. | Tuns. |
|---|--------|------|--------------|
| <i>Berke</i> | I | 128 | 320 |
| <i>Buckingham</i> | I | 144 | 360 |
| <i>Bedford</i> | I | 096 | 240 |
| <i>Bristol</i> | I | 026 | 064 |
| <i>Cornwall</i> | I | 176 | 440 |
| <i>Cambridge</i> | I | 112 | 280 |
| <i>Cumberland</i> and <i>Westmoreland</i> | I | 045 | 112 |
| <i>Chester</i> | I | 096 | 240 |
| <i>Devon</i> | I | 288 | 720 |
| <i>Darby</i> | I | 112 | 280 |
| <i>Dorset</i> | I | 160 | 400 |
| <i>Duresm</i> | I | 064 | 160 |
| <i>Essex</i> | I | 256 | 640 |
| <i>Glocester</i> | I | 176 | 440 |
| <i>Hampshire</i> | I | 192 | 480 |
| <i>Hereford</i> | I | 112 | 280 |
| <i>Huntingdon</i> | I | 064 | 160 |
| <i>Hertford</i> | I | 128 | 320 |
| <i>Kent and Pors</i> | I | 256 | 640 |
| <i>Lancaster</i> | I | 128 | 320 |
| <i>Leicester</i> | I | 144 | 360 |
| <i>Lincoln</i> | I | 256 | 640 |
| <i>London</i> | 2 | 448 | 1120 |
| <i>Middlesex</i> | I | 160 | 400 |
| <i>Monmouth</i> | I | 048 | 120 |
| <i>Northampton</i> | I | 192 | 480 |
| <i>Nottingham</i> | I | 112 | 280 |
| <i>Northumberland</i> | I | 068 | 168 |
| <i>North-Wales</i> | I | 128 | 320 |
| <i>Norfolk</i> | I | 253 | 624 |
| <i>Oxon</i> | I | 112 | 280 |
| <i>Rutland</i> | I | 026 | 064 |
| <i>Somerset</i> | I | 256 | 640 |
| <i>Surrey</i> | I | 112 | 280 |
| <i>Sussex</i> | I | 160 | 400 |
| <i>Suffolk</i> | I | 256 | 640 |
| <i>Stafford</i> | I | 096 | 240 |
| <i>South-Wales</i> | I | 160 | 400 |
| | | | <i>Salop</i> |

| Anno | | Ships. | Men. | Tuns. |
|-------|-----------|--------|------|-------|
| 1639. | Salop | 1 | 144 | 360 |
| | Warwick | 1 | 128 | 320 |
| | Worcester | 1 | 112 | 280 |
| | Wilts | 1 | 224 | 560 |
| | Tork | 2 | 384 | 960 |

And in regard several Counties were in Arrears for their Ship-money for several years past, there were directed Letters from the Council-Board to the Sheriffs respectively of those Counties, for the paying in of the said Arrears; and all this was upon very good grounds: For that though the Scots had then their Commissioners here at Court treating with his Majesty, yet they were then secretly preparing for another Invasion, as may appear by an Information given his Majesty from beyond Seas by Sir Thomas Roe, dated Nov. 21. 1639.

‘The Scots (saith he) that are very numerous here, do speak desperately and traiterously, as if there were very ill Resolutions fomented in that Kingdom. Lesley hath written to a Merchant in Bremen, his principal Correspondent in these parts, that he will come hither in March or April for some business, and return with speed. Bremen is the only resort now of the Scots, and the only Port from whence they can securely extract all kind of Arms and Munition. If his Majesty could surprise him, I am perswaded it would be a smart blow to behead a Faction, upon whom the Mutineers do so much rely. To this end, If a small Ship were sent betimes to ride in the River of Weser at Gessendorp, or Hambrake, two or three months, it would not be Charges lost, and would terrifie that Town. The Ship may be sent out secretly, and the Captains Commission, whither he shall go, be opened when he is at Sea; with Directions only to watch Ships bound from or to Scotland, and thus he may perhaps catch the Prey desired. For there can be no advice of his being there in Scotland in a month at least, and in the mean time he may hinder all Provisions to be transported thither. But if that way shall be thought too open, his Majesty may write an effectual Letter to the Archbishop of Bremen, to Arrest his Person in that Town, or within his Territory: And another to the King of Denmark, and Magistrates of this Town. Lesley being his Majesties Subject, I am perswaded it cannot be denied, for I have seen the Example fresh in the Palatinate, at the Instance of the Duke of Holstein. These Letters may lie dormant in mine or Mr. Averies hands, to be used, if there be occasion; if there be none, they may be returned without noise, so the Business be kept secret, which otherwise will but irritate, and do more harm than service.

By which the World may judge of their sincerity in their late Treaty, and as well of the goodness of their Prince, who afterwards seizing several of these Scotch Commanders, and with them Lesley's own Sister, coming from Germany, was graciously pleased to release them, though he very well knew of their actings and intentions.

About this time died Sir Thomas Coventry, Lord Keeper of the Great Seal of England; A Person so incorrupt (saith one) as capitious Malice stands mute in the blemish of his Fame; a person truly loyal, and a good Patriot, &c. to him succeeded Sir John Finch, Chief Justice of the Common Pleas; who, according to his Place, and the Publick Necessities,

requires the Judges in their several Circuits to see to the payment of Ship-moneys; and to the putting of the Laws in Execution.

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The Lord Keeper Finch his Speech to the Judges, to promote Ship-money in their Circuits.

My Lords the Judges,

‘The Term is now done, the House of Justice is broken up, yet Justice goes not from us; for such is the wisdom and goodness of his Majesty, that all his Subjects may have Justice administered unto them in certainty, and with ease and equality. In Term time they know where to find Justice; in the Circuits Justice findeth out them.

‘Your Lordships may know the great Trust, Power, and Authority, that is committed unto you; how the ancient and excellent Institution of Justice in Eyre is transmigrated into you; and it is a thing will well become your Lordships, to uphold the Dignity of your Places, and to preserve that due respect and reverence that is owing unto you by virtue of your Places. It is stoutness and courage and magnanimity, that becomes a Magistrate, nay, should I say severity, I should agree with the saying of the Orator.

‘There are some that affect Popularity, diving into the Peoples hearts with kisses, offerings, and fawnings. This becomes no subordinate Magistrate. It is your part, my Lords, to break the insolencies of such—before it approach too near the Royal Throne. And you cannot too much uphold that reverence and respect that is owing to your Places upon the Bench; when you shall give an account of such as these that misbehave themselves, you, my Lords the Judges, shall quickly see the Commission shall not be troubled with them. The Officers, and all other Ministers of Justice, are to attend you to this like purpose, to receive Information from you. You shall do well to look to them, that they do not oppress the People by unjust exaction and extortion; let them be careful to look to the execution of Justice, for Execution is the Life of the Law; for whosoever by wilfulness or negligence suffereth not the Law to be put in execution, doth as much as in him lieth wound the Law in the Life thereof. Sometimes Sheriffs and Under-Sheriffs can hardly be got to execute any Process at all, or Extents, or Cap. Utlagatum. They will look through their Fingers, and see when and whom they please, sometime for reward, partiality, and affection, or fear of offending Great Ones, or offending a Multitude. For this they have no Plea; for in Law I am sure it was never known, that it was admitted in Court of Justice for a good Return, that a Sheriff could not execute a Writ, he having *Posse Comitatus* at his Command to assist him, to the end that the Law may not be fruitless, and like a dead Letter, but that vigour may be given unto it.

‘While I am speaking to this, I cannot forget to put you in mind of one Particular at least, if I may call it a Particular that doth concern the general Safety and Preservation of the whole Kingdom. His Majesty ever since his happy access to this Crown, hath had a vigilant eye of our Neighbours Estates, and taken into his Princely consideration, out of the affection and love to

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his

Anno 1639. his People, and tender care of their preservation, and the safety of this Kingdom, how active the times are; what preparation is made round about us; what endeavours there are to encrease their Naval Powers in other Nations. It is known well, that the right of the Dominion of the Narrow Seas belong unto the King, and it hath been his Majesties gracious Wisdom, and Providence, and Care over us, that these Storms have been prevented, that perhaps had fallen upon us before we could have discerned them. The King hath many eyes, many ears, and many hands; and it is impossible for every man to attain to that knowledge of Forrein States that he hath. And I will be bold to say, it is a base and unworthy part to suffer it to enter into the heart of any man, that we the Subjects of *England*, that have so just, gracious, and pious a King, to imagine, that unless urgent necessity did require, his Majesty would charge himself and his Subjects without cause. All the World knoweth he reapeth no benefit by it, and certainly it is a malignant humour to think the contrary. The Legality of it hath been already determined, upon as great, a solid and weighty Debate, as ever was in any Cause in *Westminster-hall*: It was his Majesties goodness to have it so. And yet I know not how it comes about, I hope it is out of misapprehension, or false intimation put into the hearts of his People, that there is not alacrity and cheerfulness given to the obedience of his Majesties Writs for Ship-money, that his affection and care of his People doth require. God forbid we should stay for provision of Naval Power, till our Enemies be floating upon us. Let them look to their Duties, I doubt not your Lordships will look to see that there be obedience given, and that those Officers that do neglect their Duties, may be brought to account, that they may know what the displeasure is to disobey his Majesties Commands.

I shall not trouble your Lordships with many particulars, your Lordships better know them than I can tell you: Yet something I have in command from his Majesty.

His Majesty (as all that know him) is the great example of Piety, and of one that daily frequents the House of God, as any Prince in the World: He doth instruct his own People his own way, and commands your care to put that Law in execution, that must bring men to God's House, and when they are there, they shall learn to obey the Law for Conscience-sake, and not for by-respects. You know well that we have two kinds of Opposers of Religion, as it standeth, and against them it is fit you bend your Forces and your Authority. And certainly, when we do consider that for these eighty years and upwards, we have enjoyed such plenty and peace, as no Nation hath had the like; what can we better attribute it unto, than the flourishing of the Gospel among us? And if we shall neglect that great Blessing, all other Blessings will quickly turn into Curses.

The Popish Reculants begin to increase, his Majesty taketh notice of it, he doubteth that there hath not that particular care been taken, in looking to them in all places of the Kingdom, as is fit; your Lordships attend Civil Causes more then that; he commends it to your care, that if it be so now, it be so no more. The Book of Common-Prayer setteth forth the Rights and Ceremonies, establishing the Doctrine of the Church of *England*, to which no just exception can be taken; for God loveth not to have his House empty or waste. Some, out of what hu-

mour I know not, will scarce admit of any Church at all. I wonder under what show of Religion they can shew themselves, when this Book was penned by those that shed their Blood, and sealed it with their Lives.

My Lords, in the next place his Majesty hath commanded me to put you in mind of the great abuse that is in this Kingdom, by the swarming of Rogues, that hath been so often commended unto you, your Lordships shall do well to take course for the suppressing and preventing thereof; and that Men of body and mind may be chosen Constables to execute their places. One great cause of their increase is, that the Houses of Correction, which is the place of their Retreat, are no better looked unto. Your Lordships shall do a great service to the Commonwealth, to take care that there be stricter Course taken of the Houses of Correction, that they may be placed near unto the Gaol.

Another thing is, The excess of Ale-houses, the Nursery of Rogues; in that your Lordships shall do well to take a strict account of them in all places, for the very Number is a Crime.

In the third place, The increase of Rogues is, by reason of their not putting out of Apprentices; the Seed-Plot of Rogues groweth from thence; your Lordships care in this also will be very necessary.

My Lords, I have nothing more to say, your Lordships are so well versed in every thing fit to be given in Charge, that I might be silent.

I shall only conclude with one thing, which is a thing that hath been by the Lords of this Court commended to your care, upon a Cause that hath been here heard; The Court for Sheriffs of Counties, it is not at their will and pleasure, or for their own vanity and ostentation that they are to conduct you, but it is out of their Duty; and when the Discretion, and generous Disposition of any shall not teach them how to do it, it is fit for you to call them to account.

Justices of the Peace, you shall have of them that will the first day attend you for an hour or two, perhaps to save a Fine, perhaps to shew their Country they are in Commission of the Peace: Emptiness becomes not the Seat of Justice, therefore hold them to their Duty to attend you all the time of the Assizes, and not to depart without your Licence.

The King our Master doth as well know Men as any Prince in the World, but it is impossible for him to know all; you are the great Surveyors of the Kingdom, for this purpose it is that all Officers and Ministers of Justice are commanded to attend you, to inform you of such as you should have knowledge of, that you may inform his Majesty of them. I have observed (while I had the Honour to be Chief Justice of the *Common Pleas*) that few gave their Attendance; what humour they are of that think themselves too good to serve the King, I know not, but let them know that it is in no Man's choice whether he will serve the King in the Ministry of Justice or no. Those that are backward, or have not taken it, give up the Names of them, that they may see what punishment they shall undergo.

There are some other Justices of Peace that are put in Commission, to injure their Neighbours, and to domineer over them, and to carry things with a Faction. But upon your intimation of such Persons, the Commission shall be ceased of them also.

Anno 1639. You have seen the Scots preparing for War, his Majesty, being not acquainted with these Passages, resolves also upon the raising of an Army, and accordingly by Commission, 14 Feb. *Anno Regni* 15. he appoints *Algernon* Earl of *Northumberland* General; and afterwards by another Commission *Thomas* Lord Viscount *Wentworth*, Lord Lieutenant of *Ireland*, to be Lieutenant General to the Earl of *Northumberland*, to imploy and dispose of the said Army to be raised for defences, or otherwise as they should be directed by his Majesties Instructions, &c. We may well imagine the Scotch Revolters having so well prepared in their former Achievements had no less encouragement than formerly for the undertaking of another War, it fortuned that November the 19. being the Anniversary night of the King's Birth-day, a great part of the Walls of the Castle of *Edinburgh* fell to the ground, with the Cannons mounted: which caused such a consternation, such an Alarm in the Castle, as if they had been undermined and surprized; but that was not all, for this casualty upon a time of so much remarque, could then receive no other construction from the Grammar of Superstition, than an ominous presage of the ruin of the King's design; especially considering that at that very same night the Scotch Commissioners returned from *England* to *Edinburgh*, so that the dilapidation seemed to import an humble prostration to the Idolized Covenant.

Edinburgh
Castle-
walls fall
down.

Their re-
paration
hindered
by the
Covenan-
ters.

But the craftiest (I say not the wisest) of the Combination, would not trust to such fallacious conjectures; but willing to apprehend, and lay hold of any thing which offered its service to their enterprise, made a politick use thereof, and the King having appointed the Lord *Estrich*, Colonel *Kuchen*, and Governour of the Castle, to take order for the re-edification of what was lapsed, they refused to permit any materials to be carried in for reparation, which so incensed the King, as he concluded the indignity intolerable, and presently entered into deliberation how to relieve himself by force under this oppression; but with whom he should consult, there lay the difficulty, the transactions of his Council must be more closely carried then heretofore, for fear of correspondence with the Covenanters; to this end a private Junta for the Scotch Affairs, are selected from his Council, and great care taken, that those Hunting Lords (as Mr. *L'Estrange* saith the Archbishop called them) *Pembroke*, *Salisbury*, *Holland*, &c. who were Commissioners at the Pacification, be excluded, though *Hamilton* was retained, more dangerous, and fallacious than all. At this close and secret Council, Decemb. 5. it was agreed his Majesty should call a Parliament, to Assemble April the 13. The King told them he exceeding well approved of that Counsel, but withal he said, *My Lords, the Parliament cannot suddenly convene, and the Subsidies they grant will be so long in levying, as in the interim I may be ruin'd; therefore some speedy course must be thought upon for Supplies.* Whereupon the Lords told him they would engage their own credits, and the Lord Deputy of *Ireland* giving the on-set, subscribed for twenty thousand pounds; the other Lords had, some the same Loyal zeal, and others the modesty not to refuse. The Lords of the Council did in this example implicitly give a good example to the other Nobles, who generally conformed most cheerfully, saving some few whom singularity, or somewhat more portentous, restrained.

And that the Presbyterian Party here amongst us should not be wanting to play their parts (so far as then opportunity offered) one *Bagshaw* a hot-headed Lawyer of the *Middle-Temple*, then Reader of that House, proposing to read upon the Statute of the 28 *Edw.* 3. 6, 7. argued upon these (amongst others he propounded) Cases of Law. Whether a good Act of Parliament may not be made without the assent of the Lords Spiritual? Which he held Affirmatively, and though he thought he had done his Party good service herein in assigning his reasons, which were, *That some Parliaments were held without any Bishops at all; and that divers Acts have been made when they were present, and would not consent. And lastly, That the Bishops cannot sit in Case of Blood in Judicature; but they may sit to assist to Enact Laws, but not to give Assent for Execution of them in Case of any Blood.*

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Yet he herein betrayed the weakness only of the Reader, and that Party; for as to the first, there was never any Parliament to which they were not summoned, no not to that of 25 of *Ed.* 3. which is falsely said to have been summoned, *Excluso Clero*, For here they excluded themselves, and refused upon Pope Boniface's Prohibition [procured by Archbishop *Winchelsey*] to be present at this Parliament at *St. Edmundsbury*, summon'd to appear *Ad ordinandum de quantitate & modo sublidii memorati, Claus. 24. Ed. 1. M. 7. dorso, and to grant the King any Subsidies till they had consulted the Court of Rome, and go away every one to their own homes; notwithstanding which the King proceeds with the two other Estates and gets Subsidies from them, so that the exclusion of the Clergy was their own voluntary act; and as to what is said by some, that Magna Charta was confirm'd in that Parliament, will be found to be a mistake, for the King received the Archbishop and Clergy again into favour, and they sate in the Parliament, summon'd to meet *In Feste Sancti Petri quod dicitur ad vincula, or Lammas-day* following, which was in the year of Grace 1296. *Regis Ed. 1. 25.* as it is set down in our Statute Books, with which *Walsingham* accords, *Ad annum dictum.**

And as to the Second Argument, it may be granted for that the Lay-Lords might make the Majority. And to his last it is a mistake, for they have actually sate in Cases of Blood, as is lately proved in two Books, the one Entitled, *The Right of the Bishops cleared, &c.* and the other, *The Grand Question Stated and Debated*; and that if ever they sate not, it was in respect of a Popish Canon now extinct; and whenever they withdrew they did it [*Salvo Jure*] as is notoriously known in the Parliament of the 11th of *Rich. 2.* but to put this matter further out of Question, after the abolishing of the Popish Canon Law, and since the Reformation they did sit on the twenty second of May, 1626. upon the Impeachment of the Earl of *Bristol* of High Treason, ten Bishops, ten Earls, ten Barons were appointed for Examination of the Evidence against the said Earl. Out of his second Case, this Question was started, Whether any Beneficed Clerk was capable of Temporal Jurisdiction at the time of making that Law. And for answer hereunto, if he meant by a Beneficed Clerk, a person in Holy Orders, it is most certain they were, for that many of the Bishops long before that time were the Kings Justitiaries, that the Bishops sate with the Earl in the Saxons times, in the County Courts where capital Causes were tried, as appears by the Laws of King *Edward*, as they were set forth by *Hen. 2.*

Anno 1639. c. 31. and that the Friends of one *Hamel* supplicated to one of *Earl Godwines* sons, then Earl of *Northumberland*, *Ne capite pleſteretur*, as may be ſeen in *M. S.* life of *St. Cuthbert*. And thus much of the Caſes propoſed to be debated by that Reader.

About this time the Council received a Letter from *Sir Chriſtopher Yelverton*, High Sheriff of the County of *Northampton*, and in it was enclosed a Preſentment of the Grand Jury of that County of Ship-money as a Grievance, the matter being debated, it was referred to the Attorney-General, and the Solicitor, who gave their Opinions of the matter to the Board, representing the High Sheriffs miſcarriage in that matter, whereupon by Order of Council, he received a Reprimand, commanding him forthwith to do his duty, or that if his Maſtieſ Service ſhould ſuffer herein by his neglect, there would be quick and exemplary reparation required from him, &c.

And now at laſt we come to give our Reader ſome account of the proceedings of the *Scotch* Commiſſioners at *White-hall*, who were ſo Male-part as to reſuſe audience from the Council or any Members of it, though deputed by his Maſtieſty, for that they ſaid they were ſent by the Parliament of *Scotland*, and were to own no other Judicatory, ſave that of his Maſtieſty in his own Perſon. Hereupon his Maſtieſty puts off his Journey to *Hampton-Court*, and would hear them himſelf, when the following Speech was made to his Maſtieſty by the Lord *Lowdon*.

S I R,

AS we did ſhew in that humble *Remonſtrance* which we gave to your Maſtieſty in Writ, That no earthly Thing could be more grievous to your Maſtieſties Subjects, convened by your Royal Authority in the Parliament of *Scotland*, than that their Loyalty ſhould be call'd in queſtion, or any ſuch hard Impreſſions ſhould be given againſt their Proceedings, as might derogate from that high eſtimation which they have of Sovereignty, and the tender reſpect they carry to your Maſtieſties inviolable Authority: So do we acknowledge your Maſtieſties Goodneſs and Juſtice, in keeping one Ear for us againſt all Suggeſtions and Obloquies, till the Reaſons of our Proceedings and Demands were made known from our ſelves; And that your Maſtieſty is graciouſly pleaſed to grant us this favour, of a full and publick Hearing. But becauſe the Parliament of that your Maſtieſties Ancient and Native Kingdom, is Independent, and not accountable to any other Judicature, we hope your Maſtieſty will pardon, and allow us to decline to ſpeak, or answer before any of your Maſtieſties Council, or other Judicatures whatſoever, as thoſe who have not any Power to Judge of the Laws, Actions, or Proceedings of the Parliament of that Kingdom. And as we acknowledge your Maſtieſties favour in allowing us to tender the Liberties and Freedom of your Maſtieſties Ancient and Native Kingdom; ſo are we glad, before all the World to clear the loyalty and lawfulness of their Proceedings, and do congratulate that your Maſtieſty hath Indicted a Parliament here, which we hope will advert to the good of Religion, your Maſtieſties Honour, and Peace of your Dominions: Albeit they be not Judges to determine of our Actions, (which are ſuch, as when they ſhall

be known to your Maſtieſty, not upon Report, but upon true Trial, we are moſt confident will merit approbation at the Throne of your Maſtieſties Juſtice): But becauſe we hear that your Maſtieſties good Subjects are traduced, as having intention to diminish your Maſtieſties Authority, and ſhake off that civil and dutiful Obedience due to Sovereignty: Therefore before we deſcend to the Particular Actions and Articles of the Parliament, for vindicating us from ſo grievous and ſoul an Imputation, we do in our Name, and in the Name of the Parliament that ſent us, declare before God and the World, That we never had nor have any ſuch thought of withdrawing our ſelves from that humble and dutiful Subjection and Obedience to your Maſtieſty and your Government, which by the Deſcent and Reign of ſo many Kings is due to your Maſtieſty; and never had nor have any intent or deſire to attempt any thing that may tend to the diminishing of your Maſtieſties Princely Power; but on the contrary, we acknowledge our Quietneſs, Stability, and Happineſs, to depend upon the ſafety of your Maſtieſties Perſon, and maintenance of your Greatneſs and Royal Authority, as God's Vicegerent ſet over us for maintenance of Religion, and Adminiſtration of Juſtice; and have ſolemnly ſworn, not only to ſtand to the Defence of your Maſtieſties Perſon and Authority in the preſervation and defence of Religion, Liberties, and Laws of the Kirk and Kingdom; but alſo in every Cauſe which may concern your Maſtieſties Honour, ſhall according to the Laws of the Kingdom, and duty of good Subjects, concur with our Friends, in quiet manner, or in Arms, as we ſhall be required. But if any be ſo wicked, as to ſeek occaſion to divide detwixt your Maſtieſty and your Kingdom, and for their own ends go about to prostitute the purity of Religion, and the Liberties and Laws of that your Maſtieſties Ancient and Native Kingdom; we can give them no other character, but that which your Maſtieſties Father of bleſſed memory gave them, terming ſuch Men, *Vipers and Peſts againſt the King and his Kingdom*. And if it pleaſe God for our Sins, to make our condition ſo deplorable, as they may get the ſhadow of your Maſtieſties Authority, (as we hope in God they will not) to palliate their ends, then as thoſe, who are ſworn to defend our Religion, our reſcuſe muſt be only to the God of *Jacob* for our refuge, who is *Lord of Lords, and King of Kings, and by whom Kings do Reign, and Princes decree Juſtice*. And if in ſpeaking thus out of zeal to Religion, and the Duty we owe to our Country, and that Charge which is laid upon us, any thing hath eſcaped us, ſince it is ſpoken from the ſincerity of our Hearts, we fall down at your Maſtieſties feet, humbly craving pardon for our freedom.

Having thus, with your Maſtieſties permiſſion, cleared the Loyalty of your Subjects, that we may next ſhew the reaſon of their Demands, and equity of their Proceeding in Parliament, we do firſt crave, That if our Answers cannot give plenary ſatisfaction to the Objections and Exceptions that ſhall be made againſt their Proceedings, that our not knowing of thoſe Objections (albeit we did often require your Maſtieſties Commiſſioner to ſhew the ſame, that we might be the more able to give your Maſtieſty content; yet being ſtill concealed from us, and the Records and Registers of Parliament alſo ſtill kept from us,) may ſerve much for our excuſe. And if any

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any the Propositions and Articles sought and craved in Parliament, shall seem harsh at the first view to such as know not our Laws, that we do expect from them the Judgment of Charity, who ought (rather than to pass a rash Censure upon us) to profess *Ignorantiam juris & facti alieni*; and that they would distinguish betwixt the Desires and Actions of a Parliament, who (being convened by Royal Authority, and honoured with your Majesties or your Commissioner's presence,) are makers of Laws, against whom there is no Law; and the Actions of private Persons, against whom Laws are made.

And as the Desires of the Subjects are no other in the matter, but what they did humbly crave in their former Petitions, and are necessary for establishing of Religion, and the Good and Peace of the Kingdom, which can never oppose the King's Honour, and are agreeable to the Articles of Pacification; so in like manner they are agreeable to the Laws and Practices of that Kingdom.

And to descend more specially; all the Articles given in are either such as concern private Subjects, such as are for Manufactures, Merchants Trading, and others of that kind; which do not so much concern your Majesty, or the Publick, as the Interest of private Men, which are but *minima, & de minimis non curat Lex*: Or they are Publick Acts, which do concern the Religion and Liberties of the Kirk and Kingdom; as the *Ratifying of the Conclusions of the Assembly, the Act of Constitution of Parliaments, the Act of Recision, the Act against Popery*, and others of that kind. Wherein, because the eyes of the World were upon them, and that hard Constructions have been made of their proceedings, and that Malice is prompted for her Obloquies, and waiteth on with open mouth to snatch at the smallest shadow of disrespect to your Majesty, that our Proceedings may be made odious to such as know them not, we have endeavoured to walk with that tenderness which becometh dutiful Subjects, who are desirous to limit themselves according to Reason and the Rule of Law.

For the better understanding whereof, we must distinguish betwixt *Regnum constituendum*, and *Regnum constitutum*, a Kingdom before it be settled, and a Kingdom which is established by Laws. Wherein (as good Subjects esteem it their greatest glory) to maintain the Honour and lawful Authority of their King; so good Kings, (as your Majesties Father of ever blessed memory affirms, holding that Maxim, that *Salus Populi est suprema Lex*;) will be content to govern their Subjects according to the Law of God, and fundamental Laws of their Kingdom.

Next we must distinguish betwixt the Kirk and State, betwixt the Ecclesiastick and Civil Power, both which are materially one, yet formally they are contra-distinct in Power, Jurisdiction, Laws, Bodies, Ends, Offices, and in Officers. And albeit the Kirk and Ecclesiastick Assemblies thereof, be formally different and contra-distinct from the Parliament, and Civil Judicatories; yet there is so strict and necessary conjunction betwixt the Ecclesiastick and Civil Jurisdiction, betwixt Religion and Justice, as the one cannot firmly subsist and be preserv'd without the other; and therefore like *Hippocrates*'s Twins, they must stand and fall, live and die together. Which made us all in our Petitions to your Majesty, who is *Custos utriusque Ta-*

bule, to crave, that as Matters Ecclesiastical be determined by the General and other Assemblies of the Kirk, and Matters Civil by Parliament; so specially to crave, that the Sanction of the Civil Law should be added to the Ecclesiastical Conclusions and Constitutions of the Kirk and her Assemblies, lest there should be any repugnancy betwixt the Ecclesiastical and Civil Laws, which your Majesty did graciously condescend unto. And your Majesties Commissioner representing your Majesties Royal Power and Person, in the General Assembly, wherein the whole Congregations and Parishes in Scotland are represented, upon diligent enquiry, finding that all those Evils which troubled the Kirk and Kingdom, proceeded from the Prelates, consented that Episcopacy be removed out of the Kirk of Scotland, and declared, that all Civil Places of Kirk-men to be unlawful in that Kingdom; and having ratified the *Covenant*, ordaining all the Subjects to subscribe the same, with the *General Assemblies Explanation* in that sense. And being also obliged to ratify the Conclusions of the Assembly in Parliament, it doth necessarily follow, that Bishops who usurped to be the Kirk, and in the name of the Kirk, did represent the third Estate; and that all Abbots, Priors, and others, who either did or do claim to represent the Kirk, be taken away. Which also by necessary consequence doth infer, that there must be an Act of Constitution of the Parliament without them, and an Act for repealing the former Laws, whereby the Kirk being declared the third Estate, and Bishops to represent the Kirk; both which the Kirk hath now renounced and condemned. So that unless the Act of Constitution of the Parliament, and Act of Recissory pass, it is impossible either to have a valid Parliament, or to ratify the Conclusions of the Assembly, which your Majesty hath graciously promised to perform, and which your Subjects are obliged to maintain.

And seeing your Majesties Subjects have no other ends, but such as may serve for establishing of Religion, and Peace of the Kingdom, and are agreeable to the fundamental Laws thereof, and to the Articles of Pacification; and that the Parliament is the only lawful means to remedy our Evils, remove our Distractions, and settle a solid and perfect Peace. The sum of your Subjects desire is, That your Majesty may be graciously pleased to command the Parliament to proceed freely in those Articles given in to them, and to determine them. And whatsoever Objections or Informations are made against any of the particular Overtures, Articles, or Proceedings of the Parliament; we are most willing and desirous, according to your Majesties Commandment, for avoiding contestation about words, to receive the same in writ; and are content in the same way to return our Answers, and humble Desires.

This Speech of the Lord Lowdon's containing the purport of the Scots demands, and the Arguments and Debates thereon depending, were fully Answered by his Majesty and Council; so that we will not relate them here at large, but shall refer our Reader, for his full satisfaction, to the account hereof given by his Majesties Declaration in Council, the Date whereof followeth:

A:

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At White-hall the 11th of March,
1639.

His day his Majesty being present in Council, was pleased himself to make known to the Lords, what had passed at the Committee appointed by his Majesty, to hear those Lords and Gentlemen that came lately from Scotland, pretending to be sent from the Parliament there.

In the first place his Majesty acquainted the Lords, That after those Scottish Lords and Gentlemen had subscribed the Petitions which they had formerly presented to his Majesty, and had been read at the Board, order was given to the Earl of Traquair, his Majesties Commissioner, to assign them a time to be heard of the Committee; which falling out to be at the time of his Majesties being at Hampton-Court, they refused to come to the Committee, alledging, That they had Order and Instruction to Treat with none but his Majesty himself: Whereupon his Majesty appointed them to attend him at the Committee on the day of his remove to Hampton-Court, which was the third of March; at which time they did attend his Majesty accordingly.

The Earl of Dumfermling spake first, but very short, and so low that few of the Committee understood him.

Then the Lord Lowden made a long Speech, the effect whereof was, A Protestation of the Independency of the Parliament of Scotland, and that it was subject to no other Judicatory; and a profession of their Affection and Loyalty to his Majesty, with a Justification of their Proceedings in the Assembly and Parliament, as agreeable to the Articles of Pacification, and to the Laws and Practices of that Kingdom; and thereupon desired, That his Majesty would ratify and confirm those their Proceedings. And for that purpose they Petitioned his Majesty to command that the Parliament might proceed freely, for the determining of all the Articles delivered unto them, for the establishing of Religion and Peace in the Kingdom; undertaking that whatsoever Objections or Informations should be made against their Proceedings in Parliament, (provided they received them in writing) they would give a satisfactory answer to them.

This Discourse ended, his Majesty demanded what Power and Commission they had to give him satisfaction, and to oblige those from whom they came? For if they had none, he must hear them upon great disadvantage, they expecting satisfaction from him who had certainly Power to give it, but they had no Commission to render the like to him.

They answered, That which they should propose (it being agreeable to Law) they were confident should give his Majesty Satisfaction.

His Majesty asked who should be Judge of that? They answered, The Law would appear so clear that there would be no need of a Judge. And though his Majesty insisted much hereupon, they would give him no other Satisfaction. But they persisting to assert they had Power and Commission, and would bring them to his

Majesty; they were ordered to do so at the next Meeting, and so for that time they were dismissed. Car. 15.

Upon the Ninth of March, after his Majesties return from Hampton-Court, they attended his Majesty at the Committee again. There they produced Instructions signed by some Scottish Lords, and some other Persons of no great eminency; which Instructions having been read, were judged by his Majesty, (all the Lords of the Committee concurring in the same opinion) to be no Commission, and that they had no Power or Authority by them to give his Majesty Satisfaction, or to oblige those from whom they said they came, to any thing that his Majesty should yield to or desire. Wherefore his Majesty demanding whether they had any other Power? They said, They had a Paper formerly subscribed by some of the Lords in Parliament, by which the Earl of Dumfermling and Lord Lowden were only authorized to come, and present their Justification to his Majesty, and said, they could for the present have no other, the Parliament then not sitting. Whereupon they were required to withdraw, and his Majesty advising seriously with the Committee what was best to be done in this weighty Business; and also considering, That if they should be dismissed without further hearing, they would take occasion to clamour, His Majesty resolved (that although he found himself bound neither in Honour nor Justice to hear them any further, (they having offered no Foundation for an Accommodation, nor having power to do it) yet to the end that no colour of sinister Construction might be left, and that his Majesty might justify himself to God and the World, that he had omitted nothing on his part that might tend to Peace, and to the settling of a better Intelligence between his Majesty and them) that he would continue to hear them, and would make his Objections to such Particulars as had been proposed in Parliament, and against which he had just grounds of Exception, that so it might appear whether they could give him satisfaction which they had promised and presumed they could do, or not.

Upon this they were called in again, and his Majesty making this known unto them, not one of them made shew of the least sense of this his Majesties Grace and Goodness so expressed to them; which the Lord Marquess Hamilton observing, took occasion of himself to say, That though he was not of their Company, yet being a Scotch Man, he held himself obliged to acknowledge with all humility this his Majesties singular and princely Favour to his Country, and besought him to accept his most humble thanks for it. This drew them on to do the like, and so they presented their humble thanks to his Majesty on their knees.

His Majesty having thus acquainted the Lords with this Business, commanded the Instructions to be Read at the Board; which being done, the whole Board unanimously concurred in Opinion, that the Petitioners had not Power nor Commission to give his Majesty Satisfaction, but only to endeavour to justify and maintain their former Proceedings. Whereupon his Majesty commanded this Judgment of the Board, together with the former Proceedings upon the whole Matter, to be passed into an Act of State, and to be

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be registred and remain upon Record in the Council-Book.

Upon Wednesday the eighteenth of March, his Majesty being in Council again, was pleased to acquaint the Board with what had passed at the Committee since the former Meetings, and that the Petitioners had produced the Paper above-mentioned, subscribed by some of the Lords of Scotland in Parliament, by which the Earl of Dunfermling and the Lord Lowdon, only were heretofore authorized to come and present their Justification to his Majesty; which Paper his Majesty having commanded to be read to the Board, the Lords unanimously then also agreed that the Petitioners had no more power by this Paper.

His Majesties Declaration, concerning his Proceedings with his Subjects of Scotland, since the Pacification in the Camp near Berwick.

By the KING.

WE did make account that the Pacification which we were pleased to condescend unto the last year in the Camp near Berwick, and to grant to our Subjects of Scotland, even then when they were in the height of their Rebellion, and in the Field in Arms against us, had given such demonstration to the World of our inclination to Peace, and desire to spare the Blood of our People, and to win them to the Obedience which they owe unto us, as that all misunderstandings had been utterly taken away, (as they were on our part) and that such Conditions as were then agreed upon, should have been really performed by them, according to those Bonds of Allegiance, Duty, and Promise in which they stand obliged to us. But we have since found, to our unexpressible Grief, that our Princely Goodness and Mildness in passing by that Offence, hath produced nothing but extream Ingratitude, and insufferable Insolences against our Government. And farther, by sundry Libellous Pamphlets, and most false and seditious Discourses sent from Scotland, and dispersed purposely in this our Kingdom of England, especially in our City of London; that the Cause of these Disorders is sought to be shifted off from the Rebels in Scotland, and most unjustly cast upon us. Wherefore we hold our Self bound, in that Duty which we owe to God, and love to Truth, not to suffer our Honour to be thus betrayed and vilified by Faction and Rebellion, but to vindicate it from all Calumny and Clamour, by giving hereby a clear and just account to all the World of our Proceeding with our Subjects of that our Kingdom, and of the most material and remarkable Occurrents since that Pacification, that so all those that are not partial, or will not willingly shut their Eyes against the Truth, may judge who they are that have been the Disturbers and Infractions of the Peace, and that under the Mask and Visor of Religion, seek to undermine and subvert all Monarchical and Civil Government. Which account follows thus.

After we had been some time in the Camp near Berwick, and that our Subjects of Scotland had encamped with their Army in view of Ours; upon an Overture from them, we were contented to condescend to the receiving of a Petition, in which it is expressed, That they, falling down at our Feet, did most humbly supplicate us to appoint some of this our Kingdom of England to hear, by some of them, their humble Desires. Which we having granted, and several Meetings by those of both Kingdoms having been held; at all which our Self, (to shew our hearty and earnest Desire to meet our Subjects in a peaceable way) were contented to be present (much beyond their own expectation, as they have since acknowledged, and we are sure, exceedingly beyond their Merit); at the last those of Scotland were commanded to make their Demands in Writing, in which after they had presented their Desires, (of which one was, That the Acts of the late Assembly at Glasgow holden by our Indiction, might be ratified in the ensuing Parliament) they profess, It is their grief that we should have been provoked to Wrath against them our most humble and loving Subjects, and that it shall be their delight, upon our gracious assurance of the Preservation of their Religion and Laws, to give example to others of all Civil and Temporal Obedience which can be required or expected of Loyal Subjects.

Whereupon we letting them know, that for the better clearing of Particulars, we expected from them the Grounds and Reasons of their Desires, but that we would not surprise them, and therefore gave them time to come prepared with their Grounds in Writing.

The Lord Lowdon said, Their Desires were only to enjoy their Religion and Liberties, according to the Ecclesiastical and Civil Laws of the Kingdom; and in clearing Particulars, they would not insist upon any that were not such.

This we willed him to set down in Writing under his Hand, which he did in these words:

Memorandum, That our desires are only the enjoying of our Religion and Liberties, according to the Ecclesiastical and Civil Laws of his Majesties Kingdom; to clear by sufficient Grounds, that the Particulars which we humbly crave, are such, and shall not insist to crave any Point which is not so warranted: And that we offer all Civil and Temporal Obedience to your Majesty, which can be required or expected of Loyal Subjects.

Signed, Lowdon.

To which we answered, That if their Desires were only the enjoying of their Religion and Liberties, according to the Ecclesiastical and Civil Laws of our Kingdom of Scotland, We do not only agree to the same, but shall always protect them to the uttermost of our Power. And if they shall not insist upon any thing but that which is so warranted, we will most willingly and readily condescend unto it, so that in the mean time they pay unto us that Civil and Temporal Obedience which can be justly required and expected of Loyal Subjects.

IIIII

This

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'This being the Ground of the Agreement on both sides, we were pleased to proceed to a final Determination of this Business, which was brought to a Conclusion upon the seventeenth of June, 1639. And our Declaration of that Date conformable to these Grounds was thereupon made, which was not only accepted by those that came in the Name of all those of the Covenant, but most humble thanks were given to us by them for our gracious Answer vouchsafed to their Petition in the said Declaration; which was fully agreed upon, together with sundry Articles by all Parties.

'The *Pacification* thus concluded, the Articles on both sides were to be performed accordingly. Those on our part were in the Declaration following:

'WE having considered the Papers, and humble Petitions presented unto us by those of our Subjects of *Scotland*, who were admitted to attend our Pleasure in the Camp; And after a full hearing by our Self of all that they could say or alledge thereupon, having communicated the same to our Council of both Kingdoms there present, upon mature deliberation, with their unanimous Advice, we have thought fit to give this just and gracious Answer.

'THat though we cannot condescend to ratifie and approve the Acts of the pretended General Assembly at *Glasgow*, for many grave and weighty Considerations which have happened both before and since, much importing the Honour and Security of that true Monarchical Government lineally descended upon us from so many of our Ancestors: Yet such is our gracious Pleasure, That notwithstanding the many Disorders committed of late, we are pleased not only to confirm and make good whatsoever our Commissioner hath granted and promised in our Name, but also we are further graciously pleased to declare and assure, that according to the Petitioners humble Desires, all Matters Ecclesiastical shall be determined by the Assemblies of the Kirk, and Matters Civil by the Parliament, and other inferiour Judicatories established by Law. Which Assembly accordingly shall be kept once a Year, or as shall be agreed upon at the General Assembly.

'And for settling the general Distractions of that our Ancient Kingdom, our Will and Pleasure is, That a Free General Assembly be kept at *Edinburgh*, the sixth day of *August* next ensuing, where we intend (God willing) to be personally present. And for the legal Indiction whereof, we have given order and Command to our Council; and thereafter a Parliament to be holden at *Edinburgh* the twentieth day of *August* next ensuing, for ratifying of what shall be concluded in the said Assembly, and settling such other things as may conduce to the Peace and Good of our Native Kingdom; and therein an Act of Oblivion to be passed.

'And whereas we are further desired, that our Ships and Forces by Land be recalled, and all Persons, Goods, and Ships restored, and they made safe from Invasion, we are graciously pleased to declare, That upon their disarming

and disbanding of their Forces, dissolving and discharging all their pretended Tables and Conventicles, and restoring unto us all our Castles, Forts, and Ammunition of all sorts; as likewise our Royal Honours, and to every one of our good Subjects, their Liberties, Lands, Houses, Goods, and Means whatsoever, taken and detained from them since the late pretended General Assembly, we will presently thereafter recall our Fleet, and retire our Land-Forces, and cause restitution to be made to all Persons of their Ships and Goods, detained and arrested since the aforesaid time. Whereby it may appear, that our intention of taking up of Arms, was no waies for invading of our Native Kingdom, or to innovate the Religion and Laws, but meerly for the maintaining and vindicating of our Royal Authority. And since that hereby it doth clearly appear, that we neither have nor do intend any alteration in Religion or Laws, but that both shall be maintained by us in their full Integrity, we expect the performance of that humble and dutiful Obedience which becometh Loyal and Dutiful Subjects, as in their several Petitions they have often professed. And as we have just reason to believe, that to our peaceable and well-affected Subjects this will be satisfactory; so we take God and the World to Witness, That whatsoever Calamities shall ensue by our necessitated suppressing of the Insolencies of such as shall continue in their disobedient Courses, is not occasioned by us, but by their own procurement.

'These Conditions in this Declaration that refer to the Time past, have been the most part of them already punctually complied with by us, that Clause excepted in which we express, We intended to have been at the General Assembly at *Edinburgh*; which yet being but an Intention, we had assuredly performed, but that we were diverted by the Disorders committed by our Tumultuary Subjects in *Edinburgh*, upon the Persons of our High Treasurer the Earl of *Kinnoul*, our Justice General Sir *James Hamilton*, Councillors of that our Kingdom, and divers others our good Subjects there; which gave us just cause to suspect, that there could be no safety for our Person, among People enraged so immediately after our Clemency shewed to them in the *Pacification*.

'But one of the greatest Discouragements we had from going thither, was, The refusing of such Lords and others of that Nation whom we sent for to come to us to *Berwick*; by which Disobedience they manifestly discovered their distrust of us: And it cannot be thought reasonable, that we should trust our Person with those that distrusted us, after so many Arguments and Assurances of our Goodness towards them.

The Articles of *Pacification* agreed upon were these:

I.

The Forces of *Scotland* to be Disbanded and Dissolved within eight and forty hours after the publication of our Declaration, being agreed upon.

II.

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II.

Our Castles, Forts, Ammunitions of all sorts, and Royal Honours to be delivered after the said publication, so soon as we should send to receive them.

III.

Our Ships to depart presently after the delivery of the Castles, with the first fair Wind, and in the mean time no interruption of Trade or Fishing.

IV.

We were graciously pleased to cause to be restored, all Persons, Goods, and Ships, detained and arrested since the first day of November last past.

V.

No Meetings, Treatings, Consultations, or Convocations of any our Lieges, but such as are warranted by Act of Parliament.

VI.

All Fortifications to desist, and no further working therein, and they to be remitted to our Pleasure.

VII.

To restore to every one of our good Subjects their Liberties, Lands, Houses, Goods, and Means whatsoever, taken or detained from them by whatsoever means since the aforesaid time.

On Tuesday the eighteenth of June, those of Scotland came to our Pavilion, and there we signed the aforesaid Declaration, and the Articles were signed by them; who also signed another Paper of Submission to us, as followeth:

In the Camp, June 18. 1639.

In obedience to his Majesties Royal Commands, we shall, upon Thursday next, the twentieth of this June, dismiss our Forces, and immediately thereafter deliver his Majesties Castles, &c. and shall ever in all things carry our selves like Humble, Loyal, and Obedient Subjects.

Signed,

Roths.

Dunfermling.

Lowdon.

Dowglas.

Alex. Henderson.

A. Johnston.

Those of Scotland did likewise further promise and undertake, that our foresaid Declaration should be read and published in their Army; which was accordingly done by Lyon King of Arms of Scotland, on Thursday the twentieth, in the presence of the Earl of Morton, Sir Edmund Verney, and Sir John Borough, our Commissioners sent thither to see the same performed. How these Articles have been performed on their part, comes now to be considered, and will appear by that which follows.

First, Whereas we, by the publication of the Articles of Pacification, expected that due respect and acknowledgment of our Authority, which might have witnessed their Loyalty, and sense of their Thankfulness for so great and Royal Favour; we found on the contrary, that at the very publishing of it in their Camp, the same was met with a Protestation, so scandalous and dishonourable to our Government, as our Subjects were thereby rather encouraged in their former mutinous Waies, than reduced to that Obedience which they promised.

Secondly, They delivered into the hands of some of our English Nobility, and spread among others, a scandalous Paper, Entituled, Some Conditions of his Majesties Treaty with his Subjects of Scotland before the English Nobility, are set down here for remembrance. Wherein are contained such Untruths, and seditious Positions, and so contrary to that which was concluded in the Articles of Pacification, as thereby it did plainly appear, that however they pretended a desire of Peace, yet they intended nothing less. This false and seditious Paper coming to our Knowledge, was after, by the Advice, and upon the humble Petition of our Privy Council here in England, and particularly by such Noblemen as were pretended by them to be Witnesses to the same, ordered to be damned by Proclamation, and publicly burnt by the Hand of the Hangman; which was done accordingly.

Thirdly, Whereas it was promised, That the Forces of that our Kingdom of Scotland, raised without our Warrant, and against our Self, should be disbanded and dissolved within forty eight hours after publication of our said Declaration in their Camp; they did nevertheless for some time keep in Body divers Forces, and have ever since held in pay almost all their Officers, in manifest breach of those Articles, contempt of our Royal Authority, contrary to the Laws of that our Kingdom, and to the great danger of all our Subjects, who did give Obedience to our Commandments there, which clearly shewed their Intention of putting themselves again in Arms against us.

Fourthly, Whereas it was promised, That our Forts, Castles, and Ammunitions should be restored so soon as we should send to receive them; yet full Restitution was not made accordingly. And for the Fortification at Leith, which was with the rest remitted to our Pleasure, it stands entirely as it did, though we often commanded the demolishing thereof.

Fifthly, It was promised there should be no Meetings, Treatings, Tables, Consultations, Convocations, or Conventicles, but such as are warranted by Act of Parliament, (and yet we were pleased to give them Warrant to meet for the space of one Month, to Consult, Advise, and Resolve upon such Affairs and Businesses as concerned the Relief of their mutual Burthens only): Nevertheless after that Time expired, which was on the 20th day of July, 1639. they did, and do still continue their unlawful Meetings and Consultations upon Matters of State, both Ecclesiastical and Civil, contrary to the Laws and Acts of Parliament of that our Kingdom, and our express Warrant; In which Conventicles they daily vex and trouble such of our Subjects as do not adhere to their Rebellious Covenant, and pretended Assembly at Glasgow, and the Acts of the same.

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Sixthly, Whereas all Fortifications were to be remitted to our Pleasure to be demolished or continued, and we having given Commandment for the demolishing of them all, raised and built without our Warrant; no Obedience is given to the same, but they are still continued, to the fostering of Sedition among our Subjects, and the disturbance of the Peace of that our Kingdom.

Seventhly, Whereas all our good Subjects should have their Liberties and Goods restored to them; yet such is the violence and fury of the People, animated thereunto by the said Protestation, scandalous Papers spread, and seditious Sermons Preached, as many of our said Subjects are deterred from going to their own Dwelling and places of abode, and threatened with the loss of their Lives, in case they shall repair to their own Houses.

Eighthly, Whereas in our Declaration before mentioned, we did make known that we could not approve the late pretended General Assembly at *Glasgow*, for the Reasons contained in our former Proclamations; yet contrary to that our Pleasure, they daily press our Subjects to subscribe the approbation of the said pretended Assembly, and Acts thereof, and to swear the same; so that whereas we did expect to have found our Subjects settled in Peace and Quietness against our repair to *Edinburgh*, we heard of nothing but new Disorders, Meetings and Molestations of our Subjects, well affected to our Service; which as it doth evidently appear, by the insupportable Insolences committed as aforesaid, upon the Persons of our High Treasurer the Earl of *Kinnoul* our Justice General, Sir *James Hamilton*, and others our Councillors and good Subjects; so doth it clearly evince, that nothing was less intended than Obedience to our Authority, or performance of what was promised, or is due to us in right of our Crown, and by the Laws of that our Kingdom.

Ninthly, Whereas we were pleased to grant a free General Assembly, for settling and composing the Divisions cunningly raised and fomented in the Church of that our Kingdom, expecting a fair choice of the Commissioners, and such as might stand with the respect due to our Authority, they did labour to pervert our Subjects by anticipating their Voices, in making them swear to, and subscribe the Acts of the pretended Assembly at *Glasgow*, and making choice of such Commissioners (and no others) as adhered thereunto, and by Oath were bound to maintain the same, and further, deterred others, whom we by our Warrant did lawfully call to the next Assembly, from repairing thereunto, threatening them with the loss of their lives, and what worse may be committed against their Persons, in manifest contempt of our Authority, and derogation from the freedom of the said Assembly.

Tenthly, To divert all our good Subjects from their due Obedience to us, and to debauch them to their factious Mutinies and Disorders; they brand all such as adhere to us, and have attended our Person, with the vile aspersion of Traitors to God and their Country, threatening to proceed against them with Censures accordingly; as though the due respect given by them to us, and their adhering to us, and their assisting us in their Persons, were Treason: Whereas by right of that our Crown, and the Acts of Parliament of that our King-

dom, all our Subjects are to rise with us, and to assist us with their Bodies and Goods; and whosoever refuses, or rises in Arms or Rebellion against us, or commits any Act of Hostility against our Sacred Person, are declared Traitors, and are to incur the pain of High Treason. Car. 15.

Lastly, Their Disobedience appears in that unparalleled contempt of our Royal Authority, and shaking off all respect due to Sacred Majesty, by their protesting that all Members of the Colledge of Justice, and all our Lieges were not to attend the Session, and that all Acts, Decrees, and Sentences therein past against any of them, shall be null, void, and ineffectual, contrary to our express Warrant for the down-sitting thereof, and to the heavy damage of our good Subjects, who were thereby frustrated of Justice, taking by this means our Royal Power out of our Hand, which alone belongeth to us; none but our Self being to command our Subjects to attend the Session, or to discharge their attendance, as we in our Princely Wisdom and Justice shall think fit.

Having laid these insolent and seditious Foundations for a Parliament, it could not in reason be expected but a Structure to be raised thereupon must be full of Disorder and Confusion; and indeed it proved all of a piece: for in all the Progress of the Parliament, their Actions and Demands were full of Undutifulness and Disloyalty, denying to us the most essential and inherent Prerogatives of our Crown, and striving by all means to charge and alter the Constitutions of the Parliament, and frame of Government; as appears by their first Act, at and after the chusing of the Lords of the Articles; where, in a most insolent and peremptory way they protested, That nothing done, or to be done in Parliament, should be valid, except the form of electing Articles heretofore observed were altered, every Estate allowed to chuse their own Articles, contrary to the form kept in former Parliaments for many Years, as will clearly be evinced by the Records, and will be made appear by Persons of all Qualities yet living, who assisted at the Parliaments, and were Members of the same, in the Years 1612, and 1609, and contrary to the Provisions and Conditions mentioned in the Act, 1587.

By their Act likewise concerning the defining of the Power of the said Articles, they press totally to subvert the Frame and Power thereof. The Articles have been, as is acknowledged by themselves, ever since King *David Bruce* his Time, which is above three hundred Years; and by the Lords of the Articles all Businesses are prepared, and from them brought to the Parliament, as appears by divers Acts of Parliament, and particularly by the fourth Parliament of King *James* the Sixth, Cap 218; in which for eschewing of Confusion and impertinent Motions, all Propositions to be made in Parliament are to be delivered to the Clerk Register, and by him presented to the Lords of the Articles, that all frivolous and improper Motions may be rejected; which Ancient Constitution they would subvert by the aforesaid Act.

Anno 1639. 'So by the Act concerning the Constitution of the Parliament in time to come, they urge, and thereby strive totally to alter the frame of the Parliament, and to confound and take away the third Estate; wherein the Civil Power of Kings is so much concerned, as Our Father, and all his Predecessors in former Parliaments, both in time of Popery, and since the Reformation of Religion, have been most careful to preserve and maintain the Dignity, Honour, and Priviledges of the third Estate; as appears in *Anno 1560.* when all Church Jurisdiction in the Persons of Bishops is alledged to be abolished; and in *Anno 1587.* when all the Temporalities of Benefices were annexed to the Crown, the Clergy retained still their Vote in Parliament, and represented the third Estate, and the Civil Power and Priviledges of the Church were still preserved, and again ratified, as appears by the first Parliament of King *James 6. cap. 24.* and by divers Acts of Parliament, *Anno 1587, 1597, and 1609.* By all which, and divers other Acts of Parliament, it does clearly appear how much the Kings, our Predecessors, have conceived their Civil Power, and the Honour of their Crown to be concerned in the maintaining and upholding of the Honour, Dignity, and Priviledges of the three Estates. Nay, by a special Act made in the time of King *James 6. Parl. 8. cap. 130.* it is declared Treason to impugn the Authority of the Parliament, and three Estates, or to procure the Innovation of the Power and Authority of the same three Estates, or any of them: And we would willingly know how they, or any of them, can deny, but that they have sought the breach of this Act, and so are guilty of Treason, and liable to the punishment thereof.

'Concerning the Act which they call *Rescissory*, they do not only thereby seek to take away the third Estate (which is Treason, as aforesaid) but to annul many other Acts formerly made in favour of the Crown: And farther, to bar Us, in a manner totally, from Assembly, or Assembly-Business, and cut Us off from all those Powers in Civil Affairs, which in the Court of that Kingdom are in consequence hereupon; by which it is evident how far they would trench upon Regal Power, and how different it is from their Promise, which was, to desire nothing that is not warranted by Law.

'For the Act of *Oblivion*, in the Narrative and whole strain of it, as it is formed, and desired by them to be past in Parliament, they seek to justify themselves in all their Proceedings, and instead of an Act of Oblivion, for which they petitioned Us at the Camp, they urge an Act which amounts to a Justification to be recorded in the Books of Parliament, altogether contrary to the nature of an Act of Oblivion, and to that which ever heretofore hath been desired in like case, as appears by the Act of Oblivion in *Anno 1563.*

'And whereas by the *Act of Pacification*, Restitution is ordained to be made to every one of Our good Subjects of their Liberties, Lands, Goods, and means whatsoever, taken and detained from them by any means since the aforesaid time; this is not only not yet performed, but as appears by the binding part of this Act, it is never intended.

'And as by the aforesaid *Act of Oblivion*, so by their *Act of Relief*, they depart from that which was condescended to at the Camp: For whereas upon their humble desire We were graciously pleased, by a Commission dated at *Berwick, July 2.*

1639. to allow them the liberty of Conveening and Meeting, until a certain day, for distributing of their pretended Charges amongst such as should willingly condescend thereunto; they have not only without our Warrant kept their Conventicles, and Tables, since the expiring of the foresaid Commission, contrary to the positive Laws of the Kingdom, and *Act of Pacification*, and their own acknowledgment in petitioning for the aforesaid Commission, but by their said *Act of Relief* they do most impudently urge upon Us, that by an Act of Our Royal Power, all our good Subjects, who in the late Troubles and Commotions did adhere to Us, and shew themselves ready to defend our Royal Authority, should be made equally, if not more liable to the defraying of their pretended Charges. So by the Act it self, We are pressed to justify and authorize all their Rebellions and Treasons, and to constrain the Innocent, and those that have suffered most for being faithful and loyal to Us, to contribute to those Rebellions and Treasons; than which there can be nothing more Tyrannical, nor contrary to Justice and our Honour.

'Concerning their Demands, although in all their Petitions, Declarations, and Remonstrances, they profess, That they will never inroach upon Sovereignty, nor diminish our Royal Authority; yet notwithstanding by their Demands made in Parliament, and the Reasons of them given to our Self, they strike at the very Root of our Regal Power. For they desire,

First, 'That the Coyne be not meddled with but by advice of Parliament.

Secondly, 'That no Stranger be entrusted with keeping of our Castles, nor other Person put in them, but by advice of the Estates.

Thirdly, 'That no Patent of Honour be granted to any Stranger, but such as have a competency of Land-Rent in *Scotland.*

Fourthly, 'That no Commission of Justiciary or Lieutenancy may be granted but for a limited time.

Fifthly, 'They protest likewise against the Precedency of our Lord Treasurer, and Lord Privy Seal, because as they alledge the same is not warranted by a positive Law.

'All which, though they are so essentially belonging to Us as their King, that for the most part they answer themselves; yet We have thought it not unfit to give the World this satisfaction concerning them.

'And *first* for the Coin; It is a Privilege most peculiar to the Crown, and none can meddle with it but by our Consent, without incurring the punishment of High Treason, as it is in all Kingdoms.

'In the *second* and *third*, There lurketh a great deal of Malignity and Poison, and they are intended meerly against the *English*, whom they would account Strangers; as appears by the Exception lately taken by those of *Edinburgh* to those *English* sent by Us to the Castles of *Edinburgh* and *Donbarton.* This is a most dangerous and seditious practice, to raise again the Partition Wall between the two Nations, and to divide them, thereby to awaken those ancient National Animosities, which have been most happily laid asleep by the blessed Union of the

Anno 1639. two Crowns. And besides, the great dishonour to the English, that they should not be held worthy to enjoy any Dignities or Priviledges in Scotland, as well as the Scots do in England: It is an injury to themselves; For it is most just, that by the same Rule the *Post-nati* of Scotland (who are now admitted here to all Dignities, Priviledges, and Offices, and do enjoy them as freely as any English whatsoever) should be likewise excluded from them, for which most of their Country-men here would give them little thanks. But what Religion there can be in shewing themselves such Incendiaries, We leave it to the world to judge.

To the fourth; Some of themselves have obtained from us the heritable Rights of Justiciary, over a considerable part of that Our Kingdom; and why Our Power should be more limited to others than to them, We understand not.

To the fifth; No Man that is not a Traitor, can deny that the Source and Fountain of all Honour is in Us, and that it is a prime Branch of our Crown to distribute Honours, Dignities, and Precedencies to whom we please; and besides, the Chancellor of that Our Kingdom, holds his Place and Precedency without any Warrant or positive Law, but meerly from Our immediate and inherent Power; and therefore why not our Treasurer and Privy Seal as well as he?

They further boldly demand the rescinding the Acts of Parliament concerning the Civil Government; namely, the Act concerning the Judicatory of the *Exchequer*, the Act concerning *Proxies*, the Act concerning *Confirmation of Ward-Lands*; by which they would overthrow both our Government and Revenue.

When We found them thus pertinaciously resolved to persist in these their insolent and unsufferable Demands, contrary to all Religion and Laws, though they so much pretend them both, we signified Our Pleasure to Our Commissioner the Earl of Traquair, to this purpose;

That whereas it did evidently appear unto Us, that the aim of divers of our Subjects was not now for Religion, as they have always pretended, (for it was manifest by the proceeding of Our said Commissioner, how willing We had been to give satisfaction both in Assembly and Parliament, touching all such things as were promised by Us, or sued for by them under that Name of Religion); And that we did perceive, by many new strange Propositions, that nothing would give them content but the alteration of the whole frame of the Government of that Kingdom, and withal, the total overthrow of Royal Authority, We held it must now be Our care and endeavour to prevent that which did so nearly concern Us in Safety and Honour; and if thereupon We should immediately command the dissolving of the Parliament, it were no more then justice might be expected from Us. Nevertheless, such was still Our tenderness of their preservation, and of the establishment of a perfect Peace in that our Native Kingdom, as We were pleased rather to prorogate the same, and to hear such Reasons as they could give for their Demands. Wherefore We commanded Our said Commissioner to prorogate the Parliament until the second of June next ensuing, and that (since they had

disputed it) by our Authority only; We holding it no way fitting, that any assent of theirs but Obedience should be had to that Act, which doth so properly belong to Us as their King; and if they should presume to protest, sit still, and disobey this our Royal Command, Our further Will and Pleasure was, That Our said Commissioner should discharge their so doing under pain of Treason. But in case of their Obedience, and dissolving according to Our Command, then We did require Our said Commissioner to declare unto them, That We would not only admit to Our presence such as they should send unto Us to represent their Desires, and the Reasons of them, but would likewise, as We were ready always to do, punctually perform whatsoever we did promise. In the interim, We commanded himself with all convenient speed to repair hither, and to bring with him all that had passed, or had been demanded, both in Assembly and Parliament, that so We might not only be more perfectly informed of all Proceedings, but likewise consult with him and those of Our Council, what course would be best for the preservation of Our Honour, and the happy accommodation of this Business.

This Our Command being signified to the Parliament by Our Commissioner, was not assented unto without a Protestation, which they call a Declaration of the Parliament, to this purpose.

That whereas John Earl of Traquair, his Majesties Commissioner, honoured with a most ample Commission, according to his Majesties Royal Word, having closed the Assembly, and sitting in Parliament with them a very long time, for debating and preparing such Articles as were to be represented in face of Parliament, did now take upon him, and that without the consent of the Estates, and without any Offence on their part, who have endeavoured in all their proceedings to witness their Loyalty to the King, and Duty to his Grace, as representing his Majesties Sacred Person, to prorogate the Parliament upon a private Warrant, procured by sinister information, against his Majesties publick Patent under the Great Seal, &c. whereby he heavily offends all his Majesties good Subjects, and endangers the Peace of the whole Kingdom, for which he must be liable to his Majesties Animadversion, and to the censure of the Parliament, this being a new and unusual way, without president in this Kingdom, contrary to his Majesties Honour so far engaged for present ratifying the Acts of the Kirk, contrary to the Laws, Liberties, and perpetual practice of the Kingdom; by which all continuation of Parliament once called, convened, and begun to sit, have ever been made with express consent of the Estates, as may be seen in the Reigns of sundry Princes, &c. Therefore we the Estates of Parliament, &c. are constrained in this Extremity to manifest and declare, &c. That as we have not given the least cause, or smallest occasion of this unexpected or unexampled Prorogation, so we judge and know the same to be contrary to the Constitution and Practices of all preceding Parliaments; contrary to the Liberties of this free and ancient Kingdom, and very repugnant to his Majesties Royal Intentions, Promise, and gracious Expression in the Articles of the late Pacification, &c. And we do further declare, That any Prorogation made by the Commissioner's Grace alone, without consent of the Parliament, by himself, or any Commissioner

Car. 15.

Jac. 6.
Qu. Mary.
Jac. 5.
Jac. 4.
Jac. 3.
Jac. 2.
Jac. 1.

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 ner in his Name, under the Quarter Seal, or by the Lords of the Council, who have no power at all in Matters of the Parliament, during the sitting thereof, shall be ineffectual and of no force at all to hinder the lawful proceedings of the Subjects, and the doers thereof to be censurable in Parliament. And further we declare, That the Commissioner his nomination of the Articles by himself, his calling together those Articles, and commanding them to sit continually and proceed, notwithstanding their daily Protestations to the contrary; his keeping frequent Sessions of Council, and determining Causes in Council, during the time of Session in Parliament; His calling down and Calling up of Money during the Session of Parliament, without consent of the Estates of Parliament; notwithstanding the Parliament had taken the Money into their consideration, and had purposed to have given their advice for a determination there-aneant; His frequent prorogating of the riding of the Parliament, without consent of the Estates, or mentioning in the Acts of Prorogation, the consent of the Articles, although it were done by their advice, are contrary to the Liberties of the Kingdom, Freedom and Custom of Parliament; and that they be no preparatives, practicks, nor prejudices in time coming against us, or our Successors. But because we know that the Eyes of the World are upon us, that Declarations have been made and published against us, &c. that our proceedings may be made odious to such as know not the way how these Commandments are procured from his Majesty, nor how they are made known nor intimate to us, and do as little consider that we are not private Subjects, but a sitting Parliament; or what National prejudices we have sustained in time past by mis-information, and what is the present case of the Kingdom, We therefore declare, That whatsoever by the example of our Predecessors in like cases of necessity, by his Majesties Indiction, and by the Articles of Pacification, we might do lawfully in sitting still; and which in this extream necessity were justifiable, not only before so just a King, but to the faces of our Adversaries; Yet out of our most reverend regard, and humble desire, to render not only all real demonstrations of Civil Obedience, but to put far from us all show or appearance of what may give his Majesty the least discontent, we have resolved for the present only to make Remonstrance to his Majesty of the reason of our propositions and proceedings in this Parliament, &c. And in expectation of his Majesties gracious Answer to these our humble Remonstrances, some of each Estate having power from the whole Body of the Parliament, remain still here at Edinburgh, to attend the return of his Majesties gracious Answer to our humble and just Demands: And further, to remonstrate our humble Desires to his Majesty upon all Occasions, that hereby it may be made most manifest against all contradiction, that it was never our intentions to deny his Majesty any part of that Civil and Temporal Obedience which is due to all Kings from their Subjects, and from us to our dread Sovereign after a more especial manner, but merely to preserve our Religion and Liberties of the Kingdom, without which Religion cannot continue long in safety: And if it shall happen (which God forbid) that after we had made our Remonstrances, and to the uttermost of our power and duty used all means for his Majesties Information, that our malicious Enemies, who are not considerable, shall by their Suggestions and Lies prevail against the Informations, and general Declaration of a whole Kingdom, we take God and Men to witness, That we are free of the Outrages and Insolencies that may be committed in the mean time, and that it shall be to us no imputation, that we are constrained to take such course as may best secure the Kirk and Kingdom from the extremity of Confusion and Misery.

Which Declaration above-written, we the Estates of Parliament, required the Clerk to insert in the Records thereof, and grant Extracts thereof under his Hand and Subscription. Car. 15.

This Declaration was produced and read in the outer House of Parliament, upon Decemb. 18. 1639. according whereunto the Nobility nominated and appointed the Earls of Lothian and Dalhousie; the Lords, Yester, Balmerino, Cranston, and Napier: The Barons nominated the Commissioners of the three Lothians, Fife, and Tweedail: The Burroughs nominated the Commissioners of Edinburgh, Linlithgow, Sterling, Haddington, Dunbar, to attend at Edinburgh the return of his Majesties gracious Answer to their humble Remonstrance.

'In this Protestation or Declaration, though there be a specious show, and sundry professions of Obedience to Us, yet it is evident they have wound-
 'ed our Authority in the Person of the Earl of Traquair our Commissioner, who did nothing in that Prorogation but by Our special Command-
 'ment; and therefore for that they cannot cen-
 'sure him without reflection upon Us: And be-
 'sides, it is positively affirmed, That any Proroga-
 'tion made by the Commissioner alone, without consent
 'of the Parliament, shall be ineffectual, and of no
 'force; which necessarily implies, That We have
 'no power to Prorogue, whereas the contrary is
 'most manifest Truth. And though upon our
 'Command there was a show of Prorogation, yet
 'they continued part of their Body at Edinburgh,
 'upon pretence of receiving our Answer to their
 'Remonstrance; which, if it shall not be to their
 'liking, they conclude with a menacing Protesta-
 'tion, That it shall be no imputation to them, if they
 'be constrained to take such course as may best secure
 'the Kirk and Kingdom from the extremity of Con-
 'fusion and Misery; having first taken God and
 'Man to witness, That they will be free of all Out-
 'rages and Insolencies that may be committed in the
 'mean time; than which nothing can be more
 'boldly and insolently spoken.

'After this, these divided Members of that di-
 'tracted Parliamentary Body remaining thus at
 'Edinburgh, did send the Earl of Dunfermling and
 'the Lord Lowdon as their Deputies, to make
 'their Remonstrance to Us. But because We un-
 'derstood that they came without Warrant or Li-
 'cence from our Commissioner, and had not ac-
 'quainted him with what they were to propound
 'unto Us, We held this like the rest, a great
 'and insufferable Disobedience, and would not
 'admit them to our Presence, coming in this man-
 'ner; and so commanded them to return without
 'hearing them.

'Then our Commissioner came hither, and
 'made a Report to Us of the state of our Affairs
 'there; with which We thought fit to acquaint
 'the Lords of our Council of England, as also
 'with this Carriage of the Parliament in Scotland,
 'and to advise with them what was to be done for
 'redress of these Disorders. Whereupon We
 'commanded Our said Commissioner, the Earl of
 'Traquair, to make relation to the Board of all
 'their exorbitant Demands, of which some ac-
 'count hath been formerly given them by the Lord
 'Marquess Hamilton. Upon this our Command,
 'the Earl of Traquair made a large and exact re-
 'presentation to the Board of the most consider-
 'able Matters proposed and agitated in Parlia-
 'ment, and of the insolency of their Demands;
 'and the Petitioners themselves sent from Scotland,
 'have

Anno 1639. have since their coming to Us insisted upon all and every Particular of Our said Commissioners Relation, and in a most bold way offered to justify them all; by which they have more than justified the Report of the said Earl of Traquair.

Whereupon we were further pleased to acquaint the Lords, that they had lately sent Us a Petition, which carried some show of submission and humility, but was indeed nothing less, wherein they desired, that some might be allowed to come from them to Us, to represent their Affairs; which to make our Subjects of Scotland the more inexcusable, We told the Lords we had granted, though we had little cause to hope for any good from those that had so much forgotten their Duty and Allegiance to Us.

When the Lords had heard the Relation of our Commissioner, We thought fit upon the whole Matter to put this Question to them, Whether considering the insolency and height of these Demands, even concerning Civil Obedience, it were not fit to reduce them to their Duty by force, rather than to give way to these Demands, so prejudicial to Us in Honour and Safety? To this we commanded every one of our Council to give his Answer, and to declare his Opinion by Vote; which was accordingly done, and they unanimously voted in the Affirmative: Whereupon soon after we resolved to call a Parliament.

After this, our Subjects in Scotland, according to the Answer we gave them upon their Petition, having sent up hither four Deputies, viz. the Earl of Dunfermling, the Lord Lowdon, Sir William Douglass, and Mr. Berkley; We were pleased to admit them to Our Presence, and to receive Petitions from them, which were after by our Direction subscribed by them; in one of which they, in the Name of the Assembly convened at Edinburgh, gave Us thanks for that we had made known to them, that all Matters Ecclesiastical should be determined in free National Assemblies, and Matters Civil in Parliaments, and desired our Ratification of the Constitutions of the Assembly in Parliament: And in the other they desired to be heard before Us, and some of our Council of both Kingdoms; and that the Report made by the Earl of Traquair to our Council here in England, might be delivered them in writing under his hand, which was a most insolent Demand.

Immediately after this, We thought fit to appoint a special Committee of some of our Council to hear them, and accordingly gave order to the Earl of Traquair to assign them a day to come to that Committee. They refused to come, alleging that they had Order and Instructions to treat with none but our Self: Whereupon we appointed them to attend Us at the Committee, though it were the day of Our appointed remove to Hampton Court; at which time they did attend Us accordingly.

There the Lord Lowdon made a long Speech, the effect whereof was, A Protestation of the Independency of the Parliament of Scotland, and that it is subject to no other Judicatory; a profession of their Loyalty and Affection to Us, and a Justification of their proceedings in the Assembly and Parliament, as agreeable to the Articles of Pacification, and to the Laws and Practices of that Kingdom; and thereupon a desire, That We would ratify and confirm those their

proceedings; and to that purpose command that the Parliament might proceed freely, for the determining of all the Articles delivered into them, and the establishing of Religion and Peace in the Kingdom; undertaking that whatsoever Objections or Informations should be made against their proceedings in Parliament, (if they might receive them in writing) they would make Answer to them.

This Discourse ended, We demanded what Power and Commission they had to give Us satisfaction, and to oblige those from whom they came? Seeing if they had none, We should hear them upon great disadvantage, they expecting Satisfaction from Us who have Power to give it, but they none to render the like to Us.

They Answered, That which they should propose (it being agreeable to Law) they were confident would give Us satisfaction.

We asked who should be Judge of that? They answered, The Laws would be so clear that there should be no need of a Judge. And though We insisted much hereupon, they would give Us no other Satisfaction; they avowing they had Powers, and would bring them to Us; they were ordered to do so at the next Meeting, and so for that time were dismissed.

After Our return from Hampton Court, they attended Us at the Committee again; where they produced Instructions signed by some Scottish Lords, and other Persons of no great eminency; which Instructions having been read, were judged by Us, (all the Committee concurring in the same Opinion) to be no Commission, nor that they had any Power or Authority by them to give Us satisfaction, or to oblige those from whom they said they came, to any thing that We should yield to, or desire. Wherefore we demanding whether they had any other Power? They said, They had a Paper formerly subscribed by some of the Lords in Parliament, by which the Earl of Dunfermling and Lord Lowdon were only authorized to come, and present their Justification to Us, and they could for the present have no other, the Parliament now not sitting. Whereupon we advising seriously with the Committee what was best to be done in this weighty Business; and considering, That if they should be dismissed without further hearing, they would take occasion to clamour, although We held our Self bound neither in Honour nor Justice to hear them any further, (they having offered no Foundation for an Accommodation, nor having Power to do it) yet to the end that no colour of sinister Construction might be left, and that We might justify our Self to God and the World, that We have omitted nothing on Our part that might tend to Peace, and to the settling of a better Intelligence between Us and them, we did resolve that we would continue to hear them, and make Our Objections to such Particulars as had been proposed in Parliament, and against which we had just grounds of Exception, that so it might appear whether they could give Us that satisfaction which they had promised and presumed.

This We having declared to them, not one of them made show of the least sense of this Our Grace and Goodness so expressed to them; which the Lord Marquess Hamilton observing, took occasion of himself to say, That though he was not of their Company, yet being a Scotch-man, he held himself obliged to acknowledge with all humility

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 'humility this Our singular and princely Favour
 'to his Country, and besought Us to accept his
 'most humble thanks for it. This drew them
 'on to do the like, and so they presented their
 'humble Thanks to Us on their knees.

'At the next Meeting of the Committee, the
 'said Petitioners produced the Paper above-men-
 'tioned, subscribed by some of the Lords remain-
 'ing at *Edinburgh*, as aforesaid, by which the Earl
 'of *Dunfermling* and Lord *Lowdon* only were here-
 'tofore authorized to come and present their Ju-
 'stification to Us: Which Paper being read, the
 'whole Committee agreed that the Petitioners
 'had no power by this Paper, no more than by the
 'former, to give Us any satisfaction, or to ob-
 'lige those from whom they came, but only to
 'endeavour to justify themselves, and the former
 'proceedings of the Parliament. Of all this
 'we were pleased to give account to Our whole
 'Council of *England*, who unanimously concurred
 'in Opinion with the Committee, That the
 'above-mentioned Papers gave them no power at
 'all: Nevertheless we were contented, accord-
 'ing to Our promise, to hear them; and we
 'did make Objections to the most exorbitant of
 'their Demands: But their Answers were very
 'impertinent, and rather Justifications of them,
 'than any way satisfactory: Which could not be
 'otherwise, seeing those Demands were for the
 'most part so contrary to Law and Monarchical
 'Government, that they did answer themselves;
 'as by our Answer to them formerly set down
 'more particularly may appear.

'Concerning our promise of a Free Parliament,
 'no Man of ordinary sense can imagine we ever
 'intended it should be so free, as not to be lim-
 'ited with their own Conditions, subscribed by
 'the Lord *Lowdon*, which were to enjoy their Re-
 'ligion and Liberties, according to the Ecclesia-
 'stical and Civil Laws of that our Kingdom; and
 'if they pass these Bounds, as it is evident they
 'have done, we remain disobliged, unless they
 'will have Us only obliged, and themselves left at
 'liberty to fly at our Monarchical Government,
 'without controul, to wrest the Scepter out of
 'our Hand, to rob our Crown of the fairest Flow-
 'ers belonging to it, and to destroy our Regal
 'Power and Authority, as manifestly they have
 'endeavoured to do by their insufferable intend-
 'ed Acts and Demands, contrary to all Law and
 'Reason.

'If it be further Objected, That they assume
 'this Liberty by our allowing of the Covenant,
 'and commanding Our former High Commissio-
 'ner, the Lord Marquess of *Hamilton*, and other
 'Our Subjects, to subscribe it; the Answer is
 'very ready, That there is a great difference be-
 'tween the Covenant and Band subscribed by Our
 'Commandment, and their Band; for that Cove-
 'nant and Band was made by Our late Father,
 'King *James* of blessed memory, Anno 1580.
 'and obligeth those that swear to it, that they
 'should mutually assist one another, as they
 'should be commanded by the King, or any au-
 'thorized by him. But this new Band was made
 'without Our consent, and by it they swear mu-
 'tually to assist one another, not excepting the
 'King, which is indeed a meer cunning Combina-
 'tion against the King. Besides, when any have
 'been required to subscribe the Covenant, as the
 'Lord Marquess *Hamilton* was, and did, and in
 'that sense which he declared in print, the princi-
 'pal Heads of them did not only refuse it them-
 'selves, but dissuaded (as much as in them lay)

all Our good Subjects from subscribing it, though
 'the Covenant were all one with theirs, and so
 'acknowledged by themselves: Whereby it doth
 'evidently appear, That it was not Religion they
 'aimed to secure; (as they pretended) for then
 'they would have acquiesced with these our Com-
 'mands, but meerly by adhering to their own
 'Band, to keep our Subjects in that condition, as
 'they might be always tied, and conceive them-
 'selves obliged by Oath to take up Arms against
 'Us whensoever the time should be fit for a total
 'Rebellion; which they have never left endea-
 'vouring till they have brought it to pass: So that
 'by Our approbation of the old Covenant and
 'Band, or by the Subscription of our Commissio-
 'ner, they can have no solid Foundation to justi-
 'fie their now Proceedings; and it will hardly
 'appear that ever any Covenant was made in the
 'Christian World (except in Cases of Rebellion
 'and Treason, as this is) where the Head was left
 'out, or had not a Negative Voice.

'Neither can the Earl of *Traquair*, our High
 'Commissioner his Subscription, or allowance of
 'the subscription of the Covenant, be any War-
 'rant for their rebellious Courses; seeing, as ap-
 'pears by their own Petitions to him, they de-
 'clare, that, *Now following the laudable Example*
 'of their Predecessors, they do humbly supplicate for
 'the same, and that they may be allowed and warranted
 'to subscribe it: Which clearly evinces, that what
 'they did before, and of themselves, without
 'warrant of Authority, was neither laudable nor
 'warrantable: As also before the allowing there-
 'of by the said Earl of *Traquair*, it is acknow-
 'ledged (as appears by that which is prefixt to
 'his Subscription) that it is one and the same Co-
 'venant with that of 1580. which, as appears by
 'the Reasons heretofore deduced, will no way in-
 'fer any ground, or the least shadow of Reason
 'for their treasonable Combinations, or taking
 'up of Arms against Us, or our Authority, or any
 'denial of our Negative Voice.

'Now upon Debate of this Point at the Coun-
 'cil Board, the Lords were of Opinion, that un-
 'til the Petitioners sent from the Covenanters
 'would acknowledge that the Supream Magi-
 'strate must have Authority to call Assemblies,
 'and to dissolve them, and to have a Negative
 'Voice in them, as is accustomed in all Supream
 'Powers of Christendom, they ought not to be
 'heard.

'If they shall alledge (as they did when they
 'came to the Committee) that their Demands a-
 'foresaid were but Matters *in fieri*, and not abso-
 'lutely resolved nor concluded: It is to be answer-
 'ed, That the Impediment was not on their part
 'that they were not concluded. Nay, the Lord
 '*Lowdon*, in his first Speech to Us at the Com-
 'mittee, did not only justify their proceedings in
 'the Assembly and Parliament, as agreeable to
 'the *Articles of Pacification*, and to the Laws and
 'Practice of that Kingdom, but did desire that
 'we would ratifie and confirm those their pro-
 'ceedings, and to that purpose command that
 'the Parliament might proceed freely, and deter-
 'mine anent all those *Articles* delivered in to
 'them. Howsoever, good Subjects ought to be
 'wary how they come near the suspicion of Rebel-
 'lion or Treason, much more how they make
 'Demands that carry with them more than a
 'suspicion of rebellious and treasonable Inten-
 'tions, as these above-mentioned most manifest-
 'ly do.

'Now besides the Insolencies and Acts of Re-
 bellion

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They have made Provisions of great quantities of Artillery, Munition, and Arms, from Forreign Parts, which they have ready in Magazine to make use of against Us their Sovereign.

They have of themselves laid Taxes and Impositions of ten Marks in every hundred, upon all and every our Subjects, according to their several Revenues, to be levied upon their Estates, for the maintenance of this Rebellion; and this they have exacted with the greatest rigour and tyranny that can be imagined, howsoever they pretended the Contribution to be voluntary.

They have caused to be framed and published, as well in Manuscript as in Print, sundry false, seditious, and scandalous Papers and Pamphlets, concerning our proceedings with them; and amongst others, one intituled, *An Information from the Estates of the Kingdom of Scotland, to the Kingdom of England, &c.* which having come to our knowledge, we caused it to be read publicly at our Council Table; and the Lords in detestation thereof became humble Suitors to Us, that it might be suppressed by Proclamation, and burnt by the Hand of the Hangman, which hath been done accordingly.

They have refused the Lord *Estrick*, Governor of our Castle at *Edinburgh*, Timber, and other Materials necessary for reparation of the Works lately fallen down there, notwithstanding our express Commandment by our Letters to them upon their Allegiance to furnish them.

They have committed sundry Outrages and Violences upon the Persons of some of the Garrison at *Edinburgh*, that came out of the Castle to buy Victuals.

They have begun to raise Works and Fortifications against the said Castle, thereby to block up that our Royal Fort, and to render it unuseful. And they have fortified sundry other Places in that our Kingdom, and particularly *Insgarvy*, where they have mounted divers pieces of Ordnance.

They have lately imprisoned the Lord of *Soubeske*, and sundry others of Quality, for not adhering to them, and for their fidelity to Us.

And whereas we have upon sundry occasions signified our Pleasure to the Magistrates of *Edinburgh* for the performance of such things as have concerned our Service: Instead of yielding Obedience, they have made answer, That they have delivered up the power of governing the Town, into the hands of the Committee of the pretended Tables, by which they have not only voluntarily disabled themselves to serve Us, but have incurred the guilt of High Treason, by conferring upon any that power of Government which they derive and hold from Us alone, and cannot be resigned to any other without

our special Warrant and Command.

But to fill up the measure of their Treasons, they have endeavoured to settle Intelligences in parts beyond the Seas, and practised to let in Forreign Power into that our Kingdom, as we are able to make appear under the hands of some of the chiefest of them; as if the Fire, which by their own Rebellions they have already kindled within the Bowels of that State, were not sufficient to consume it, unless they added fuel to it from abroad. And herein appears first their malignity to Us their natural Sovereign, in that they had rather prostitute themselves to a Forreign Government, and such as is different in Religion, than yield conformity to ours. And then secondly, we cannot but take notice that the Interests and Safety of our Self, and this our Kingdom of *England*, are highly concerned herein: For if a Stranger once take footing in those Northern parts, it is not hard to judge how easily he may be invited by such Guides as they, and such an entrance as they will readily give him, to draw nearer to this warmer Climate of the South; and then how much the *English* Nation are likely to be beholden to their *Scottish* Neighbours for such Inmates, is left to every true *English* heart sadly to consider, and in time to endeavour to prevent, lest he be overtaken unawares by the mischief which threatens every one in particular, and the whole Nation in general; and yet all this with them is Religion and Laws.

But because the World shall see that we charge them not but upon very good and sure Grounds, we have thought fit to set down here their own Letter: Of which we have given our good Brother, the *French* King, an account, being confident he will not assist any Rebels against Us. The Letter follows, with this Endorsement, *Au Roy*, which in *France* is always understood from those Subjects only to their Natural Prince.

SIRE,

Vostre Majesté (estant l'asyle & sanctuaire des Princes & Estats affligés) nous avons trouvé nécessaire d'envoyer ce Gentilhomme le Sieur de Colvil, pour représenter à V. M. la candeur & naïveté tant de nos actions & procédures, que de nos intentions, lesquelles nous désirons estre gravées & écrites à tout l'univers avec un ray du Soleil, aussi bien qu'à V. M. Nous vous Supplions doncques tres humblement (Sire) de luy adjouster foy & créance, & à tout ce qu'il dira de nostre part, touchant nous & nos affaires, estans tresassés (Sire) d'une assistance Esgale à Vostre clemence accoustumée cydevant, & si souvent monstrée à ceste Nation, laquelle ne cederà la gloire à autre quelconque d'estre eternellement,

Sire,

de V. M.

Les tres humbles, & tres obeyssants,
& tres affectionnés serviteurs,

| | | | |
|---------|-------------|-----------|--------|
| Roches. | Montrose. | Lessie. | Marre. |
| | Montgomery. | | |
| | Loudoun. | Forrester | |

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Englished thus:

SIR,

Your Majesty being the Refuge and Sanctuary of afflicted Princes and States, we have found it necessary to send this Gentleman Mr. Colvil, to represent unto your Majesty the candour and ingenuity, as well of our Actions and Proceedings, as of our Intentions, which we desire to be engraved and written to the whole World with a Beam of the Sun, as well as to your Majesty. We therefore most humbly beseech you (Sir) to give faith and credit to him, and to all that he shall say on our part, touching us and our Affairs; being most assured (Sir) of an Assistance equal to your wonted Clemency heretofore, and so often shewed to this Nation, which will not yield the Glory to any other whatsoever to be eternally,

Sir,

Your Majesties most humble

most obedient, and most

affectionate Servants,

Roths.

Montrose.

Lefly.

Marre.

Montgomery.

Loudoun.

Forrester.

'Now these Affronts to our Government, and dangers to our State, which have no Relation at all to Religion and Law, but in the violation of them both, have necessitated Us to put the Forces of this our Realm in order, and our Self into a condition to be able (by God's help) to vindicate our Safety and Honour against all those that under pretence of Religion and Law, have already risen, or shall rise up against Us, and to preserve and keep in safety our good and loyal Subjects, and to take care that the Gangrene be cut off before it spread too far, to the endangering of this our Kingdom of England. Nevertheless we profess before God and all the World, that we never did, nor ever will hinder them from the enjoying of their Religion and Liberties, according to the Ecclesiastical and Civil Laws of that our Kingdom; and according to our Promise and their Desires, subscribed by themselves at the Pacification; but that we will govern them as a Just and Religious Prince: In assurance whereof, if they will yet acknowledge their former Crimes and Exorbitancies, and in an humble and submissive manner, like penitent Delinquents, crave pardon for what is past, and yield obedience for the time to come, they shall still find that we will be more sensible of their Conversion, than we have been of their Rebellions; and that we rather desire their Reformation, than their Destruction. But if they persist in their Rebellious Courses, and by that which they call the enjoying of their Religion and Liberties, according to the Ecclesiastical and Civil Laws of that Kingdom, will understand nothing but the trampling of our Crown and Royal Authority under their Feet, and the endeavouring to subvert all Laws and Religion, as they have done hitherto by their Proceedings in the Assembly and Parliament, then we hold our Self obliged, in discharge of that Duty which we owe

to God and the Government which he hath entrusted to Us, to have recourse to our coercive Power, to prevent so many imminent Dangers as threaten the Publick. This we take God to witness we are necessitated to, and shall not undertake without extream sorrow and reluctance. Nevertheless we trust that God, whose Vicegerent we are, and by whom alone Kings Reign, being likewise a God of Truth, and a severe punisher of all Falshood and Imposture, will no longer suffer his Glory to be despised and prophaned in our Person, by gross Hypocrisie, under the counterfeit habit of Religion, but will arise and scatter His and Our Enemies.

'And for this Noble English Nation, whose Glory it hath been to have been governed many hundreds of Years under a Monarchy, we doubt not but they will, as it becomes loyal and faithful Subjects, continue their Affection to Us and Monarchical Government, and not suffer themselves to be debauched and betrayed into an Anarchy, by such as envy the happiness they have so long enjoyed, and the many glorious Victories which they have atchieved, under Kingly Government, but following the example of the Lords of our Council, and of our Servants, will cheerfully assist Us in this Our just Cause, wherein Our Honour and Safety, together with theirs, are so highly concerned.

'Our Subjects in Ireland, by their late Declaration in Parliament, have not only given Us a considerable Supply toward our present Preparations, to reduce Our disaffected Subjects in Scotland to their due Obedience, but have humbly offered Us their Persons and Estates, even to the uttermost of their Abilities for Our future Supply, in a Parliamentary way, as Our great Occasions (should that Distemper continue) shall require. And this they desire may be recorded as an Ordinance of Parliament, and that it may be published in Print for a Testimony to all the World, and to succeeding Ages, of their Loyalty and Affection to Us, as it well deserves. This is a singular comfort to Us in the midst of these Distractions; and we have no cause to doubt but Our Subjects of England, who are nearer to the Danger, will shew the like tenderness of Our and their own Honour and Safety, which will be no less contentment to Us, and make Us, as a Father of Our People, take the same care of their Preservation and Prosperity, that We shall of Our own. And this We assure them, in the word of a Prince, We shall ever do.

AND thus you have a sight of these Debates, in the mean time the Scottish Covenanters were not idle, but endeavoured by all means to sollicit the help and assistance of several great Ones in the Court of England; more particularly the Earl of Roth's writes upon this Subject to the Earl of Pembroke, who either presently after changed his mind, or acted much against his honour, if he was not of that judgment, which his Letter, in answer to the Earl of Roth's, bespeaks him; for there he expressly saith, That I never allowed your Defence lawfully undertaken, by other Arms than by Petitions and Prayers unto your Master. I never found Loyalty in your Covenant, nor Duty in your taking up Arms. I never affirmed the Justice of your Cause; neither did I consider so much the Merit thereof, as your unwarrantable and tumultuous disobedience therein unto the King, with the vexation and Disturbance it brought upon the Nobility of this Kingdom.

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dom. Neither was I in all this Commotion your Advocate for other reasons, than suffering my self to become a Mediator to his Majesty for your Peace and Forgiveness, moved therunto by your frequent Protestations of paying all Duty and Loyalty to your Masters Commands. Most certain it is, that he with some others of his Majesties Court-Officers in these times were not over faithful to their Master, but did afterwards close with his Enemies.

And now all things begin to put on the aspect of War; for the Scots were providing Arms in Germany, as you have heard, wherefore it highly imported his Majesty to make provision accordingly, and rather to meet than expect a War. Accordingly the General Commissions (as you have heard) having been given out, the Entertainment of the Officers, General of the Field, the Lord Generals Train Officers of four Regiments of Foot, Officers General of Horse, and twelve Troops of Horse, and the Officers of the Train of Artillery was agreed on, the charge whereof amounted to no less than One hundred sixty one thousand six hundred fifty and two pounds, eight shillings and four pence per annum, besides eight thousand eight hundred and twenty pounds ten shillings per annum for the pay of the Train of Artillery.

In the latter end of the Year the Lord Wentworth, Deputy of Ireland, came over into England, where by his Majesty he was, according to his excellent merits, kindly entertained, and by him taken into his most intimate Counsel; he was now advanced to the state and honour of an Earl, and Knight of the most noble Order of the Garter: At his Creation he addressed himself to his Majesty, and his Speech hereafter followeth.

The Speech of Thomas Lord Viscount Wentworth to the King in the Presence Chamber at Whitehall, at his being Created Earl of Strafford the 12. of January, 1639.
15 Car. 1.

SIR,

IT is acknowledg'd (with Reverence and Truth) that Kings on the Throne are Sacred Pictures of Divine Majesty; but no where more expressive, then when excellent Princes are delighted in themselves, and magnified by others, rather through their Favours then Corrections; nor does Sovereignty at any time more eminently distinguish and exalt it self, then when we find Power and Will in Contention, or rather Consent for doing of good, more especially and in a larger measure then can consist with the condition of a Subject to accomplish.

This method (kept by great and magnanimous Kings) hath bequeathed them famous and glorious to Posterity: And amongst these your Majesty hath the pre-eminence; for such is the ease, propenseness, and (as I may say) the tranquillity of your Goodness, that what in them were Habits (acquir'd by long observation and practice) seems to be coessential with your Nature.

Nor shall I need fetch an Evidence to this Truth forth of my self, a grateful mention only of the Progress of your multiplied Favours towards me (your humblest Servant) will sufficiently and clearly evince

Your Majesty (of your own meer and free grace) made me a Baron, when you had scarce heard of me, and that too rather by ill Reports then Good; not many days after you were pleased to prevent any pretence of merit in me, indeed to exceed my thoughts through a gracious promise to make me a Viscount, and President of your Council in the North, which was Royally fulfilled within few Months after; successive to these you did me the Honour to call me to your Council-Board, a Deputy I was of your own Choice, and at this present Created an Earl. Car. 15.

These, Sir, in themselves are great and lasting Honours, yet as unto me in no relation so well pleasing, as when I consider my self (by those degrees) here upon my Knees humbly at your Feet to attend the Honour of your Commands, and to be inform'd by your Wisdom.

And I do most humbly beseech your Majesty, That you may vouchsafe the continuance of these dear Pledges unto me, and that I may from your Instructions still borrow light how to guide and direct my self (in the future course of my Service) to that which may be of most advantage to your Affairs, and best accepted with your self, as a Person utterly resolv'd to consider nothing of this World either before or after your Majesty.

The Services this great States-man had performed his Majesty, may not otherwise be better understood than by giving you the words of the Parliament of Ireland, who best knew him.

FOR that your Majesty hath placed over us so just, wise, and profitable a Governour, as the Right Honourable Thomas Earl of Strafford, Lord Lieutenant of this your said Kingdom of Ireland, who by his great care and travel of Body and Mind, sincere and upright Administration of Justice without partiality, encrease of your Majesties Revenues, without the least hurt or grievance to any of your well-disposed and loving Subjects, and our great Comfort and Security, by the large and ample Benefits which we have received, and hope to receive by your Majesties Commission of Grace for remedy of defective Titles, procured hither by his Lordship from your Sacred Majesty; his Lordships great care and pains in Restoration of the Church; the reinforcing of your Army within this Kingdom, and ordering the same with singular good Discipline; His support of your Majesties wholesome Laws here established; his encouragement to your Judges, and other good Officers, Ministers, and Dispensers of your Laws in the due and sincere Administration of Justice; his necessary and just strictness for the Execution thereof, his due punishment of the Contemners of the same, and his care to relieve and redress the Poor and Oppressed. For this your tender care over us shewed by the Deputy, and supporting so good Governours, &c. We in free recognition of your great Goodness towards Us, do, for the abbreviation of some part of your Majesties inestimable Charges, most humbly and freely offer to your Majesty four entire Subsidies, &c.

Notwithstanding these his great Demerits, he was not free from the Attempts of the Beast call'd Envy, but was most unworthily traduced by several Persons, as the Lord Esmond, Sir Pierce Crosby, and others, who for reporting and spreading scandalous Rumours to his prejudice, were enjoined by the Sentence of the Court of Star-Chamber, to make their acknowledgments at the Bar of the Court, and together

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together with the other persons concerned in the Crime, to pay 5000 l. damages to the Lord Lieutenant.

And thus we have brought our Reader to the beginning of the Second War with Scotland, the *Epocha* whence his Majesties and the Kingdoms Troubles succeeding, may be reckoned; and all this was for the advancement of that form of Government invented by Mr. Calvin of Geneva; it may not, perhaps, be amiss to give the Reader some account of this fatal Church-Government, the very *Fundi nostri calamitas*; for which the two Nations drew their Swords, and of which they were (especially this of England) so quickly weary.

The rise
and
growth of
Presbytery.

It was this year an exact Century since Calvin first set his foot into Geneva, where the Bishop being expelled, necessary it was some other Government should be succenturiated instead of the former. Calvin being of high esteem there, the contrivance thereof was committed to his care. He observing the Town Democratical in the Civil, thought an Ecclesiastical state elemented of respondent principles, would sute best: upon which consideration he formed a Consistory of Elders, whereof a great part were Lay. And these were to manage all Ecclesiastical concerns. Famous was he for this new model, no less than Columbus for his America, nor was it enough it was reputed a prudent institution, it must also be entitled to Divine, and Sacred Scripture tortured to declare as much. Most kind reception it found with the Gallican, and Belgique Churches. Where planted and settled, the next design was to dispatch it over into Great Britain: to which effect Beza writes a complying Epistle Commendatory to Queen Elizabeth, presenting this Geneva Platform, as the only desideratum wanting to Englands Reformation. The Queen was loth to proscribe so long a Standard as Episcopacy, to entertain such an upstart In-mate as Presbytery, therefore gave Beza his saying, but not his desire; this was Anno 1560. And shortly after, not only She, but the whole Parliament (whereof some Members began now to incline to the Disciplinarian Sect) were summoned again by Libels, called an Admonition to the Parliament, and Defence of that Admonition, to the Abolition of Episcopacy as Antichristian. But all this notwithstanding, both She and her Pan-Anglium, or great Council, stood fixt and inexorable, so that all the efforts and attempts of the other Party, could not produce any considerable unsettlement of that Ancient Discipline. In Scotland true it is, the new projected Model prospered better, for the Earl of Murray, or rather the Prior of St. Andrews (base Brother to the Queen) with his Complices, Knox, Buchanan, and others in their first Reformation, about Anno 1560. gave so terrible a shock to Popery, as made every thing, and by consequence Episcopacy which stood near it, to reel. Which nevertheless held them tug a score of years, nor could they supplant it all at once, but gained upon it by degrees. First, an Assembly at Dundee, Anno 1580. Ordered all Bishops upon pain of Excommunication, to resign up their Offices; and about three years after, prevailed with the Parliament, (the King being then in Minority) to annex their Temporalities to the Crown. Though this was acted in Scotland, yet was it not without instigation from England, and from some of her prime Nobility, animated by some Ministers who began to be now so pragmatistical and busie, as to preserve Ecclesiastical unity, the then Archbishop

Whitgift by command from the Queen, that very year contrived those three eminent Articles in the late Canons, whereto all who desired to enter into sacred Orders were strictly enjoined subscription. The first acknowledging the Queens Supremacy. The second, professing conformity to the Book of Common-Prayer, and approbation of the Book of ordering of Bishops, Priests and Deacons. And the third, assenting to the thirty nine Articles of the Church of England. Nor was the Hierarchy thus quite outed in Scotland, but somewhat revived again by the Parliament, ratifying the Clergy as the third Estate, Anno 1584. But the other Party being resolved never to acquiesce, until they obtained their minds, grew so impetuous, as they, I cannot say perswaded, but even forced that State, Anno 1592. to ratifie their Discipline. Thus did Episcopacy and Presbytery play *Love-le-queve*, and take their turns of Government for about thirty years; but in the year 1593. King James, the Queen of England now declining, hoping his wardship to these hot Spirits began now to expire, took up resolutions of animosity, and caused the Prelates to be restored to their Ancient Vote in Parliament, and published his Book called *Basil. Doron*, expressing therein no good will to the Consistorian Sect. And though, Anno 1603. upon his first accession to the English Crown, he was saluted here with a Petition, pretended of a thousand Ministers, that they might appear the more formidable, yet did he slight their boldness, and in Scotland, by several Acts of Parliament, rescinded what had formerly been introduced to the Prejudice of Episcopacy, so that from 1589. until this present, the Presbyters durst never appear in opposition.

England had flourished by its antient Laws and Customs for many Ages heretofore, happy at home and renowned abroad, at last it pleaded God for the Sins of this and the Neighbouring Kingdoms to raise amongst us a most unnatural Civil War accompanied (as is usual) with a contempt of things Divine and Human, the Laws of God and the King, the Palladium of a well govern'd Kingdom being troden under foot. Pride, Ambition, and the contempt of our lawful Government and Governours were too much encouraged, and these became the pestilent sources of the Distempers and Maladies, which raged with so much violence, almost to the ruin and desolation of these Kingdoms, the Scots by the late Pacification, and the encouragements they received from discontented and self-seeking persons here at home as well as from abroad were grown in their demands insufferable and exorbitant, the very constitution of their Parliaments by them found fault with, the manner of preparing of Bills to be passed into Laws, which were by a select number of Bishops, Nobles, and Commons of that Kingdom quarrel'd at, the third Estate in Parliament of the Bishops formerly call'd the first Estate, demanded to be annulled, &c. Hereupon his Majesty, by the advice of his Council, raises another Army against those Rebellious Scots, and proportioneth the number of men to be raised in each County. And his Majesty was pleased to promise for the ease of the Counties, that all the Souldiers should enter in to pay, as soon as they shall march out of the Confines of each Shire towards the Ports and places aforesaid of Newcastle, Tarmouth, and Gravesend: so he expects that the more care and readines be used, in the raising and keep-

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The Proportion of Souldiers that were to be raised in each County, to go by Sea, and where to be Shipped, followeth:

Suffex 600. to be Ship'd the sixth of June, at Gravesend, to be at the General Rendezvous the twentieth of May, to march thence the first of June.

Surry 800. to be Ship'd the sixth of June at Gravesend, to be at the General Rendezvous the twenty first of May, to march thence the second of June.

Kent 700. to be Ship'd the fourth of June at Gravesend, to be at the General Rendezvous the twenty third of May, to march thence the third of June.

Cinque-Ports 300. to be Ship'd the fourth of June at Gravesend, to be at the General Rendezvous the twenty first of May, to march thence the first of June.

Middlesex 1200. to be Ship'd the eighth of June at Harwich, to be at the General Rendezvous the twenty fourth of May, to march thence the third of June.

Hertford 650. to be Ship'd the fifth of June at Harwich, to be at the General Rendezvous the twentieth of May, to march thence the one and thirtieth of May.

Essex 700. to be Ship'd the fourth of June at Harwich, to be at the General Rendezvous the twenty fourth of May, to march thence the third of June.

Buckingham 500. to be Ship'd the sixth of June at Harwich, to be at the General Rendezvous the twentieth of May, to march thence the first of June.

London 1200. to be Ship'd at Blackwall.

Huntingdon 400. to be Ship'd the tenth of June at Yarmouth, to be at the General Rendezvous the twenty fifth of May, to march thence the fifth of June.

Suffolk 600. to be Ship'd the eighth of June at Yarmouth, to be at the General Rendezvous the twenty seventh of May, to march thence the sixth of June.

Norfolk 750. to be Ship'd the eighth of June at Yarmouth, to be at the General Rendezvous the twenty eighth of May, to march thence the seventh of June.

Cambridge 300. to be Ship'd the tenth of June at Yarmouth, to be at the General Rendezvous the twenty fifth of May, to march thence the fifth of June.

Bedford 400. to be Ship'd at Yarmouth the tenth of June, to be at the General Rendezvous the 25 of May, to march thence the fifth of June.

Lincoln 200. to be Ship'd the tenth of June at Grimsby, to be at the General Rendezvous the 29 of May, to march thence the ninth of June.

Nottingham 300. to be Ship'd the tenth of June at Grimsby, to be at the General Rendezvous the 27 of May, to march thence the sixth of June.

Derby 400. to be Ship'd the tenth of June at Grimsby, to be at the General Rendezvous the 25 of May, to march thence the fifth of June.

The total is 10000 Men.

The residue of the Army to be raised in the more Northern Counties were ordered to march by Land to Newcastle upon Tyne. The men to be raised to meet in Companies of one hundred a piece at particular Rendezvous in that County most convenient for each hundred men, till the tenth of May next, to be Weekly exercised with false Fires or no Fire, by such inferiour Officers, as the Lord General shall send down to instruct them in their postures, and the use of their Arms: to which purpose, your Lordship is to cause the Arms of the Trained Bands to be lent unto them, which shall be re-delivered back, when they shall march out of that County. Your Lordship is likewise to take order, that there be prest, and sent with the said Souldiers one Drum and Drummer to every hundred men, who shall enter into His Majesties pay, as soon as the said Souldiers shall march out of that County. Besides the said particular Rendezvous, where the several Companies are to meet in that County, your Lordship is to cause one General Rendezvous to be appointed on the Confines of that Shire, most convenient for the said Souldiers march towards Newcastle upon Tyne; to which General Rendezvous in that County, the said Souldiers are to be brought the tenth of May, and to remain there till the twentieth of the same Month, to be there exercised and put in order for their March towards Newcastle, by such Commanders and Officers as shall be sent thither by the Lord General, to whom your Lordship is to send present advertisement, what place you appoint for the said General Rendezvous of that County. The Souldiers are to be allowed at the charge of that County 8 d. a piece per diem for every day they shall be exercised, at the particular Rendezvous in that County. And from the tenth of May till the twentieth. The charge also of conducting the said men to the General Rendezvous of the County, is to be born by that County. Your Lordship (or at least) two of your Deputy Lieutenants are to be at the General Rendezvous of the County by the tenth of May, as well to assist in keeping of the men in order, as to take care for the receiving back from them the Arms of the County, and to deliver the said men over by Indenture, to such Commanders and Officers, as shall be appointed to receive and take charge of them: of which Indentures, one part is to be signed by your Lordship, or two of your Deputy Lieutenants, and the other by the said Commanders or Officers that shall receive the men; and Duplicates of the said Indentures are to be sent by your Lordship, one to this Board, and another to the Lord General. As his Majesty is graciously pleased for the ease of that County, that all the Souldiers shall enter into His Majesties pay as soon as they shall march out of the Counties.

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fines of that Shire towards *Newcastle*; so he expects, that the more readines and care be used in the raising and keeping them together while they shall be there; and that they be sent away well Cloathed and Coated at the charge of that County; all which charges and allowances, as well for the Coating as for the entertainment of the said men in their exercising, and conducting to their General Rendezvouz of that County; His Majesties Pleasure and Command is, that your Lordship do cause the same to be Levied in that County as hath been used heretofore in cases of less importance. And the Counties are to be repaid the same upon Accompt thereof made out of his Majesties Exchequer, in such manner as in former times, upon the like occasion. And lastly, we do expect and require the Justices of Peace, and other Officers in their several Divisions to be aiding and assisting to your Lordship and your Deputy Lieutenants in this Service, &c.

And for the Carriage of the Artillery, Letters were directed to the respective Lord Lieutenants of the several Counties through which it was to pass, to provide Horses and Carts for the same, and for the charge it was to be born by the respective Counties at the rate of 12 d. per diem for every Horse, and 8 d. per diem for every Carter, &c.

And forasmuch as those of *Scotland* had taken all pains imaginable, not only to falsifie the Articles of the Pacification, but also to possess his Majesties Subjects with false Aspersions and Scandals upon the King and his Government, and upon his proceedings with his Subjects in *Scotland* and to distemperate and alienate from his Majesty, the hearts of his well affected Subjects, and such as otherwise are no way inclined to such seditious and disloyal courses: His Majesty having taken these disorders into serious consideration, and finding them of dangerous consequence to his Government, if some timely remedy be not applied; hath with the advice of his Privy Council, thought fit to publish and declare, and by these presents doth publish and declare, that all and every person and persons, of what degree or quality soever, now have, or hereafter shall have any such Libellous and Seditious Discourse or Pamphlet, either in Manuscript or Print, concerning his Majesties proceedings with his Subjects in *Scotland* (other than such Relations and Discourses concerning the same, as have been published and Printed by his Special Licence and Authority) and shall not within ten daies after the date of these presents, bring and deliver the same to one of his principal Secretaries of State, all and every such person and persons shall incur the uttermost of such punishments and penalties, as by the Laws of this Realm are to be inflicted upon those that keep such scandalous and Seditious Pamphlets and Papers.

More particularly this Proclamation was directed against a Pamphlet published in Print, *An Information from the States of the Kingdom of Scotland to the Kingdom of England*, containing many notorious falsehoods and scandals, to the dishonour of his Majesties proceedings with his Subjects in *Scotland*, sundry Copies of which Printed Discourse have been sent from *Scotland* to divers of his Majesties Subjects in *England*, especially in the City of *London*.

Upon the account of all these undutiful and rebellious courses of his Majesties *Scottish* Subjects directly against his Crown, Government, and Dignity, his Majesty did by perswasion of his three most intimate Councillors, the Lord Archbishop of *Canterbury*, the Lord Marquess of *Hamilton*, and the Noble Earl of *Strafford* Lord Lieutenant of *Ireland*, indict his great Council or Parliament to meet at *Westminster*, April 13. and that all occasion of offence and complaint from that great Assembly might be taken away, he having formerly by his Letters Patents recal'd all Licenses and Commissions for Monopolies, &c. heretofore granted; and yet the Patentees continued still to vex the people in execution of the same, his Majesty commanded all those Patentees to bring in all their respective Patents upon their utmost peril, and yet more particularly these following:

The Commission for Brewing and Malting.

A Patent of Register to the Commission for Bankrupts in Divers Counties.

The Patent for Marking and Gaging of Butter Cask.

The Hat-band-makers Grant.

The Patent for making Brick.

The Patent for Kelp and Sea-weed.

The Patent for Sealing of Linnen Cloth.

The Privy-Seal for Buttons.

The Patent for Gut-string-making.

The Horners Patent.

The Patent for Lampreys.

The Patent for Transportation of Butter.

The Patent for Gathering of Raggs.

The Patent for Hay and Straw.

On the thirteenth of April the Parliament was opened at *Westminster* according to his Majesties Writs and Proclamation was made in the Lobby; as is usual on such occasions; by the Lord Steward of the King's Household as followeth:

A Proclamation before the Lord Steward.

THE King's Most Excellent Majesty doth straightly charge and command all manner of Persons, chosen for the Knights, Citizens and Burgesses, to attend in this present Parliament, that they nor any of them, do presume to sit or take their places in the Lower-House of Parliament, until they, and every of them, have first taken the Oathes of Supremacy and Allegiance in the usual manner and place; nor until the Sheriff shall make return of his Writ according to Statute, unto the Clerk of the Crown in Chancery, and his, or their names be there entred in such manner as hath heretofore been accustomed, upon pain of the peril shall fall thereon.

God save the King.

All Knights, Citizens, and Burgesses, chosen to attend this present Parliament, make your appearance, and answer to your Names as you shall be called.

Our

Anno 1640. Our Reader is not here to expect from us a List of that Parliament, but for that many of the same Persons were Members of the more fatal Parliament, which began on the third of November following, we shall then give you an exact Catalogue thereof.

His Majesty being placed with his Regal Ornaments on his Throne in the Lords House of Parliament, the Commons were by the Black-Rod commanded to attend in the Lords House, where being come, his Majesty spake as followeth:

My Lords and Gentlemen,

THere was never a King that had a more great and weighty cause to call his People together than my Self: I will not trouble you with the Particulars; I have informed my Lord Keeper, and command him to speak and desire your Attention.

Sir John Finch Lord Keeper spake as followeth:

My Lords, and you the Knights,
Citizens and Burgeses of the
House of Commons,

YOU are here this day Assembled by his Majesties gracious Writ and Royal Command to hold a Parliament, the general, ancient and greatest Council of this Renowned Kingdom. By you, as by a select choice and abstract the whole Kingdom is presented to his Majesties Royal view, and made happy in the beholding of his excellent and Sacred Person. All of you not only the Prelates, Nobles, and Grandees, but in your persons that are of the House of Commons every one, even the meanest of his Majesties Subjects are graciously allowed to participate and share in the honour of those Counsels, that concern the great and weighty Affairs of the King and Kingdom. You come all armed with the Votes and Suffrages of the whole Nation: and I assure my self, your hearts are filled with that zealous and humble affection to his Majesties Person and Government, that so just, so pious, and so gracious a King hath reason to expect from all his Subjects. I doubt not, but you rejoyce at this daies meeting, and methinks you should do so too; and good reason you have to do so, and with all humbleness of heart to acknowledge the great goodness of his Majesty, who sequestering the memory of all former discouragements in preceding Assemblies, is now of a Fatherly affection to his people, and a confidence that they will not be failing in their duty to him, who is pleased graciously to invite you and all his loving Subjects to a sacred Unity of hearts and affections, in the services of him and of the Common-wealth, and in the execution of those Counsels that tend only to the honour of his Majesty, and to the good preservation of you all. His Majesties Kingly resolutions are seated in the Ark of his Sacred Breast, and it were a presumption of too high a nature, for any Uzzah uncalled to touch it: yet his Majesty is now pleased to lay by the shining beams of Majesty, as Phabus did to Phaeton, that the distance between Sovereignty and Subjection

should not bar you of that filial freedom of access to his Person and Counsels, only let us beware how with the Son of Clymene, we aim not at the guiding of the Chariot; as if that were the only testimony of Fatherly affection; and let us ever remember, that though the King sometimes laies by the Beams and Rayes of Majesty, he never laies by Majesty it self.

In former Parliaments you have been advised with, for the preventing and diverting of those dangers, which by Foreign and more remote Counsels might have tended to the dishonour and ruin of this Nation; therein his Majesties great Wisdom and Providence hath for many years eased you of that trouble, his Majesty having with great judgment and prudence, not only seen and prevented our danger, but kept up the Honour and Splendor of the English Crown, of which at this day we find the happy and comfortable experience, Almighty God having vouchsafed such success to his Majesties Counsels, that our Fleece is dry, when it raineth blood in all the Neighbour States. But what availeth this the Kingdom? *Si foras hostem non inveniat, si modo domi inveniet.* You are now summoned to Counsels and Resolutions that more nearly concern you, to prevent a danger and a dishonour, that knocks at our Gates, and that moves from such, from whom we had little reason to suspect it. It's well known upon what happy and solid Counsels, one of our Wisest Kings made a match with Scotland for his eldest Daughter. We cannot forget (I'm sure we should not) the blessed Success that waited upon those Counsels, when the Crown of England descended upon King James of ever blessed and famous memory, who with the fulness of Joy to all true English hearts, made his Entry not by Bloodshed. The Wall of Separation was thereby taken away; and that glorious King to make his word good, *faciam eos in Gentem unam*, made all England rejoyce, and Scotland I'm sure had no reason to be sorry for it: They participated of English Honours, the Wealth and Revenue of this Nation they shared in, and no good thing was withholden from them, such was the largeness of heart in that most excellent King, and such was the comfort we took in this Fraternity, or rather Unity: When both of us had but one Brazen Wall of Fortification to look unto, the Sea, and all things so equally and evenly carried between us, that *Tros Tyrinsque nullo discrimine habentur.* His Majesty our most gracious Sovereign became Heir, as well to his Fathers Vertues as to his Kingdoms, *Pacemque Regis*, &c. and in his gracious and tender affection to that Nation, hath given as many indulgent testimonies of Love and Benignity, as they could expect. Thus became we both like a Land flowing with Milk and Honey; Peace and Plenty dwelt in our Streets, and we have had all our Blessings crowned with the sweet hopes of Perpetuity. God found out for my Lord the King, a Companion meet for him, his Royal Consort our most gracious Queen, who as she is not to be paralleled for her Person and Vertue, so hath she made his Majesty and the whole Kingdom most happy and blessed, in the sweetest pledges of their love and our hopes which ever stood like Olive-branches about the Throne or Table: But which I sorrow for, *Civiles furores patrie nimia infelicitas*, and when his Majesty had most

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most reason to expect a grateful return of Loyalty and Obedience from all the *Scottish* Nation, some men of *Belial*, some *Zebu* hath blown the Trumpet there, and by their Insolencies and rebellious Actions drawn many after them, to the utter desertion of his Majesties Government; his Majesties and his Kingly Fathers love and bounty to that Nation quite forgotten, his goodness and piety unremembred.

They have led a multitude after them into a course of disloyalty and rebellious Treason, such as former times have not left in mention, nor this present Age can any where equal; they have taken up Arms against the Lords Anointed, their rightful Prince and undoubted Sovereign, and following the wicked Counsels of some *Achitophel*, they have seized on the Trophies of Honour, and invested themselves with Regal Power and Authority: such and so many Acts of disloyalty and disobedience, as (let their pretences be what they will be,) no true *English* or Christian heart, but must acknowledge them to be the effects of foul and horrid Treason.

The last Summer his Majesty at his own charge, and at the vast expence of many of his faithful and loving Subjects of *England*, went with an Army, and then they took upon them the boldness to out-face and brave his Royal Army, with another of their own raising; Yet for all this, his Majesties goodness was not lessened by that, nor could his gracious Nature forget what he was to them, nor what they were to him; but considering with himself they were such (*quos nec vincere, nec vinci gloriosum fuerat*) out of his Piety and Clemency chose rather to pass by their former miscarriages, upon their humble protestations of future Loyalty and Obedience, than by just vengeance to punish their Rebellions.

But his Majesty (who is ever awake for the good and safety of all his Subjects) hath since too plainly discovered, that they did but prevaricate with him to divert the storm which hung over their heads, and by gaining time to purchase themselves more advantage, for pursuing their rebellious purposes.

For since his Majesty came from *Berwick*, it is come to his certain knowledge, that instead of performing that Loyalty and Obedience, which by the Laws of God, of Nature, and Nations they owe unto him, they have addressed themselves to Foreign States, and treated with them to deliver themselves up to their protection and power (as by God's great Providence and Goodness, his Gracious Majesty is able to shew under the hands of the prime Ring-Leaders of that Faction) than which nothing could be of more dangerous consequence to this and his Majesties other Kingdoms. Whosoever they be that do, or shall with *England* ill, they may know it to be of too tough a Complexion and Courage, to be assailed in the face, or to be set upon at the Fore-door: and therefore it is not unlikely, but they may (as in former times) find out a Postern-gate.

There were heretofore two of them, *Scotland* and *Ireland*, and both of them had their several Defences.

Ireland through his Majesties just and prudent Government, is not only reduced from the distemper of former times, but settled in such a condition of peace, and during his Majesties happy Reign, so altered and civilized,

that instead of being a charge to him (as it was to his Predecessors) hath yielded to him some Revenue, and his Subjects there do daily give very acceptable testimonies of their Loyal and Dutiful affection, both to his Person and Government. And now lately at the Parliament assembled, they have not only with full and free consent, made his Majesty a chearful Aid towards his present preparations, to reduce his disaffected Subjects in *Scotland* to their due obedience, but they have also professed and promised, that they will be ready with their Persons and Estates, to the uttermost of their Ability, for his Majesties future Supply, as his great Occasions by the continuance of his Forces against that distemper, shall require; so that the hopes of hurting *England* that way, are quite extinct.

Scotland then only remains, whither (as to a weak and distempered part of the body) all the Rheumes and Fluxes of factious and seditious humours make way.

His Majesty hath taken all these, and much more into his Princely Consideration; and to avoid a manifest and apparent mischief; threatened to this and his other Kingdoms, hath resolved by the means of a powerful Army, to reduce them to the just and modest Conditions of Obedience.

It is a course his Majesty takes no delight in, but is forced unto it; for such is his Majesties Grace and Goodness to all his Subjects, and such it is and will be to them (how undutiful and rebellious soever they now are) that if they put themselves into a way of humility becoming them, his Majesties Piety and Clemency will soon appear to all the World: But his Majesty will not endure to have his honor weighed at the Common Beam: nor admit any to step between him and his vertue: and therefore as he will upon no terms, admit the mediation of any person whatsoever; so he shall judge it as high presumption in any person to offer it, and as that which he must account most dangerous to his Honour, to have any conceit, that the solicitation of others can by any possibility better incline him to his people than he is, and ever will be, out of his own grace and goodness.

The Charge of such an Army hath been thoroughly advised, and must needs amount to a very great sum, such as cannot be imagined to be found in his Majesties Coffers, which how empty so ever, have neither yet been exhausted by unnecessary Triumphs, or sumptuous buildings, or other magnificence whatsoever, but most of his own Revenue, and whatsoever hath come from his Subjects, hath been by him employed, for the common good and preservation of the Kingdom. And like vapours arising out of the Earth and gathered into a Cloud, are fallen in sweet and refreshing Showers upon the same ground. Wherefore his Majesty hath now at this time, called this Parliament, the second means under God's blessing to avert these publick Calamities threatened to all his Kingdoms, by the mutinous behaviour of them.

And as his Majesties Predecessors have accustomed to do with your Fore-fathers, so his Majesty now offers you the Honour of working together with himself, for the good of him and his, and for the common preservation of yourselves and your posterity.

Anno 1640. Counsels and Deliberations that tend to benefit or profit, may endure Disputes and Debates, because they seem only accompanied with persuasions, But deliberations that tend to preservation, are waited upon by necessity, and cannot endure either Debate or delay; of such nature are the bleeding evils, that are now to be provided against.

This Summer must not be lost, nor any minute of Time foretold, to reduce them of Scotland, lest by protraction here they gain time and advantage, to frame their parties with Foreign States.

His Majesty doth therefore desire, upon these pressing and urgent occasions, that you will for a while lay aside all other Debates, and that you would pass an Act for such, and so many Subsidies as you in your hearty affection to him, and to your common good, shall think fit and convenient for so great an Action, and withal that you would hasten the payment of it, as soon as may be: And his Majesty assures you all, that he would not have proposed any thing, out of the ordinary way, but that such is the straitness of Time, that unless the Subsidies be forthwith paid, it is not possible for him to put in order such things, as must be prepared before so great an Army can be brought into the Field.

And indeed, had not his Majesty upon the credit of his Servants, and security out of his own estate, taken up and issued between three and four hundred thousand Pounds, it had not been possible for his Majesty, to have provided those things to begin with, which were necessary for so great an Enterprize, and without which we could not have secured Berwick and Carlisle, or avoided those affronts, which the Insolency of that Faction might have put upon us, by injuring the persons and fortunes of his Loyal Subjects, in the Northern parts.

To avoid all question and dispute that may arise, touching his Majesties taking of Tonnage and Poundage, his Majesty hath commanded me to declare unto you, that he hath taken it only *de facto*, according to the example of former Kings, from the death of their past Predecessors, until the Parliament had passed an Act for it themselves. That in like manner, his Majesty desires not to claim it, but by grant of Parliament; for this purpose his Majesty hath caused a Bill to be prepared in the same form as it passed to his Royal Father of blessed memory, adding only words to give it him, from the first of his Majesties Reign.

This and the Bill of Subsidies, his Majesty expects (for the pressing reasons before delivered unto you) may be dispatched with all speed, which his Majesty commanded me to tell you he shall graciously accept, as the welcome pledges of your loving, happy, and dutiful affection to him, his person, and Government.

And his Majesty is most graciously pleased, to give you his Royal word, that afterwards he will give you time for considering of such Petitions, as you shall conceive to be good for the Common Wealth, even now before you part, according as the season of the year, and the great affairs in hand will permit; and what is now omitted, his Majesty will give you time to perfect towards Winter, when your own leisure and conveniency may better attend it, he knowing well, that these Subsidies can be of lit-

tle use, without that more ample supply, which his Majesty expects upon the happy conclusion of this Session, and therein his Majesty is graciously pleased (according to the ancient way of Parliaments) to stay till your just grievances be heard and redressed.

And his Majesty assures you, that he will go along with you for your advantage, through all the gracious expressions of a just, a pious, and gracious King, to the end there may be such a happy conclusion of this Parliament, that it may be a cause of many more meetings with you.

I have now delivered what I have in Command from his Majesty.

The KING.

My Lords,

YOU shall see he hath spoken nothing hyperbolically, or nothing but what I shall make good one Speech, way or other.

And because he did mention a Letter by my Subjects in Scotland, who did seek to draw in Foreign power for aid, here is the Original Letter, which I shall command him to read unto you.

And because it may touch a Neighbour of mine, whom I will say nothing of, but that which is just (God forbid I should); for my part, I think it was never accepted of by him; indeed it was a Letter to the French King, but I know not that ever he had it; for by chance I intercepted it, as it was going unto him; and therefore I hope you will understand me right in that.

His Majesty delivering the Letter to the Lord Keeper, his Lordship began to read it, and observe as followeth:

Lord Keeper.

The Superscription of the Letter is this:

AU ROY.

FOR the nature of which Superscription, it is well known to all that know the style of France, that it is never written by any Frenchman to any, but to their own King; and therefore being directed (*AU ROT*) it is to their own King, for so in effect they do by that Superscription acknowledge.

Then his Lordship read the Letter in French, being the Original Language wherein it was Writ.

The Letter being read in French, his Lordship added.

His Majesty Commanded me to read it in English to you, as it is Translated, for that is the Original under their own hands.

SIR,

SIR,

Anno.
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YOUR Majesty being the Refuge and Sanctuary of afflicted Princes, and States, We have found it necessary to send this Gentleman Mr. Colvil, by him to represent unto your Majesty, the Candor and Ingenuity, as well of our Actions and Proceedings, as of our Intentions, which we desire should be Engraven and Written to the whole World, with the Beams of the Sun, as well as to your Majesty. We most humbly beseech you therefore, to give Faith and Credit to him, and all he shall say on our part concerning us, and our Affairs: being most assured of an assistance, equal to your accustomed Clemency heretofore, and so often shewed to this Nation, which will not yield to any other whatsoever, the Glory to be eternally

Your Majesties most humble,
obedient, and affectionate
Servants,

Rothes.
Montross.
Lesley.
Marre.
Montgomery.
Lowdon.
Forester.

Then the KING added.

OF these Gentlemen, that have set their hands to this Letter, here is one, and I believe you would think it very strange, if I should not lay him fast, and therefore I have Signed a Warrant, to lay him close Prisoner in the Tower.

My Lords, I think, (but I will not say positively, because I will not say anything here, but what I am sure of,) I think I have the Gentleman that should have carried the Letter, fast enough; but I know not, I may be mistaken.

And then my Lord Keeper concluded.

Gentlemen,

YOU of the House of Commons, his Majesties pleasure is, that you do now repair to your own House, there to make choice of your Speaker, whom his Majesty will expect to be presented to him on Wednesday next, at two of the Clock in the Afternoon.

The day following the Convocation sate at St. Pauls, and was somewhat longer liv'd than the Parliament, at which some Members thereof took great exceptions, as well to the Subsidies therein granted to his Majesty as the Canons by them made, as we shall, God willing, make manifest in due time and place, but with what Reason or Law, others will judge. The day following, being the fifteenth, the Commons presented their Speaker, whom they had elected Mr. Sejeant Glamvile at the Bar of the Lords House, who in his own excuse spake as followeth:

The Speaker's Speech.

May it please your Majesty,

THE Knights, Citizens, and Burgeses, of your Commons House of Parliament, in conformity to most ancient and most constant usage (the best guide in great Solemnities) according to their well-known privileges, (a sure Warrant for their proceedings) and in obedience to your Majesties most Gracious Counsel and Command (a duty well becoming Loyal Subjects) have met together in their House and chosen a Speaker, one of themselves to be the Mouth, indeed your Servant of all the rest, to steer watchfully and prudently in all their weighty Consultations and debates, to collect faithfully and readily the genuine sense of a numerous Assembly, to propound the same seasonably, and in apt questions of their final Resolutions, and so represent them and their Conclusions, their Declarations and Petitions, upon all urgent occasions with truth, with right, with life and with luster, and with full advantage to your most excellent Majesty. With what Judgment, what Temper, what Spirit, what Elocution ought he to be endowed and qualified, that with any hope of good success should undergo any such Employment, Your Majesty in your great Wisdom, is best able to discern and judge; both as it may relate to your own peculiar and most important Affairs of State and Government, and as it must relate to the proper business of your House of Commons, which was never small nor mean, and is like at this time to be exceeding weighty.

Had your House of Commons been as happy in their choice (as they were regular, well warranted, and dutiful) of my self, who stand elected yet to be their Speaker, and am now presented by them to your Majesty, for your gracious and Royal approbation, I should not have needed to become troublesome to your Majesty in this suit, for my releasment and discharge, which now in duty to your Majesty, and care for the good, prosperity, and success of your Affairs, I hold my self obliged to make. My imperfections and disabilities are best known to my self, and to your Majesty I suppose not altogether unknown, before whom in the course of my Practice and Profession, I have divers times had the honour and favour to appear and bear a part, as an ordinary pleader.

It is a Learned Age wherein we live, under your Majesties most peaceful and flourishing Government, and your House of Commons (as it is now composed) is not only the representative body, but the abstracted quintessence of the whole Commonalty, of this your noble Realm of England; there be very many amongst them, much fitter for this place than I am, few or none in my opinion, so unfit as my self.

I most humbly beseech your Majesty, as you are the Father of the Common-wealth and Head of the whole Parliament, to whom the care of all our welfare chiefly appertains, have respect to your own ends, have regard to your House of Commons, have compassion upon me the most unworthy member of that Body,

LIIII 2

ready

ready to faint with fears, before the burthen
light upon me.

Anno 1640. In the fulness therefore of your Kingly power,
your piety and your goodness, be graciously
pleased to command your House of Commons,
once more to meet together to consult and de-
liberate better, about their choice of a meet
Speaker, till they can agree of some such person,
as may be worthy of their choosing, and of your
Majesties acceptation.

His Majesties pleasure being enquired of by
the Lord Keeper, he was commanded to Reply,
as followeth:

The Lord Keeper's Speech.

HIS Majesty with a gracious ear, a Princely
attention, hath listened to your humble
and modest excuse, full of Flowers of Wit, of
Flowers of Eloquence, and Flowers of Judge-
ment.

Many reasons from your self he hath taken,
to approve and agree to the Choice and Electi-
on, made by the House of Commons, he finds
none from any thing that you have said, to dissent
or disagree from it; you have set forth your ina-
bilities with so much Ability, you have so well
deciphered and delineated the parts, duties,
and Office of a good Speaker, which is to col-
lect the sense of the House judiciously, to ren-
der it with fidelity, to sum it up with dexterity,
and to mould it into fit, and apt questions for
resolutions, and those as occasion shall serve, to
present with vigour, advantage, and humility
to his Majesty, he doubts not, but you that
are so perfect in the Theory, will with great
ease perform the practick part, and with no less
Commendation,

His Majesty hath taken notice, and well re-
members, your often waiting on him in private
Causes, wherein you have alwaies so carried
your self, and won so much good opinion from
his Majesty, as he doubteth not but that now,
when you are called forth to serve him, and the
publick, your affections and the Powers of your
soul, will be set on work with more zeal, and
more alacrity. It's that for which the Philoso-
phers call a man happy, when men that have
ability and goodness, do meet with an object
fit to bring it into Act, and such at this time is
your good fortune, an occasion being mini-
stered unto you, to shew your ability and good-
ness, and your fidelity to his Majesties Service,
to shew the Candor and cleanness of your heart
towards those of the House of Commons; In
all which his Majesty nothing doubteth, but you
will so discharge your self, as he may to his
former Favours, find occasion and reason to add
more unto you, That the House of Commons
may rejoyce in this Election of theirs, and that
the whole Kingdom, by your good, clear, and
candid service, may receive fruits that may be
comfortable unto all.

His Majesty therefore doth approve and con-
firm the choice of the House of Commons, and
ratifies you for the Speaker.

The Speaker's excuse being as you have heard
not allowed of, he addresseth himself again to his
Majesty.

The Speaker's farther Speech.

Car. 16.

Most Gracious Sovereign,

MY Profession hath taught me, that from
the highest Judge and highest seat of Ju-
stice, there lieth no *Writ of Error*, no Appeal.
Your Majesty in full Parliament, hath been
pleased by the mouth of the Lord Keeper, to de-
clare your Royal Judgment in Affirmation of the
Election of your House of Commons, whereby
I'm become their Speaker, and their Servant.
What is there therefore left unto me? but in
the first place devoutly to beseech Almighty
God, the Author and finisher of all good works,
to enable me by his blessing to discharge honest-
ly and effectually, so great a task, so great a
trust.

And in the next place, humbly to acknow-
ledge (as I do) the great grace and favour,
that is done unto me by your Majesty, and rea-
dily to conform my self to your good pleasure
and command, to which I now submit with all
possible cheerfulness, lest else my too much dif-
fidence to undertake the service, might add a
further disadvantage to my performance, than
peradventure would arise out of my other Impet-
fections.

Two Enemies I might fear, the common
Enemies of such Services, *Expectation* and *Jeal-
ousie*: I'm not worthy of the former, and I
contemn the latter. Time that tryeth truth,
shall let the whole world see and know, that I
am and will be found an equal Free-man, zeal-
ous to serve my Gracious King, and zealous to
serve my dearest Country.

Monarchy, Royal and Hereditary, is of all
sorts of Government the most compleat and
excellent; whether we regard the Glory, the
Wealth, or the safety of the Governour or of
the People, or of both. And I hope there are
not of this Nation any that are of Antimonar-
chical spirits or resolutions, no, nor dispositi-
ons, nor friends to such as are so; If there be,
I wish no greater honour to this Parliament,
than to discover them; and by all means pos-
sible to assist your Gracious Majesty to suppress
them, or to confound them.

You are a great King at all times, but sitting
now attended by your Prelates, your Lords,
and People in free Parliament are in the highest
state of Majesty and Glory.

I remember well, I heard your Majesties most
Royal and learned Father our late dear Sove-
raign King James of sacred memory, speak to
that purpose of himself and of Kings in gene-
ral; his Majesty sitting then in Parliament, up-
on that Throne which by descent from him, and
from innumerable Royal Ancestors, is now be-
come your Majesties lawful Seat and rightful In-
heritance.

To behold you thus in peace and safety, upon
this great and good occasion, after full fifteen
years experience of your most peaceful Govern-
ment, yields most compleat joy to all your Ma-
jesties Loyal and Well-affected Subjects, who
cannot but concur with me in this desire, *Servus*
in Caelum redeas diuque letus intersis Britannio popu-
pulo. England is your Seat of Residence not made
a Province, nor Governed by a Vice-Roy. God
open all our Eyes and understandings, to discern
and

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and value the great blessings and benefits we enjoy, by your Majesties gracious presence and immediate influence of life and cheerfulness to all the parts of these your Noblest Kingdoms.

Scotland is your Birth-place, and therein hath advantage of your other Realms; God make them and keep them ever sensible and worthy of that Honour.

Ireland begins apace to imitate *England*, in a great and quick progression in civility of manners and conversation, by many sedulous plantations and improvements of the Soyl, by their receiving and enacting of the more wholesome Laws and Statutes of this Kingdom, and by many other good effects and fruits of Peace, and blessed Government.

France is still an Attendant to your Royal Style and Title.

The Prerogative of a King is as necessary, as it is great: Without it, he should want that Power and Majesty which is, and ought to be inseparable from the Crown and Scepter. Nor can there any danger result from such Prerogative in the King to the Liberty of the Subject, so long as both of them admit the Temperament of Law and Justice: Especially under such a King as your Majesty, who to your immortal Glory among your printed Laws, have published this to the whole World for your Maxim, *The Liberty of the People strengthens the King's Prerogative, and the King's Prerogative is to defend the Peoples Liberty. Apples of Gold in Pictures of Silver.*

Kings, as they are Kings, are never said to err; only the best may be abused by mis-information. The highest point of Prerogative is, *The King can do no wrong.* If therefore by the subtilty of mis-informers, by the specious false pretences of Publick Good, by cunning and close contrivance of their ways to seduce, the Sacred Royal Person shall at any time be circumvented or surprized, or over-wrought and drawn to command things contrary to Law, and that the same be done accordingly: These Commands will be void, and the King innocent even in his very Person, being defended by his Prerogative; Nevertheless, the Authors in such mis-informations, and Actors in those abuses, will stand liable and exposed to strict Examination and just Censure, as having nothing to defend themselves but the colour of a void Command, made void by just Prerogative, and by the fundamental and true reason of State and Monarchy: And what difference is there, or can be in Law, between a void Command, and no Command at all?

If Religion, Justice and Mercy, all happily assembled and graciously lodged together in your Royal Breast, may give to your well-affected Subjects a good hope of the good Success of this Parliament, I know not why we should not all of us, expect it with much confidence. Some few particulars pertaining to these general heads, I humbly beg of your Majesty, that without offence to your Sacred Ears, I may have leave to mention and observe, for the further comfort of my self, and all that hear me.

What Prince of this Land was ever known to keep the hours and times set for Prayer and for the Service of Almighty God, with that Regularity and Constancy as your Majesty? Nay more, have you not ever since your access to the Crown, had one day in every week besides the Lord's Day, dedicated and applied to preaching and devotion? I may not stay here, there is a

no other particular equalling, nay much excelling both the former, And that is your Majesties great care to educate those Pledges of Conjugal and most abundant mutual Love that is between your Majesty and your most gracious Consort; the best Queen and Woman, and the Foundation of our future Hopes, the most illustrious Prince *Charles*, and the rest of your Royal Progeny, in the true Religion of Almighty God, publicly professed and by Law established in this Kingdom; What tongue is able to express the great Joy and Comfort, which all your Majesties most loyal and loving Subjects to derive unto themselves, in Contemplation of your Majesties great piety and prudence in this one Act expressed, extending it self not only to the present time, but to the good of Succession and all after Ages!

Touching Justice, there is not any more certain sign to discern an equal Judge, than by his patience to be well informed before he give his Sentence; and I may boldly say all your Judges throughout all your Kingdoms, may take example by your Majesty, and learn their Duty, from your practice in this kind. I my self have been witness of it, to my no little Admiration and Content.

From your patient hearing, let me pass on to your righteous Judgment; and therein bring but one Instance, but it shall be a great one. When your Lords and your People in your last Parliament, presented to your Majesty a Petition, concerning divers Rights and Liberties of your Subjects; the Petition being of no small weight and importance, as by the same may well appear; your Majesty, after meet deliberation, in few, but most effectual words, (*Soit droit fait come est desire*;) made them such an answer, as shall renown you for just Judgment, in this Age and to all Posterity.

I make haste to come to your Mercy, whereof I cannot but have need again and again, before I have finished that Service to which I am enjoined, and am not altogether in despair of obtaining it; Nevertheless, the Mercy which I mean to celebrate, is not only concerning single or particular persons, but whole Nations; that unexampled Mercy and Clemency, which (in your Royal Wisdom and abundant Goodness, happily met together) your Majesty vouchsafed to shew to us and all your Kingdom, in not drawing your Sword of Justice the last Summer, against your People of *Scotland*; though your Armies were much the better and the stronger.

It seems your Majesty remembered with more tenderness of heart than they do, that they were Christians and your Subjects, and that your Power was *posse & nolle nobile*. Whatsoever might be the Rule that inclined you to Mercy, I am sure the benefit redounds to us and ours, who by this means are still in peace and tranquillity, not without good hope of long continuance; A blessing peradventure undervalued by us, we have had so much of it, under your Majesties most gracious Fathers Royal Government.

I have yet no Instructions from your House of Commons, therefore can propound nothing as by Warrant from them; But if I may have leave to present to your Majesty my own most humble and most hearty Wishes and Desires, they be directed upon Religion, and Chivalry, Commerce, Justice, and Unity: That this Parliament may be

Anno 1640. be famous for the care and contentment of God's true Religion in this World and that to come: And to that purpose, that the most Reverend Prelates, your Majesties Archbishops and Bishops, sitting on the right hand of your Throne, will be therein most forward, to whom it is most proper.

That the Lords Temporal girt with their Swords in their Creation, as more specially rewarded or designed for Actions Military, would call to mind the most Noble and most Valiant of their Ancestors, whose Lands and Honours they inherit; and how famous this Land hath been at home and abroad, for Deeds of Arms and Acts of Chivalry, and to labour to restore it by all means to its ancient Glory. The best way to preserve Peace, is to be ready prepared and well fitted for War.

That your Majesty would be pleased to command, that your Grave and Reverend Judges, whose Observations should exceed all other mens, though they be but Assistants in this Service, to contribute the best and utmost they can, to explain, to execute, to advance our good old Laws, and to propound such things for the enacting of wholesome and plain new Statutes, that every Subject of this Realm may be enabled to know and understand himself clearly, both what he hath to do, and what he may possess, and what not. There are no considerable Mines Royal in this Kingdom: Trade and Commerce, the exportation of our Wools in Manufactures and Native Commodities, is that which furnisheth us with Gold and Silver, the Materials of our Moneys, and hath only power to enable us to supply your Majesty, for the defending of our selves, and the offending of others. That Merchants and Tradesmen therefore, should have all meet encouragement, is a most special Interest of this Island.

But were we never so Valiant, never so Wealthy, if Love and Unity be not amongst us, what good will our Wealth do to our selves, or to your Majesty? He that commands a heart in Love, he, and he only commands assuredly the Purse to pay, and the Hands to fight. I pray God therefore, that we may all endeavour to knit such a knot of true Affection betwixt the Head and Members, that all Jesuited Forreign States, who look perchance with envious and malignant Eyes upon us, and would be glad to rejoyce in our Divisions, may see themselves lost and defeated of all their subtil Plots and Combinations, and of all their wicked Hopes and Expectations, to render us (if their Endeavours might prevail) a People inconsiderable at home, and contemptible abroad.

Religion teacheth us, *Si Deus nobiscum, quis contra nos?* And Experience I hope will teach us, *Si sumus inseparabiles, sumus insuperabiles.* It was wont to be, and I hope it ever will be the Tenet and Position of your House of Commons, That the good of the King and of the People cannot be severed, and cursed be every one that shall go about to divide them.

I fear I have adventured too far on your Royal Patience, though yet I confess, I never knew it wearied; nevertheless, I will here conclude: Only first beseech your gracious Majesty, in the name and right of the whole House of Commons, that in your Justice you would be pleased to grant and confirm to them (for their better Encouragement to proceed in their great Business) these their ancient and just Liberties, which

time out of mind they have rightfully enjoyed.

Car. 16.

That they, their Servants and necessary Attendants, together with their Goods, may be freed from all Imprisonments, Arrests and Molestations, during Parliament.

That they may enjoy freedom of Speech in all their Propositions and Debates; which, I hope, they will be careful to use, within the Bounds of Loyalty and Duty.

That upon all necessary Occasions, they may have access to your Majesty, with such a competent Number, and at such seasonable times and place, as your Majesty shall appoint.

And last of all, That your Majesty will be pleased, graciously to make the best Construction of all their Words and Actions, and of mine in particular.

In the Lord's House, at the entrance of the Parliament, the Earl of *Strafford* was introduced, as is usual, into the House betwixt two Earls, Peers of that House. His good Services to his Majesty and the Government, not without the envy and disgust of some of the Commons, was there, according to his Demerits of the Commonwealth in general, amply related and extolled; more particularly, that he most speedily and effectually obtained of the Parliament of *Ireland*, for his Majesties Service against the Covenanted *Scots*, four intire Subsidies, for the maintenance of ten thousand Foot, and fifteen hundred Horse: A very good pattern for the present Parliament to have imitated and followed, had not the same Distemper of these Covenanters spread it self here in *England*; and I wish I might not say in the present two Houses of Parliament themselves.

After the Commons had settled (as accustomed) their grand Committees, for Religion, Law, Priviledges and Grievances, Secretary *Windebanke* gave that House to understand, That the Earl of *Lowdon* had been examin'd in the *Tower*, whither he was committed for the Treasonable Letter before by us mentioned, directed to the *French King*, by his Majesties Warrant directed to one of the Sheriffs of *London*, and where he was worthily lodged accordingly; who had confessed the Letter to be of his Hand-writing, but said in excuse, *It was only prepar'd to be sent, and never actually sent*; (which by the way [only] was downright Treason.) The same Account was also given to the House of Peers by the Lord *Corrington*; and yet no publick resentment manifested by either House to so egregious a piece of Treason.

The House of Commons afterwards desire the Peers to joyn with them in their Petition to his Majesty for his Allowance of a Fast, to beg the Divine Assistance and Direction upon their Consultations, and that by solemn Humiliation thorough the whole Kingdom.

And now the Parliament fell upon Business, his Majesty having fully acquainted them with the Affronts and Indignities of his *Scottish* Subjects, they would take no notice hereof, no not so much of the palpable practising of Treason with the *French King*, but now mention'd, but seemed resolved, as if they had feared no evil consequences from these practices. They in the first place start

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complain of, that the State laboured under, these
must first be considered and treated, where they
would be sure either to find or make work; these
were *Ship-money, Monopolies, Star-Chamber, High
Commission Court, &c.* complain'd of by a Petiti-
on from the good County of *Hertford*, to which
Mr. *Grimstone*, Burgeſs for *Colcheſter*, thus ſpoke.

Harbottle Grimstone Esq; his Speech.

Mr. Speaker,

WE are called hither by his Majesties Writ
to consult of the great and weighty Af-
fairs of the State and Kingdom. There hath
now a great and weighty Business been presented
to this House, and a Letter hath been read, im-
porting. (according to the Interpretation which
hath been collected out of it) a Defection of
the King's Natural Subjects. This is a great
cause, and very worthy of the Consideration and
Advise of this great Council: But I am ve-
ry much mistaken, if there be not a Case here at
home of as great danger, as that which is alrea-
dy put. The one stands without at the back-
door (for so dangers from thence in all our Hi-
stories have ever been termed) but the Case we
will put, is a Case already upon our backs. And
in these great cases of danger, (which so much
concern the welfare of the Body Politick) we
ought to do like skilful Physicians, that are not
led in their Judgments so much by outward ex-
pressions of a Disease, as by the inward Symp-
toms and Causes of it: For it fares with a Body
Politick, as it doth with a Natural Body. It
is impossible to cure an ulcerous Body, unless you
first cleanse the Veins, and purge the Body from
the Obstructions and pestilent Humours that sur-
charge Nature; and that being once done, the
Botches, Blanes and Scabs, which grow upon
the superficies and outside of the Body, will dry
up, shed, and fall away of themselves. The
Danger that hath now been presented to the
House, it standeth at a distance; and we hearti-
ly wish it were farther off: Yet as it stands at a
distance, it is so much the less dangerous. But
the Case that I shall put, is a Case of great Dan-
ger here at home. And is so much the more dan-
gerous, because it is home-bred, and runs in the
Veins.

If the one shall appear to be as great a Danger
as the other; we hope it will not be thought un-
reasonable at this time, to put the one as well as
the other.

Mr. Speaker,

The Case is this; The Charter of our Liber-
ties, called *Magna Charta*, was granted unto us
by King *John*, which was but a Renovation and
Restitution of the ancient Laws of this King-
dom. This Charter was afterwards in the suc-
cession of several Ages, confirmed unto us above
thirty several times, and in the third year of his
Majesties Reign that now is, we had more then
a Confirmation of it: For we had an Act decla-
ratory past: And then to put it out of all que-
stion and dispute for the future, his Majesty by
his gracious Answer, *Soit Droit fait come est desire*,
invested it with the Title of *Petition of Right*.

What expositions contrary to that Law of Right
have some men given to the undermining the Li-
berty of the Subjects, with new invented subtil
distinctions, and assuming to themselves a pow-
er (I know not where they had it) out of Par-
liament, to supersede, annihilate and make void
the Laws of the Kingdom? The Commonwealth
hath been miserably torn and massacred, and all
Property and Liberty shaken, the Church di-
tracted, the Gospel and Professors of it perse-
cuted, and the whole Nation over-run with
swarms of projecting Canker-worms and Cater-
pillars, the worst of all the *Egyptian Plagues*:
Then (as the case now stands with us) I conceive
there are two points very considerable in it. The
first is, What hath been done any way to im-
peach the Liberties of the Subjects, contra-
ry to the *Petition of Right*? The second is,
Who have been the Authors and Causes of
it?

The serious examination and discussion of
these two Questions, do highly concern his Ma-
jesty in point of Honour, and his Subjects in point
of Interest. And all that I shall say to it, are but the
words that *Ezra* used to King *Artaxerxes* of the
settlement of that State, which at that time was
as much out of frame and order, as ours is at
this present; that which cured theirs, I hope
will cure ours: His words are these, *Whoſoever*,
saith he, *hath not done the Laws of God and the
King, let Judgment be speedily executed upon him,
whether it be unto Banishment, or to Conſiſcation of
Goods, or to Imprisonment.* It may be some do
think this a strange Text, and 'tis possible some
may think it as strange a Case. As for the Text,
every man may read it that will; and for the Case,
I am afraid there are but few here, that do not
experimentally know it, as bad as I have put it,
and how to mend a bad Cause, I take it is part of
the Business we now meet about.

His Majesty yesterday did graciously confirm
unto us, our great and ancient Liberties of Free-
dom of Speech; and having his Kingly word for
it, I shall rest as confidently upon it, as the great-
est security under Heaven, whilst I have the ho-
nour to have a place here, and I shall with all
humility be bold to express my self like a Free-
man.

The Diseases and Distempers that now are in
our Bodies Politick, are grown to that height,
that they pray for and importune a Cure. And
his Majesty, out of his tender care and affection
to his People, like a Nursing Father, hath now
freely offered himself to hear our Grievances and
Complaints. We cannot complain we want
good Laws; the wit of man cannot invent bet-
ter than are already made: There want only
some Examples, that such as have been the Au-
thors and Causes of all our miseries and distracti-
ons in Church and Commonwealth contrary to
these good Laws, might be Treacle to expell the
Poison of mischief out of others.

But my part is but *ostendere partem*; there-
fore having put the Case, I must leave it to the
Judgment of this House, Whether our Dangers
here at home, be not as great and considerable,
as that which was even now presented?

But Sir *Benjamin Rudyard*, to qualifie a little the
heat of the foregoing Gentleman, adviseth Mode-
ration, that the House would proceed with all
caution and tenderness, and to lay aside all Ex-
asperations, &c. as followeth.

Sir

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Sir Benjamin Rudyard's Speech.

WE have, *said he*, Mr. Speaker, a great and effectual door of doing good opened unto us, it will be our prudence, and the advantage of the Nation, to make the best advantage thereof. We are here (Sir) met by the blessing of God and our King: Parliaments have of late days become unfortunate; it is our duty by our good temper and carriage, to restore them to their ancient Lustre.

There be some here present, who can remember the breaking up of the last Parliament; a business certainly from which the Papists are not exempt, who now by the discontinuance of Parliaments, are come to that arrogance and boldness, that they contend with us, who are the better Subjects. Their Envy I like, but their presumption is not to be born. I wish them no harm, but good; for I desire their Conviction: And the way to do that, is to set up better Lights, who have warmth in them, and are not lukewarm in Religion. Surely they that quarrel betwixt preaching and prayer, and would have them contend, never meant well to either: But both must have their due. And yet I know not how it comes to pass, but it hapneth to us, which is in no other Religion in the World, that a man may be too religious: And many one by that scandal, is frighted into a deep dissimulation. It is wisdom in us, to preserve temper and moderation: For breaking of Parliaments makes dangerous wounds in the Body Politick; and if the Splinters be not pulled out with a gentle hand, we may hereafter despair of Cure.

In 14 Ed. 3. Subsidies were given to the King for his expedition into France, but by the ill management of his Treasure here, he was so low, that he was glad to make Truce with the French King.

In 15 Ed. 3. He returns, and summoned a Parliament, wherein there was nothing but Jealousies and Distempers.

In 17 Ed. 3. He called another Parliament, to procure an Atonement with his Subjects, which took good success by their humble carriage to him, and his willingness to ratifie their Liberty, whereby all breaches were then made up.

A Parliament is the Bed of Reconciliation between King and People; and therefore it is fit for us, to lay aside all Exasperations, and carry our selves with humility: Howbeit the King's Prerogative may go far, yet if it be swayed with Equanimity, it may be the better born.

Princes are, and will be as jealous of their power, as people of their Liberties; though both are then best, when kept within their several Bounds. Levying of Moneys is a great disturbance to the Subject; and so will be the scarcity of the King's Revenues, until they be supplied. And where the Power of the King and Necessity meets in one hand, he will not long be disappointed. But before the ending of this Parliament, (the untimely breaking whereof would be the breaking of us) I doubt not but his Majesties Revenue may be so settled, that he may live plentifully at home and abroad: And without taking any thing from his Majesty, save that, which of it self would fall away.

In former Parliaments, the Carriage of some have been so haughty, as though Parliaments

would last always; and the carriage of others, as if there would be never any again. And therefore a Moderation (if we love our selves) is requisite. *Car. 16.*

The Delays of Remedies are well known, how dangerous they are to the Commonwealth and Religion, seeing, during this Vacation of Parliaments, so many Disorders have been committed, by Innovations in Religion, Violation of Laws, and intruding upon Liberties.

To set all which aright, is now our Task: And if in these tempting provocations we bear a temperate moderation, we shall not miss of our end, but shall be vindicated by God in his Religion, the King in his Honour, and the Commonwealth in its gasping Extremities.

If temper and moderation be not respected by us, be ware of having the Race of Parliaments rooted out.

Men and Brethren, What shall we do? If it were for my life, I would desire nothing more, then that we proceed with moderation, that so we may have many happy Parliaments, and that no dismal Events may happen to any: For when Parliaments are gone we are lost.

The day following, being the 17th of April, was spent in reading sundry Petitions from the several Counties of Suffolk, Middlesex, Essex, &c. at what time Mr. Pym, having a great deal of leisure since the Parliament in 1628. takes up whatever he could get together to inodiate the Government, and exasperate the House. These he rangeth into three Heads.

1. Grievances about the Liberties and Privileges of Parliament.
2. Innovations in matters of Religion.
3. Grievances about the Property of our Goods, &c.

Concerning the first of these (*said he*) I shall instance in six Particulars.

First, In that the Speaker the last Parliament (the last day of it) being commanded to put the Question, the House was commanded they should not speak. These are conceived to be the grounds of whatsoever befell those Gentlemen, which so lately suffered. 'Tis true, the House was commanded to adjourn presently, yet whilst the House sate, God forbid we should be barr'd from offering the last sighs and groans to his Majesty.

Secondly, In that the Parliament was then dissolved, before our Grievances had redress, or before we could make our Wills known, which is the privilege of Dying men; and to be heard before condemned, is not denied to private persons.

Thirdly, That the Judges presume to question the proceedings of this House: It is against nature and order, that inferiour Courts should undertake to regulate superiour. The Court of Parliament is a Court of the highest Jurisdiction, and cannot be censured by any other Law or Sentence, but by its own.

Fourthly, The several Imprisonments of divers Gentlemen, for speaking freely in Parliament.

Fifthly,

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Fifthly, That inferiour Courts should be informed to punish Acts done in this Court, whereby divers Members of the House were so kept in Prison, till they had put in security for their good behaviour; and some of them died in Prison; others not released, until Writs came for this Parliament.

Lastly, (which I conceive to be the greatest) That the Parliament was punished, without being suffered to make its own Defence. I call the Dissolution of the Parliament a punishment, and justly: The breaking of the Parliament, is death to a good Subject.

But it is to be observed, that in this and the other Grievances, though the King be no party (for his Highnesses Prerogative is to do no wrong) yet most of these Distempers of State, arise and do invade the Subjects, by means of misinforming him: As the Celestial Bodies of themselves send forth nothing but wholsomeness to man; but by the ill distemper in inferiour Bodies, much hurt ariseth from them.

Secondly, As to the second sort of Grievances, they are about Religion; Wherein I would (*said he*) first observe, the great Encouragement which is given to them of the Popish Religion, by an universal suspension of all Laws that are against them, and some of them admitted into publick places of Trust and Power.

I desire not to have any new Laws made against them (God be thanked, we have enough) nor a strict execution of the old ones, but only so far forth as tends to the safety of his Majesty, and such a practice of them, that the Religion that can brook no Corral, may not be the destruction of ours, by being too concurrent with it.

There is an Intention of a *Nuncio* from the Pope, who is to be here, to give secret Intelligence to Rome, how we incline here, and what will be thought fit to win us thither.

I observe as a great Grievance, there are divers Innovations in Religion amongst our selves, to make us more capable of a translation; to which purpose Popish Books have been published in print, and Disputations of Popish Points are, and have been used in the Universities and elsewhere with privilege, and preached in the Pulpit, and maintained for sound Doctrine, whereby Popish Tenets are maintained.

Secondly, The introducing of Popish Ceremonies, as Altars, bowing towards the East, Pictures, Crosses, Crucifixes, and the like, which of themselves considered, are as so many dry Bones, but being put together, make the man. We are not now contented with the old Ceremonies, I mean such as the constitution of the Reformed Religion hath continued unto us: But we must introduce again many of those superstitious and infirm Ceremonies, which accompanied the most decrepid Age of Popery, bowing to the Altar, and the like.

I shall observe the daily discouraging of all godly men, who truly profess the Protestant Religion, as though men could be too Religious.

Some things are urged by Ecclesiastical men, without any ground by any Canon or Article established, and without any Command

from the King, either under his Great Seal, or by Proclamation.

The Parliament ever since Queen Elizabeth's time, desired the Bishops to deal moderately; but how they have answered those desires, we all know, and these good men for the most part feel.

I may not forget, that many of the Ministers are deprived, for refusing to read the Book for Sports and Recreation upon the Sabbath, which was a Device of their own Heads: which Book, I may affirm hath many things faulty in it.

Thirdly, The encroaching upon the King's Authority by Ecclesiastical Courts, as namely the *High Commission*, which takes upon it to Fine and Imprison men, enforcing them to take the Oath *Ex Officio*, with many of the like Usurpations, which are punishments belonging only to Temporal Jurisdiction: And it hath been resolved in the time of King James, that the Statute of 1 Eliz. cap. 1. gives them no such Power: Moreover, the Power which they claim, they derive not from the King, nor from any Law or Statute; but they will immediately have it from Heaven *Jure Divino*. Divers particular Ordinaries, Chancellors, and Arch-Deacons take upon them to make and ordain Constitutions within their particular Limits. All these things are true to the knowledge of most that hear me.

Thirdly, As to the Grievances about Property, I reckon several Infringements made hereupon.

First, By the taking Tunnage and Poundage, which I account (*said he*) a great Grievance. There are divers ancient Customs due to the King, but they are certain what they are, and are due by prescription: These Customs being too narrow for his Service, and the affections of the People growing stronger and stronger to their Prince, Tunnage and Poundage were granted for years to the King; and afterwards by this House granted for Lives; but never were taken by the King's own Act without a Parliament: For doing which, there is no President, unless in a year or two in the latter end of Queen Elizabeth.

Secondly, The next Grievance, I rank *Knight-hood*, the Original whereof was, that persons fit for Chivalry might be improved: But this after was stretched for another end, for Money, and extended not only to Terre Tenants, but to Lessees and Merchants, who were first to appear, and then to plead for themselves at the Council Board; but were delayed from day to day, to their great charge and inconvenience: And notwithstanding the just Defence they have made for themselves, there have been infinite Distresses laid upon them until the Fines were paid, which were imposed not by Courts, but by Commissioners assigned for that purpose: And this being a continuing Offence, they are by the same Rule, as liable now to Fines, as ever.

Thirdly, *Monopolies* and Inundations of them, whereby a Burthen is laid not only upon Foreign, but upon Native Commodities, as Soap, Salt, Drink, &c. the Particulars whereof are

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fit

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fit for the Committee of Grievances.

Fourthly, Ship-money; and although there be a Judgment for it, yet I dare be bold to say it's against all former Presidents and Laws, and not one Judgment that ever maintained it. This is a Grievance that all are grieved at, having no Limits either for time or proportion: If therefore any shall endeavour to defend this, he must know, that both his Reputation and Conscience lye at Stake in the Defence.

Fifthly, The enlarging the bounds of the Forest. Though our Ancestors were heretofore questioned for the same thing, yet upon the satisfaction of all the Objections that were, or could be made, they then saved themselves; yet now the same things are turned upon us.

Sixthly, The Sale of publick Nuisances, for so they are pretended to be. Many great Nuisances have been complained of: But when there hath been money given, and Compositions made, then they are no more Nuisances, as Buildings and Depopulations.

Seventhly, Military Charges, and Impositions upon Counties, by Letters only from the Council Table, whereby Souldiers Conduct-money and Coats are to be provided at the Countries charge; and Horses also provided without ground or Law; many things in this kind being done by Deputy-Lieutenants of their own accord.

Eighthly, Extrajudicial Judgments and Impositions of the Judges without any cause before them, whereby they have anticipated the Judgment which is legal and publick, and circumvented one of the parties of just remedies, in that no Writ of Error lies, but only upon the Judicial proceedings.

The last sort of Grievance is, That the great Courts do countenance the Oppressions, as I may instance in the Court of Star-Chamber, advancing and countenancing of Monopolies, which should be instead of this great Council of the Kingdom; and the Star-Chamber now is become a Court of Revenue; Informations there being put in against Sheriffs, for not making returns of Money upon the Writs of Ship-money: It was not used, that *meum & tuum* should be disputed there.

The Remedy I do humbly present for all these Grievances, is, That we may joyn with the House of Peers in an address to his Majesty, and pray that these Grievances, being clear in Fact, may be Voted; if any thing in the Vote be stuck upon, that it may be debated and drawn according to the course of the House, into a Remonstrance, with an humble Petition of both Houses for redress. And I hope the Wisdom of this House will prepare such a Remedy, as will make the King a great King, and the people happy.

The day following, being the 18th of April, the House divided upon the Question, Whether the Records in the Court of Star-Chamber should be sent for against Sir John Elliot, Mr. Holles, &c. and referred to a Committee, which car-

ried in the Affirmative. The Speakers refusing to put the Question at the command of the House, was referred to the same Committee, and also ordered a Committee to consider of the Grievances mentioned in the several Petitions, and that the records about the Ship-money in the Case of Hampden should be brought into the House.

ON the 20th of April, the Committee about the Speakers not putting the Question, made the Report, and it was, That (he said) he durst not put the Question; not, That he would not put the Question; and that he left the Chair in obedience to the King's Command, which they presently voted a breach of Priviledge.

HIS Majesty seeing which way Affairs steered, commanded both Houses to attend him the day following, being the 21 of April, in the Banqueting-House at Whitehall, where he commanded the Lord Keeper to acquaint the Houses with his Majesties expectations from them, he said as followeth.

My Lords and Gentlemen,

YOU may well remember, upon the beginning of this Parliament his Majesty commanded me, to deliver unto you the causes of calling of it, which was, for the Assistance and Supply of his Majesty in so great, weighty, and important Affairs, as ever King of England had to require at his Subjects hands.

I am now to put you in mind what I then said unto you, and withal to let you know, that such and so great are his Majesties occasions at this time, that if the supply be not speedy, it will be of no use at all: For the Army is now Marching, and doth stand his Majesty in at least One hundred thousand pounds a Month, and if there be no means used to go on with this as is fitting, his Majesties design will be lost, and the charge all cast away. It is not a great and ample supply for the perfecting of the work, that his Majesty doth now expect, but it is such a supply (as without which) the Charge will be lost, and the Design frustrated, being built upon those weighty Reasons which tend to the infinite good of the Kingdom, and preservation of you all.

This done, his Majesty will give you scope and liberty to present your just Grievances unto him, and he will hear them with a gracious Ear, and give them such an Answer, as you and all the Kingdom shall have reason to joy therein.

His Majesty takes notice of one particular, and that is concerning Ship-money; wherein his Majesty hath commanded me to declare thus much unto you: First, His Majesty never had it in his Royal heart, to make an Annual Revenue of it, nor ever had a thought to make the least benefit or profit of it: But whatsoever he did or intended in it, it was for the Common good of you all; for the honour, glory, and splendor of this Nation, and that every one of us are made sharers and partakers in the benefits, fruits, and successes of it, which otherwise you would have felt the woes of it. He hath been so far from making the least benefit of it, that he hath expended great Sums of Money out of his own Coffers to work with, to those necessary ends I have named unto you.

The Accompts of such Moneys so received, have been brought to the Council Table, the Moneys delivered to Sir William Russell the Treasurer of the Navy, and by them all it may appear whether there hath been a fulness and clearness of truth in the disbursements thereof, for the good and safety of the Kingdom.

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anno. 1640. It is true, his Majesty had once intended this year not to have taken that course, but an Army, which his Majesty so just a King for the preservation of the Kingdom hath now taken into Consideration; And I must tell you, that his Majesty prizeth nothing more than his honour, and he will not lose for any earthly thing, his honour in the least; They cannot make those expressions of love, duty, and affection to him, which the graciousness of his Nature will not exceed in.

Of all his Kingdoms, this ought to be the nearest and dearest unto him, yet for his Kingdom of Ireland the last Parliament before this, the very second day of the Parliament they gave him six Subsidies, they relied upon his gracious Words, the success was that before the end of the Parliament, they had all that they did desire granted, and had it with an advantage. This last Parliament there, it is well known unto you all, what a cheerful supply they have given unto his Majesty, for their hearts went with it; and let it not be apprehended, that Subsidies there are of small Value; there is not a Subsidy that is granted, but it is worth Fifty or sixty thousand pounds at the least: Consider that Kingdom, what proportion it holdeth with this of England, and you will find, that it is a considerable Gift, as hath been given in many years. It hath wrought this effect, That certainly his Majesty will make it apparent to all the World, what a good construction, and how graciously he doth esteem and interpret this Act of theirs. I have directed hitherto my Speech to you that are of the House of Commons; Now I shall address my self to your Lordships.

It is true, the proper and natural Supply proceeds from the House of Commons, yet in aid at this time, his Majesty hath called you hither; and hopeth he shall not find the House of Commons backward to his desires, nor your Lordships to concur with them.

To you of the House of Commons, I did forget one thing, of an Objection that might perhaps be made; That Tunnage and Poundage is given towards the maintenance of a Fleet at Sea, let me tell you, that Tunnage and Poundage was never intended, but for ordinary preservation of the Sea, not that that should be to defend the Dominion of the Narrow Seas, when the Navies of all the Princes of Christendom are so increased as they are. It is fit for his Majesty (as things now stand) to have such a strength at Sea, as may be a terror to others abroad.

His Majesty was once resolved that no Shipping Writs should have issued out this year, but he was enforced for your good, and the good of the Kingdom, and for his Honour, upon necessary and weighty reasons to send forth Writs, and those reasons were these.

It was of necessity for his Majesty to prepare an Army to reduce his disaffected Subjects of Scotland to their due Obedience. This very year all the Neighbouring Princes are preparing with great Fleets of Ships, so as it is time for his Majesty to put himself into a strength that he may be able to preserve the Dominion of the Narrow Seas, without which this Kingdom will be lost, he not able to maintain his right of being the Moderator of the Sea, whereby there may be Freedom and Commerce of Trade, which adds exceedingly to the flourishing of this Kingdom. Another reason for Shipping Writs this year is, That those of Argier are grown to that insolency, that they are provided of a Fleet of sixty sail of Ships, and have taken divers Ships, and one called the Rebecca of London (well known to the Merchants upon the Exchange) taken upon the Coasts of Spain, worth at the least Two hundred and sixty thousand pounds. And therefore the Writ having gone out upon those

weighty Reasons, before it was possible the Parliament could give any supply to provide for those things, his Majesty cannot this year forbear it, but he doth expect your Concurrence in the Levying of it for the future. I shall speak that unto you by his Majesties Command, which may comfort any English heart; His Majesty hath no thoughts of enriching himself by the monies coming in upon these Writs; he doth desire but to live as it behoves a King of England, able to defend you and this Nation in honour and in lustre, which is famous abroad, and glorious at home, and to live but like such a King, as every true English heart desireth their King should be.

Be Masters of your own way, settle it so secure and so safe, that it may never come to the least benefit and advantage to himself, but for the common good, and those necessary ends wherein you shall all share in your plenty, peace, honour, and whatsoever any English man can glory in.

His Majesty commands me to tell you, You shall propound nothing wherein you may receive all security for the property of your Goods, and nothing for securing your own Liberties, wherein he will not most readily listen unto you; and be as willing to grant, as you to ask. His Majesty doth now offer unto you the reasons, occasions, and the way to make this the most blessed and most happy Parliament that ever was, and that may produce such effects, that the King may delight in his People, and the People in their King. And he layeth before you not only the Counsel to do so, but he will tell you the way, and that is by putting an obligation of trust and confidence upon him, which shall more secure you, then all that you can invent; or Fears or Jealousies can imagine to be provided for; It is a course that good Manners, Duty, and Reason should require of you to take into Consideration.

Wednesday, April 22. the Lord Keeper's Speech was reported to the House, and they entred upon the Debate thereof, and of the Supplies demanded; and upon the whole, were resolved, notwithstanding what had been offered to the contrary, to persist, and to go on to consider of Grievances, which they did for several days following.

ON Saturday, being the 25th, the Commons received a Message from the Lords (in whose House it had been carried, That the Consideration of Supplies for his Majesty should precede the Debate of Grievances) desiring a present Conference; which was granted: And the Matters therein debated were reported to the House Monday following by Mr. Herbert the Queens Solicitor, as followeth.

That it pleased his Majesty to honour the Lords House so much, as to come thither in person, and to make many Gracious expressions; and that he put them in mind, of what had been by my Lord Keeper in his Majesties Name delivered, first in the Lords House, and after to both Houses, in the Banqueting-House in Whitehall, and then he gave us his Royal Word and Assurance, that he would not depart from one tittle of that, which in his Majesties name had been delivered to the House of Commons, but perform it really to the utmost.

He gave us to understand, That the necessity of his Affairs was such, as would bear no delay, and a delay would be as good as a denial, both in regard of the Affairs themselves, and of the dangers that did attend them, as well as of his honour in Foreign States,

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which so much concerned him to uphold, as he held it as dear as his life, and of as great importance to maintain.

His Majesty did think, that in Civility and good Manners, as well as Necessary, it was fit for him to be trusted first.

There must be a Trust, and whether it begin with him or you, in the execution the total trust must be in him; the difference is but in point of time; though we trust him in the beginning, yet it is but in part, he must trust us in all before the end of this Parliament.

It is but a present Supply that he expects at this time, to go on with the things in hand, or else all the things which hath been told us will be lost, and that a very little time delayed will make it impossible for my Lords and us, to recover the same.

That the Lords commanded him to tell us of the necessity of the Affairs, and the urgency of the danger of somewhat that is lately come to their knowledge. The War is begun, and the men in Scotland have pitched their Tents at Dunce, and threaten an Invasion in Northumberland, and have taken some of the Troopers of Sir William Brounkards, so as their intention is plain; besides the Letter which may shew their purpose, to put themselves into the Protection and Defence of Foreign States.

The necessity is such, that his Majesty could not transfer the Trust to us, to begin with us, or otherwise he would most willingly let you go on in your own course, to begin with redress of your Grievances; but his Majesties necessity requires a present supply for this purpose, after which he will let us go on with our Grievances, and doth promise a Princely and Gracious care, and will relieve you therein, as far as in Justice and Reason you can ask.

His Majesty did express that he holds nothing so glorious, as that he is King of a rich and free People, and if he do not secure you in your Liberties and Property of Estate, he cannot account you a rich and free People, and consequently himself not Glorious: And therefore his Majesty declared, that for those three things, Religion, Property of Estate, and Priviledges of Parliament, he would graciously listen unto you.

For Religion, his Heart and his Conscience doth stand with the Religion of the Church of England, and as he hath lived in it, so he would dye in it; and no man can be more careful to keep out Innovations then his Majesty will be; and for that purpose he would lay a great Charge upon his Archbishops and Bishops, that they should take order accordingly.

For Ship-money, his Majesty declared, it was never in his thoughts to make the least profit or benefit of it, and that he never did make advantage of it. But contrarily had laid out many Thousand pounds out of his own Treasury towards that Defence, for which that was intended, as many of the Lords can witness.

All his Majesties care and aim was for the preservation of your safety, peace, and plenty, and his own honour abroad: That he may Reign among you a great and glorious King, as you ought to desire he should: Therefore think you of any other way for the guard and preservation of the Seas, which (considering the great Naval preparations abroad) doth so much import, that he may be able to maintain a Navy, whereby he may be Moderator, and keep Dominion of all the Narrow Seas, without which it is impossible for us to subsist. Keep the Sea which is the way by which God hath enabled his Majesty to protect and defend us; put it into what way you will, his Majesty will joyn with us in it.

The Lords have taken into consideration his Majesties gracious expression; we have the Word of a King, and as some of the Lords were pleased to say, not only of a King but a Gentleman, and they would no more be guilty of distrusting him, then they would be of the highest undutifulness towards him.

And upon all these Considerations, though my Lords would not meddle with matters of Subsidy, which belong properly and naturally to you, no not to give advice therein, but have utterly declined it; yet being Members of one Body, Subjects of the same King, and all concerned in the common safety, their duty to his Majesty, and in their zeal and natural love to their Country, themselves and their Posterity, they have declared by Vote, that they hold it most necessary and fit that the matter of Supply should have the precedence before any other Matter or Consideration whatsoever, and therefore desired a Conference with you, to let you know their Reasons for the same.

This taken into consideration, and done by you, trusting in his Majesties promise, (which they hold the greatest obligation upon him, and the greatest security to your selves) they will freely joyn with you in all that concerns Matter of Religion, Property of Estate, and Priviledge of Parliament. This course being followed, their Lordships are of opinion we shall have a most happy and blessed Parliament.

This being reported to the House, it was by them Resolved upon the Question;

First, That the House of Lords have violated the Priviledges of the Commons by Matters propounded to the Commons by them at their late Conference.

Secondly, That this Matter be referred to a Committee to prepare Heads for a Conference to be had and to be desired with the Lords hereupon; and that a Message be sent to the Lords to desire a Conference on the Heads following.

First, That at the Conference it being admitted by their Lordships, that Matters of Subsidy naturally and properly belong to this House, and that their Lordships would not meddle therein, or give advice therein, but had declined it; the Committee therefore conceives, that this House shall not need to labour therein, or to think of Presidents or Reasons for the maintaining of this Priviledge.

Secondly, That notwithstanding this Declaration, their Lordships meddled with, and advised concerning both the matter of Supply, and the time when, and that before such time as the same was moved to them by the Commons. It appears by their Lordships Declaration (viz.) that they had Voted, That they held it most necessary and fit the matter of Supply should have the Precedence before any other matter or consideration whatsoever; and therefore desired that Conference with the Commons to let them know their Lordships Reasons; and that being taken into consideration, and done by the Commons, their Lordships would freely joyn with them in all that concerns matter of Religion, Property of Estate, and Priviledge of Parliament.

Thirdly, To desire reparations from the Lords hereupon, for repair of this breach of Priviledge; and that their Lordships be desired in their wisdom to find out some way of Reparation of their Priviledges for the present; and of prevention of the like infringement for the future.

And

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And lastly, Whereas the Committee was induced to conceive, that their Lordships had been informed that the Commons upon debate thereof had taken into consideration the matter of Religion, property of Estate, and Priviledges of Parliament, and that they mean to let the same have the precedency before the Supply, they humbly offer that the same may be presented to their Lordships in words to this effect.

That in case their Lordships have taken notice of any Orders, or proceedings of the Commons concerning matters of Religion, property of Estate and Priviledge of Parliament, that they were to have precedency before the Supply, which they seem to conceive by these words, *That this being done, then their Lordships will freely joyn to the avoiding of all mis-understanding between their Lordships and the Commons for time to come*: They desire their Lordships to take no notice of any things which shall be debated by the Commons, until they shall themselves declare the same to their Lordships, which the Commons will alwaies observe towards the proceedings of their Lordships.

After a debate hereon had in the House of Commons, they agreed with the Committee in the report, and appoint one to manage the Conference with the Lords. The day following they spent in further debate of heads to be added to the foregoing in the Conference to be desired with the Lords, and these were Innovations in Religion, Liberty, and Property, and Priviledge of Parliament; the Conference was had accordingly with the Lords on *Wednesday, April 29.* and was managed by Mr. Pym, as to matters of Religion, by Mr. St. John as to Monopolies, and by Mr. Holborne as to Priviledge of Parliament.

Thursday was spent in the matter of Ship-money; and on *Friday* the House met at a Conference in the Painted Chamber upon the Subject matter of the last Conference, where the Lord Keeper spake as followeth:

The Lord Keeper's Speech.

THE Lords have commanded me to let you know, that the desire and care on your part at the last Conference, represented unto them for preserving a good Union and Correspondence between their Lordships and you, is by them entertained with all respect, and requited with all good affection; as that which is the best way to bring our Consultations and Resolutions to an happy issue, to give his Majesty a dutiful account of our zeal and forwardness in those great and weighty affairs, for which we were assembled; and to further those United Proceedings that may tend to the happiness of this Kingdom, and the contentment of both Houses.

Their Lordships well know the great privileges belonging to both Houses of Parliament, of which they and you alike participate: and they are not ignorant of those that are distinctly proper to each House: what belongs to you of the House of Commons they never had thought to impeach or diminish in the least kind; and what they may justly challenge to themselves, they presume you will not attempt upon, since you cannot doubt but they will be as ten-

der of their Honour in the preservation and upholding of their own, as they are and shall be careful not to invade or violate any of yours. *Car. 16.*

This (their Lordships commanded me to tell you) will best and most clearly appear, by the Course hath been held in their own House, and by their proceedings with you.

Their Lordships (as in Duty and affection to his Majesties Crown and Government they are bound) took into serious Consideration, the great and weighty motives of his Majesties calling together at this time, the great Evils and Calamities that hang over our Heads, and the apparent danger this Kingdom is like to run into, if by speedy and fitting supply his Majesty be not able to prevent it.

These with Reasons inforcing, how unportable Delay and Protraction was, and how impossible it is for both Houses to recover the loss of time, in a matter of so urging and pressing Consequence, whereby his Majesties Command delivered to their Lordships and you both in the Lords House and in the *Banqueting-House* at *White-hall*, his Majesty being present.

His Majesty, I say, at both those times, expressed his gracious and Princely desire to do all that from a just and a gracious King might be expected, whereby this Parliament might have an happy and blessed conclusion, to bring Joy and Consolation to his Majesty and all his Subjects. He told you, that all your just Grievances should be graciously heard and relieved; that he would therein let you be at no loss of time.

Their Lordships were Witnesses, that his Majesty gave his Royal Word herein, and for their parts lodge it in their hearts with as much trust and confidence of his Majesties Royal performance, as ever Subjects did.

Not long after, his Majesty was pleased to honour the Lords House with his presence again, to renew their Remembrance of all that before had been delivered to both Houses, both for the necessity of the Supply desired, with an impossibility of admitting delay, and the clearness of his Majesties intention and resolutions to give all just satisfaction, to what with reason could be desired of him.

His Majesty then took notice to their Lordships of somewhat that had been Voted in your House concerning Religion, Property of Goods, and Liberty of Parliament, whereby his Majesty conceived the matter of his Supplies set aside, which he had so often and with such weight of Reason desired might have precedence, after very gracious assurances to their Lordships of his Majesties constant affection and zeal for the true Religion, for preventing all Innovation therein, of his so often iterated promise to give a gracious Ear and just Relief to all your just Grievances, expressing his Royal Intentions in that of *Ship-money*, which he found so much stood upon. He was pleased to desire their Lordships, (as persons in their Ranks and Degrees nearest to him in Honour, as much and more concerned than others, and in the safety and prosperity of his Kingdom, at least equally interested with the rest of his Subjects) in a case of this great and important weight.

They would by their Counsel and perswasion, incline you of the House of Commons to give his Majesty a speedy answer and resolution in the matter of Supply.

Their

Anno 1640. Their Lordships took his Majesties Desire into serious and dutiful consideration, and after a great and solemn Debate, they resolved, that their opinion was, *That the matter of his Majesties Supply should have precedence, and be resolved of before any other matter whatsoever*; and did think fit, there should be a Conference desired with you of the House of Commons, to dispose you thereunto. And this was all they then Voted or concluded, with which other Conference their Lordships acquainted you; This as it was just and honourable for them to do, so it neither extended the Bounds and Limits of their own privilege, nor narrowed or strained any of yours. And yet at the last Conference which their Lordships are apt and willing to believe, proceeded rather from some mistaking than any intention to lessen their, or enlarge your own Priviledges.

It was urged in your name, that the Voting of this was a breach of your Privilege, and that therein their Lordships had been transported beyond their grounds, which they had set to themselves: because in their former Conference their Lordships had admitted, that matter of Supply ought to be given in the House of Commons, as naturally belonging to that House, and wherein their Lordships would not meddle, no not so much as to give advice: And yet by Voting what they did, had not only meddled in matter of Supply, but as far as in their Lordships lay, had concluded both of Matter and Order of proceeding, for which you demanded Reparation from their Lordships: Wherein I'm commanded by their Lordships to let you know, that they have neither varied, nor been transported from their own grounds, nor Voted any thing contrary to your Rights and Priviledges, or to that admitting of them at that Conference, which is pretended. For their Lordships did and I do admit, that the Bill of Subsidies ought to have its Inception and beginning in your House, that when it comes up to their Lordships, and is by them agreed unto, it must be returned back to you, and be by your Speaker presented.

And therefore as they do disclaim any thought or Intention of such beginning in their House, so they did at their Debate and Conference with you, disclaim to meddle with the matter of Subsidies or Supplies; that is, by naming the Time or Number, or any such Circumstances incident to the Bill, which ought to begin with you, or therein to give you any the least advice, but to confer and talk with you about Supplies in general.

Their advice therein they do not, nor ever did hold derogatory to yours, or exceeding the Priviledges of their own House: for as you frequently impart your Grievances to them, so it's all the Reason in the World they should communicate their fears and fore-sights of Dangers to you, their Lordships being a Body that moveth in an Orb nearer unto the Royal Throne than you do, and therefore the likelier to communicate in the Counsels and Secrets of State, and for their Persons and Fortunes, at least as considerable in point of Danger.

Their Lordships are not unacquainted with that Establishment in Parliament, which was by you at the Conference styled, *The Indemnity of the Commons*: but it is indeed the Indemnity of the Lords and Commons, and so styled in the Record it self, by that Record made at Gloucester 9 H. 4.

It appears there was a Conference between the Lords and Commons, about the State of the Realm and Defence of it, after which the King demanded of the Lords, What Aid was fit to be granted? They said a Tenth and an half in Cities and Burroughs, and one Fifth and a half of others, and a Subsidy of Tonnage and Poundage for two years.

Upon which, the King sent to the Commons to send up to him and the Lords, twelve of their company; when they came, it was by the King's Command declared, what had been of the King demanded of the Lords, and what the Lords answer thereunto was (which the King willed them to report to their Companions, that they might with better speed conform themselves to the intention of the Lords.)

This indeed the Commons were troubled at, as being a great Derogation to their Liberties; whereupon to prevent for the future any thing that might turn to the prejudice of their liberty, or against the liberty of the Lords, It was established, *That it should alwaies be lawful for the Lords to commune among themselves in the King's absence of the State of the Realm, and the Remedies needful; and so for the Commons among themselves, Provided alwaies, that neither the Lords or Commons report to the King any things granted by the Commons and assented to by the Lords, nor the Communication of it, before the Lords and Commons be agreed, and then be represented (as the manner is) by the Speaker of the House of Commons.*

This is the substance of that Establishment, which only hath relation to the manner of presenting Subsidies and Aids to the King, and giving him knowledge of them. And as it hath not one word that bars the Lords and Commons from conferring about them; so it plainly declares, that Lords and Commons in their several Houses, may equally treat amongst themselves of the Dangers the Kingdom is in, and of the way to remedy them: and this my Lords have well weighed, and are satisfied verities their proceedings to have been according to ancient usage and custom, as they are grounded upon just and weighty reasons.

Many other Reasons their Lordships have, to justify their proceedings in this particular: but they conceive this Record alone mentioned by your self, will give you herein abundant satisfaction, and plainly shew, that the House of Commons had no cause to demand Reparation herein from their Lordships.

A second thing objected, wherein their Lordships have been said to have broke another great privilege of the House of Commons established by that Ordinance which I have mentioned before, is, that their Lordships have taken notice of some proceedings in the House of Commons, concerning three particulars, viz. Religion, Propriety of Goods, and Privilege of Parliament. To which their Lordships have commanded me to give you this just and honourable answer.

His Majesty told their Lordships you had resolved something concerning these three heads, and by that way of proceeding preferred the grievances before the matter of Supply. How his Majesty knew that you had so resolved, belongs not to their Lordships to enquire into, their Lordships nor meddling with any thing that others said to the King. But withal his Majesty said to their Lordships, and for their Lordships to

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to hear what his Majesty declared to them, and for them thereupon to report the same to the House of Commons, their Lordships are so far from holding it any diminution, or violation of your privileges, that on the contrary in Duty to his Majesty they could do no other, and the communicating it to you in that manner, they think rather merits your opinion and belief of their affections to you, and desire of Correspondence with you, than any other misconstruction whatsoever.

And that which you called the *Indemnity of the Commons*, hath no word in it that can be construed to make that any breach of your privilege; and therefore their Lordships having thus cleared and justified their own proceedings, and freed themselves from any Imputation of invading your Liberties, they cannot but return to their first grounds and resolution, which were in all fair and affectionate manner, to stir up in you the just consideration of those great and eminent dangers that threaten this Kingdom at this time, and how dangerous and irrecoverable delay is. And withal to dispose you to take into your first and best thoughts the matter of his Majesties Supply, and give him a speedy answer therein.

This their Lordships are confident, will be the means to preserve and continue a good union and understanding between their Lordships and you, to make this a happy Parliament, and to avert the publick calamities, that menace the ruin and overthrow of this famous and renowned Monarchy.

The next day, Saturday, May the first, his Majesty by Sir Henry Vane, Treasurer of his Household, minds the Commons of the danger and disreputation was like to fall upon the State and his Majesties Honour, if more time should be lost, and therefore desires their answer in the matter of the Supply; that a delay herein would be all one to him with a denial, that his Majesty was resolved to make good what he had promised by the Lord Keeper.

Hereupon the House was resolved into a grand Committee of the whole House, and Mr. William Lenthall (a Gentleman afterwards well known) had the Chair; the House spent the whole day in Debate, Whether Supply or Grievances should proceed and came to no resolve.

His Majesty again by the Treasurer of the Household, Sir Henry on the 4th of May (who, some say, did herein go beyond his Commission from his Majesty in demanding twelve Subsidies, for that one half thereof was the sum desired by the King) reminds the Commons of the desired Supply, and said, That his Majesty (the better to facilitate your Resolutions) this day hath thought fit to let you know, that of his Grace and favour he is pleased, upon your granting twelve Subsidies to be presently passed and to be paid in three years, with a proviso, that it shall not determine the Sessions, his Majesty will not only for the present forbear the levying of any Ship Money, but will give way to the utter abolishing of it, by any course that your selves shall like best.

And for your Grievances, his Majesty will (according to his Royal promise) give you as much time as may be now, and the next Michaelmas you shall meet again; and he expects a present and positive answer upon which he may rely, his affairs being in such a condition as can endure no longer delay.

The House is again turned into a grand Committee, and came to no Resolution, only appointed Sir Henry Vane to attend his Majesty to acquaint him they would proceed upon the same again the day following, but his Majesty having notice that the Commons intended that morning to Vote against the War with the Scots, and to blast that design to which (as one saith) they were so much indisposed. Mr. Secretary Windbanke was commanded by his Majesty to bring the Speaker of the Commons house to White-hall early the next morning, which he did accordingly; and the Commons meeting at their usual time, and the Speaker not come, did imagine what would follow, which was the Parliaments Dissolution, for about eleven a Clock that forenoon the Usher of the Black Rod was commanded to call the Commons to the Bar of the Lords House, whither they being come, his Majesty thus spake:

The KING's Speech.

My Lords,

There can no occasion of my coming to this House be so displeasing unto me as this at this time. The fear of doing that which I am to do this day, made me not long since come into this House, where I expressed well my fears as the remedy which I thought necessary for the eschewing of what is to follow.

I must confess and acknowledge that you, my Lords, of the higher House, did give me so willing an ear, and with such an affection did shew your selves, that certainly I may say, that if there had been any means to have given an happy end to this Parliament, you took it, so that it was neither your Lordships fault nor mine, that it is not so. Therefore in the first place I must thank you, my Lords, for your good endeavours.

My Lords, I hope you remember what the first day of the Parliament my Lord Keeper said to you in my name, and what likewise he said in the Banqueting-house in White-hall, and what lately I said unto you in this place my self. I name all this unto you, not doubting that you do not well remember it, but to shew you that I never said any thing in way of Favour to my people, but (by the Grace of God) I will punctually and really perform it.

I know that they have insisted very much on Grievances; I will not say but there may be some, though I will confidently affirm, that there are not by many degrees so many as the publick voice doth make them. Wherefore I desire you to take notice, now especially at this time, that out of Parliament I shall be as ready (if not more willing) to hear and redress any just Grievances, as in Parliament.

There is one thing much spoken of, I mean as to matters of Religion. Concerning which, albeit I expressed my self fully the last day in this place, yet I think it fit again on this occasion to tell you, that as I am concerned, so I shall be most careful to preserve that purity of Religion which (I thank God) is so well established in the Church of England, and that as well out of, as in Parliament.

My Lords, I shall not trouble you long with words, it being not my fashion; wherefore to conclude, what I offered the last day to the House of Commons, I think it is very well known to you all; as likewise how they accepted it, which I desire not to remember, but wish

Anno 1640. wish they had remembered, how at first they were told by my Lord Keeper, that delay was the worst kind of denial; yet I will not lay this fault on the whole House of Commons; I will not Judge so uncharitably of those whom for the most part I take to be Loyal and well-affected Subjects, but it hath been the malicious cunning of some few seditiously affected men that hath been the cause of this mis-understanding.

I shall now end as I have begun, in giving you thanks for your affections shewn to me at this time, desiring you to go on and assist me in the maintaining of that Regal power that is truly mine. As for the liberty of the people, that they now so much startle at; know, my Lords, that no King in the World shall be more careful in the propriety of their Goods, liberty of their Persons, and true Religion, than I shall.
And now my Lord Keeper do as I have commanded you.

The Lord Keeper then added,

MY Lords, and you the Gentlemen of the House of Commons, The King's Majesty doth Dissolve this Parliament.

For the satisfaction of his Majesties Subjects about the Dissolution of this Parliament, the King emitted the Declaration following:

His Majesties Declaration to all his loving Subjects, of the Causes which moved him to Dissolve the last Parliament.

THE King's most Excellent Majesty well knoweth, that the Calling, Adjourning, Proroguing, and Dissolving of Parliaments, are undoubted Prerogatives inseparably annexed to his Imperial Crown; of which he is not bound to render any account, but to God alone, no more than of his other Regal Actions.

Nevertheless his Majesty (whose Piety and Goodness have made him ever so order and govern all things) that the clearness and candor of his Royal Heart may appear to all his Subjects, especially in those great and publick matters of State, that have relation to the Weal and Safety of his People, and the Honour of his Royal Person and Government, hath thought fit (for avoiding and preventing all sinister constructions and mis-interpretation, which the malice of some ill-affected persons to his Crown and Sovereignty, hath or may practise to infuse into the minds and Ears of his good and faithful Subjects,) to set down by way of Declaration, the true causes as well of his assembling as of his Dissolving the late Parliament.

It is not unknown to most of his Majesties loving Subjects, what Discouragements he hath formerly had, by the undutiful and seditious carriage of divers of the lower House in preceding Assemblies of Parliaments, enough to have made him averse to those ancient and accustomed waies of calling his People together; when instead of dutiful expressions towards his Person and Government, they vented their own malice and disaffections to the State, and by their subtil and malignant courses endeavoured nothing more than to bring into contempt and disorder all Government and Magistracy.

Yet his Majesty well considering that but few were guilty of that seditious and undutiful behaviour, and hoping that time and Experience had made his loving Subjects sensible of the distemper the whole Kingdom was like to be put into by the ill-governed actions of those men; and his Majesty being over-desirous to tread in the steps of his most Noble Progenitors, was pleased to issue forth his Writs under the Great Seal of England for a Parliament, to be holden the thirteenth day of April last. At which day his Majesty by the Lord Keeper of his Great Seal, was graciously pleased to let both Houses of Parliament know how desirous he was, That all his People would unite their hearts and affections in the execution of those Counsels that might tend to the Honour of his Majesty, the safety of his Kingdoms, and the good and preservation of all his People. And withal how confident he was that they would not be failing in their Duties and Affections to him and to the publick.

He laid open to them the manifest and apparent mischiefs threatned to this and all his other Kingdoms, by the mutinous and rebellious behaviour of divers of the Scottish Nation, who had by their Examples drawn many of his Subjects there into a course of Disloyalty and Disobedience, not fit for his Majesty in Honour, Safety, or Wisdom to endure.

How (to strengthen themselves in their disloyal Courses) they had address themselves to Foreign States, and treated with them to deliver themselves up to their protection and Defence, as was made apparent under the hands of the Prime Ring-leaders of that Rebellious Faction.

These courses of theirs tending so much to the ruin and overthrow of this Famous Monarchy, united by the descent of the Crown of England upon his Majesty and his Father of blessed memory: His Majesty (in his great wisdom, and in discharge of the Trust reposed in him by God, and by the Fundamental Laws of both Kingdoms, for the Protection and Government of them) resolved to suppress, and thereby to vindicate that Sovereign power intrusted to him.

He had by the last Summers tryal found that his Grace and Goodness was abused, and that contrary to his expectation, and their faithful promises they had (since his being at Berwick, and the pacification there made) pursued their former Rebellious designs: And therefore it was necessary now for his Majesty by power to reduce them, to the just and modest condition of their obedience and subjection, which whenever they should be brought unto, or seeing their own Errors should put themselves into a way of humility and obedience becoming them, his Majesty should need no other Mediator for Clemency and mercy to them, than his own piety and goodness, and the tender affection he hath ever born to that his native Kingdom.

This being of so great weight and consequence to the whole Kingdom, and the charge of an Army fit to master such a business amounting to such a sum as his Majesty hath no means to raise, having not only emptied his own Coffers, but issued between three and four thousand pounds which he borrowed of his Servants upon security out of his own Estate, to provide such things as were necessary to begin such an Action with; his Majesty after the example of his Predecessors, resorted to his People in their representative Body the Parliament, whom he desired (with all the Expressions

Anno. 1640. fions of grace and Goodness which could possibly come from him) that taking into serious and dutiful consideration the nature of these bleeding Evils, and how dangerous it was to lose the least minute of time, lest thereby those of Scotland should gain the opportunity to frame their parties with Foreign States: that they would for a while lay aside all other Debates, and pass an Act for the speedy payment of so many Subsidies, as might enable his Majesty to put in readiness for this Summers Expedition those things which were to be prepared before so great an Army could be brought into the Field.

For further Supply necessary for so great an undertaking his Majesty Declared, that he expected it not till there might be a happy conclusion of that Session, and till their just grievances might be first graciously heard and relieved.

Wherein as his Majesty would most willingly have given them the precedence before matter of Supply, if the great necessity of his occasions could have permitted; so he was graciously pleased for their full assurance and satisfaction therein to give them his Royal Word, that without determining the Session (upon granting of the Subsidies) he would give them, before they parted, as much time as the season of the year and the great affairs in hand would permit, for considering all such Petitions as they conceived to be good for the Common-Wealth, and what they would not now finish, they should have full time to perfect towards Winter: His Majesty graciously assuring them, that He would go along with them for their advantage, through all the expressions of a gracious and pious King, to the end there might be such a happy conclusion of that as might be the cause of many more meetings with them in Parliament.

From their first Assembling until the twenty first of April, the House of Commons did nothing that could give his Majesty any content or confidence in their speedy supplying of him: Whereupon he commanded both the Houses to attend him in the Banqueting-House at Whitehall in the afternoon of that twenty first of April, where (by the Lord Keeper) his Majesty put them in mind of the end for which they were Assembled, which was for his Majesties Supplies; That if it were not speedy, it would be of no use unto him, part of the Army then marching at the Charge of above a hundred thousand Pounds a Month; which would all be lost if his Majesty were not presently supplied, so as it was not possible to be longer forborn.

Yet his Majesty then expressd that the Supply he for the present desired, was only to enable him to go on with his Designs for three or four Months, and that he expected no further Supply till all their just Grievances were Relieved.

And because his Majesty had taken notice of some mis-apprehensions about the levying of Ship-Money, his Majesty commanded the Lord Keeper to let them know that he never had any intention to make any Revenue of it, nor had ever made any, but that all the Money collected had been paid to the Treasurer of the Navy and by him expended, besides great sums of Money every year out of his Majesties own purse.

That his Majesty had once resolved this year to have levied none, but that he was forced to alter his Resolution, in regard he was of necessity to send an Army for reducing those of Scotland, during which time it was requisite the Seas should be well guarded.

And besides, his Majesty had knowledge of the great Fleets prepared by all neighbouring Princes this year, and of the insolencies committed by those of Algiers, with the store of Ships they had in readiness.

And therefore though his Majesty for this present year could not forbear it, but expected their concurrence in the levying of it, yet for the future to give all his Subjects assurance, how just and Royal his Intentions were, and that all his Aim was, but to live like their King, able to defend himself and them; to be useful to his Friends, and considerable to his Enemies, to maintain the Sovereignty of the Seas, and so make the Kingdom flourish in Trade and Commerce: he was graciously pleased to let them know, that the ordinary Revenue now taken by the Crown, could not serve the turn: and therefore that it must be by Ship-Money, or some other way, wherein he was willing to leave it to their considerations, what better course to find out, and to settle it how they would (so the thing were done) which so much imported the honour and safety of the Kingdom.

And his Majesty for his part, would most readily and cheerfully grant any thing they could desire, for securing them in the propriety of their Goods and Estates, and in the Liberty of their Persons. His Majesty telling them, it was in their power to make this as happy a Parliament as ever was, and to be the cause of the King's delighting to meet with his People, and his People with him.

That there was no such way to effect this, as by putting Obligations of trust and confidence upon him, which as it was the way of good manners with a King, so it was a surer and safer course for themselves, than any that their own Jealousies and fears could invent; his Majesty being a Prince that deserved their trust, and could not lose the honour of it; and a Prince of such a gracious nature, that disdained his People should overcome him by kindness.

He had made this good to some other Subjects of his; and if they followed his Counsel, they should be sure not to repent it, being the People that were nearest and dearest unto him, and Subjects whom he did and had reason to value more, than the Subjects of any his other Kingdoms.

His Majesty having thus graciously expressed himself unto them, he expected the House of Commons would have the next day taken into consideration the matter of Supply, and laid aside all other Debates, till that was resolved of, according to his desire.

But instead of giving an Answer therein, such as the pressing and urgent occasions required, they fell into Discourses and Debates about their pretended Grievances, and raised up so many and of so several natures, that in a Parliamentary way they could not but spend more time, than his Majesties great and weighty Affairs could possibly afford.

His Majesty foreseeing in his great Wisdom, that they were not in the way to make this a happy Parliament (which he so much desired and hoped) that nothing might be wanting on his part, to bring them into the right way, for his honour, the safety of the Kingdom, and their own good, he resolved to desire the Assistance of the Lords of the Higher House, as persons in Rank and Degree nearest to the Royal Throne, and who having received Honour from him and his Royal Progenitors, he doubted not would for those

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1640. those and many other Reasons, be moved in Honour and Dutiful Affection to his Person and Crown, to dispose the House of Commons to express their Duties to his Majesty, in expediting the matter of Supply for which they were called together, and which required so present a Dispatch.

For this purpose, his Majesty in his Royal Person came again to the Lords House on *Wednesday* the twenty fourth day of *April*, where himself declared to the Lords the cause of his coming, which was to put them in mind of what had been by the Lord Keeper in his Name delivered to both the Houses the first day of the Parliament, and after at *White-hall*: how contrary to his expectation, the House of Commons having held consultation of matter of Religion, Property of Goods, and Liberty of Parliament, and voted some things concerning those three Heads, had thereby given them the precedence before the matter of his Supply. That his necessities were such, they could not bear delay; That whatever he had by the Lord Keeper promised, he would perform, if the House of Commons would trust him.

For Religion, that his Heart and Conscience went together with the Religion established in the Church of *England*: and he would give order to his Arch-Bishops and Bishops, that no Innovation in matter of Religion should creep in.

For the *Ship-money*, that he never made, nor intended to make any profit to himself of it, but only to preserve the Dominion of the Seas; which was so necessary, that without it the Kingdom could not subsist. But for the way and means by *Ship-Money* or otherwise, he left it to them.

For property of Goods, and Liberty of Parliament, he ever intended his People should enjoy them; holding no King so great, as he that was King of a Rich and free people; and if they had not property of Goods and Liberty of Persons, they would be neither rich, nor free.

That, if the House of Commons would not first trust him, all his Affairs would be disordered and his business lost. That though they trusted him in part at first, yet before the Parliament ended, he must totally trust them; and in conclusion, they must for Execution of all things, wholly trust him.

Therefore since the matter was no more, than who should be first trusted; and that the trust of him first, was but a trust in part, his Majesty desired the Lords to take into their considerations, his and their own Honour, the Safety and Welfare of this Kingdom, with the great danger it was in, and that they would by their Advice dispose the House of Commons, to give his Supply the precedence before the Grievances.

His Majesty being departed, the Lords took into serious consideration what his Majesty had commended to their care, and forthwith laying aside all other Debates (such was their Lordships Dutiful and Affectionate Carriage, they well remembering what had been formerly declared in his Majesties Name to both Houses, his Majesties gracious promises and expressions then and at this time, with the pressing and urgent occasions which so much imported the Honour of his Majesty, and the good of this Kingdom) their Lordships delivered their Votes in these words;

We are of opinion, that the matter of his Majesties Supply should have precedence and be resolved of, before any other matter whatsoever. And we think fit, there shall be a Conference desired with the House of Commons, to dispose them thereunto. *Car. 16.*

Accordingly the next day being *Saturday* the twenty fifth day of *April*, a Conference was had in the *Painted Chamber* by a Committee of both Houses, where the Lord Keeper (by the Lords Command) told the House of Commons of his Majesties being the day before in person in the Higher House, how graciously he had expressed himself in matter of Religion, Property of Goods, and Liberty of Parliament; and that he would therein graciously hear and relieve them, and give them what in reason could be desired, with the effect of what else had been graciously delivered unto them by his Majesty, as well touching his constant zeal and affection to the Religion established in the Church of *England*, as touching the *Ship-money*.

By all the proceedings herein declared, it is evident to all men, how willing and desirous his Majesty hath been, to make use of the Antient and Noble way of Parliaments used and instituted by his Royal Predecessors, for the preservation and honour of this famous Monarchy: And that on his Majesties part nothing was wanting, that could be expected from a King, whereby this Parliament might have had a happy Conclusion, for the comfort and content of his Majesties Subjects, and for the good and safety of this Kingdom.

On the contrary it is apparent, how those of the House of Commons, (whose sinister and malicious courses enforced his Majesty to dissolve this Parliament) have vitiated and abused that Antient and Noble way of Parliament, perverting the same to their own unworthy Ends, and forgetting the true Use and Institution of Parliaments.

For whereas, these Meetings and Assemblies of his Majesty with the Peers and Commons of this Realm, were in their first Original, and in the practice of all succeeding Ages, ordained and held as pledges and testimonies of affection between the King and his People; the King for his part graciously hearing and redressing such Grievances, as his people in humble and dutiful manner should represent unto him; and the Subjects on their part, (as testimonies of their Duty) supplying his Majesty upon all extraordinary occasions for support of his Honour and Sovereignty, and for preserving the Kingdom in Glory and Safety.

Those ill affected Members of the House of Commons, instead of an humble and dutiful way of presenting their Grievances to his Majesty, have taken upon them to be the Guiders and Directors in all matters that concern his Majesties Government, both Temporal and Ecclesiastical: and (as if Kings were bound to give an account of their Regal Actions, and of their manner of Government to their Subjects assembled in Parliament) they have in a very audacious and insolent way, entered into examination and censuring of the present Government, traduced his Majesties Administration of Justice, rendered as much as in them lay, odious to the rest of his Majesties Subjects, not only the Officers and Ministers of State, but even his Majesties very Government, which hath been so just and gracious, that never did this, or any other Nation enjoy more blessings and

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1640. and happiness, than hath been by all his Majesties Subjects enjoyed ever since his Majesties Access to the Crown: nor did this Kingdom ever so flourish in Trade and Commerce, as at this present, or partake of more peace and plenty in all kinds whatsoever.

And whereas, the Ordinary Revenues of the Crown are not sufficing to defray extraordinary charges, it hath ever been the usage in all Parliaments, to aid and assist the Kings of this Realm with free and fitting Supply, towards the maintenance of their Wars, and for making good their Royal undertakings; whereby the Kingdom intrusted to their protection, might be held up in Splendour and Greatness:

These ill affected persons of the House of Commons, have been so far from treading in the steps of their Ancestors by their dutiful expressions in this kind, that contrarily they have introduced a way of bargaining and contracting with the King; as if nothing ought to be given him by them, but what he should buy and purchase of them, either by quitting somewhat of his Royal Prerogative, or by diminishing and lessening his Revenues; which courses of theirs, how repugnant they are to the Duty of Subjects, how unfit for his Majesty in honour to permit and suffer, and what hazard and dishonour they subject this Kingdom to, all men may easily judge, that will but equally and impartially weigh them.

His Majesty hath been by this means reduced to such straits and extremities, that were not his Care of the Publick Good and Safety the greater, these men (as much as in them lies) would quickly bring ruin and confusion to the State, and render contemptible this glorious Monarchy.

But this frowardness and undutiful behaviour of theirs, cannot lessen his Majesties Care of preserving the Kingdoms entrusted to his Protection and Government, nor his gracious and tender affection to his people, for whose good and comfort his Majesty, by God's gracious assistance, will so provide, that all his loving Subjects may still enjoy the happiness of living under the blessed shade and protection of his Royal Scepter.

In the mean time, To the end all his Majesties loving Subjects may know, how graciously his Majesty is inclined to hear and redress all the just Grievances of his people as well out of Parliament as in Parliament, his Majesty doth hereby further declare his Royal Will and Pleasure, that all his loving Subjects who have any just cause to present, or complain of any Grievances or Oppressions, may freely address themselves by their humble Petitions to his Sacred Majesty, who will graciously hear their Complaints, and give such fitting Redress therein; that all his people shall have just cause to acknowledge his Grace and goodness towards them; and to be fully satisfied, that no Persons or Assemblies can more prevail with his Majesty, than the Piety and Justice of his own Royal Nature, and the tender affection he doth and shall ever bear to all his people and loving subjects.

The day following the dissolving of the Parliament, the Lord Brooks his Study and Pockets were searched for Papers, for that it was notoriously known that he held Correspondence with the Scots, the King's declared Enemies, and Sir Henry Bellasis, and Sir John Horham, Knights, were commanded before the Council; and re-

fusing to answer to questions about matters done in time of Parliament, were Committed to the Fleet; Mr. Crew also, Chairman of the Committee for Religion, was Committed likewise close Prisoner to the Tower, for refusing according to the custom of former times, to deliver the Petitions and Complaints exhibited about Religion to the Committee for Religion, to the Council Board requiring the same.

Letters were directed much about this time to the respective Lords Lieutenants of Counties, about the Souldiers that were to go both by Sea and Land for Newcastle, the Lists thereof (though perhaps not so exact as may be desired) hereafter follow:

A List of the Souldiers that are to March by Land.

| | Men. |
|-------------|-------|
| Berks | 600. |
| Brecknocke | 200. |
| Bristol | 200. |
| Cardigan | 150. |
| Carmarthen | 250. |
| Carnarvon | 160. |
| Chester | 500. |
| Cornwall | 600. |
| Denbigh | 200. |
| Devon | 2000. |
| Flint | 80. |
| Glamorgan | 200. |
| Glocester | 1500. |
| Hereford | 300. |
| Leicester | 400. |
| Merioneth | 100. |
| Monmouth | 150. |
| Montgomery | 200. |
| Northampton | 550. |
| Dorset | 600. |
| Oxford | 600. |
| Pembroke | 300. |
| Radnor | 100. |
| Rutland | 60. |
| Salop | 500. |
| Somerset | 2000. |
| Southampton | 1500. |
| Stafford | 300. |
| Warwick | 500. |
| Wilt | 1300. |

A List of the Souldiers that are to be sent by Sea.

| | |
|--------------|------|
| Gravesend. | |
| Suffex | 600. |
| Surrey | 800. |
| Kent | 700. |
| Cinque-ports | 300. |
| Yarmouth. | |
| Huntington | 400. |
| Suffolk | 600. |
| Northfolk | 750. |
| Cambridge | 300. |
| Bedford | 400. |

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Har-

Anno

1640.

Middlesex
Hertford
Essex
Buckingham

Harwich.

1200.
650.
700.
500.

Grimsby:

Lincoln
Nottingham
Darby.

200.
300.
400.

Some short time after the Dissolution of the Parliament, his Majesty declared in Council, that he was resolved to take into his own consideration the matters complained of in Parliament as Grievances, and to redress them; but more especially those concerning Religion; hereupon he commanded a Memorial of his pious and gracious resolution herein to be entered in the Register of the Acts of the Council; that the Convocation of the Clergy for the quiet of the Church, should sit still, to redress any thing amiss in Religion, which they did accordingly by Canons made in opposition to Popery, Presbytery, and Socinianism, which yet were call'd in Question in the ensuing Parliament; for that some argued both those Assemblies were to end together, and others the contrary, for that the Writ for calling the Convocation together was to continue *durante beneplacito Regis*; and the Sages of the Law being consulted, thus subscribed, *That the Convocation called by the King's Writ was not to dissolve, but by the King's Writ, notwithstanding the dissolution of the Parliament*, Finch, Manchester, Littleton, Banks, Heath, Sheffield. Of the Tumults of the Rabble stir'd up by the Presbyterians, which hereupon follow'd Mr. Saunderson gives us the ensuing account, *That the old Convocation armed with a new Commission, sat still, but not well armed against Lilburn's Libels, or the Riot of Rakehels upon Lambeth House; Who being a mixture of the Rabble, Prentices, and other inferiour Artificers, having encouragement from attempts of this nature in the neighbour Kingdom of Scotland put in practice, and yet the Actors if not applauded yet indemnified, to the great scandal and reproach of all Authority and Government, had Posted up a Paper upon the Old Exchange, exhorting one another to arise and sack the Archbishop's House at Lambeth on the Munday following, which accordingly they did, and were repulsed; and one of the Ringleaders, a Cobler, was afterward Executed thereupon for terror and example to the rest. And the King was fain to set a Guard about Westminster Abbey, during their whole time of sitting, In much distress besides, well observed, and in danger of the King's displeasure if they rose, of the peoples fury if they sat; to be beaten up by Tumults while at work, and beaven down by the next Parliament for doing the work, and obnoxious to the lash of evil tongues for all their good intents, and to their pens too, upon the main score, not so much of the Bishops doing not well, as of being Bishops, to do any thing; such was the fate of the Prelates, now, to be under censure of the Presbyters, with such prejudice to either, as the contest of endeavouring to satisfy the World, made the wound upon either side more wide, especially if you take in for good Arguments the common fame of every Libeller. As for the main, It must not be supposed that the question began but now to be maintained, for the Divine Right*

on which Bishops were founded, many writ for their defence in Queen Elizabeths time. Dr. Bancroft then Bishop of London confirmed it in the Conference at Hampton-Court in presence of the Adversary Dr. Reynolds their chief dependant, who neither contradicted nor confuted him; So did Bishop Laud in the High Commission, which might give occasion of matter to some sufficient opposers, but found none, unless we reckon loose Pamphlets. Indeed the Sme-tymnians revived the controversy, and was soon maintained by Dr. Hall then Bishop of Exeter; by Churchman in his History of Episcopacy; by Dr. Taylor his Episcopacy of Divine Right; by Dr. Hammond in English and Latin. But lest these Divines should be thought partial, see the whole subject discussed by the Layery; Sir Thomas Aston Knight and Baronet, the Aric-Mastix of John Theyre Gentleman, the Lord Falkland in his Tract against Henderson saies somewhat incomparable Mr. Selden against the Argument of a young Member of Parliament, whose Argument was, 1. That Bishops are Jure Divino is of question. 2. That Archbishops are not Jure Divino, is out of question. 3. That Ministers are Jure Divino there is no question. Now if Bishops which are questioned whether Jure Divino, and Archbishops which out of question are not Jure Divino, shall suspend Ministers that are Jure Divino, I leave it to you Mr. Speaker.

Which Mr. Selden thus retorted on him: That the Convocation is Jure Divino, is a question. 2. That Parliaments are not Jure Divino, is out of question. 3. That Religion is Jure Divino there is no question: Now Mr. Speaker, That the Convocation which is questioned whether Jure Divino, and Parliaments which out of question are not Jure Divino, shall meddle with Religion which questionless is Jure Divino, I leave to you Mr. Speaker?

And the Gentleman replying, That Archbishops are no Bishops, Mr. Selden rejoins, That's no otherwise true, than that Judges are no Lawyers, and Aldermen no Citizens.

There had indeed been wrote here in England, during the interval of Parliaments, some scurrilous as well as scandalous and loose Libels against Episcopacy, and the Ceremonies of the Church, and against particular Prelats and Governours thereof, the most whereof were either by public Authority condemned, or the Authors punish'd, amongst such were Prynne, Burton, and Bastwicke, as before we have mentioned in the beginning of the Year 1637. These were sufficiently answered, and their Cavils manifested to proceed from either their weaknesses or their wilfulness, or from both, and their scandals they raised and endeavoured to throw upon the Government and Governours of the Church sufficiently wiped off by that worthy Prelate the Lord Archbishop of Canterbury's defence of himself and the Church of England, in his Speech in the Star-Chamber 16th of June, 1637. when the afore-said Libellers were most condignly censured, and their Arguments fully by him answered.

A Speech

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1640.

A Speech delivered in the Star-Chamber, on Wednesday the 16. of June, 1637. at the Censure of John Bastwick, Henry Burton, and William Prinn; concerning pretended Innovations in the Church. By the most Reverend Father in God, William, Lord Archbishop of Canterbury his Grace.

My Lords,

I Shall not need to speak of the infamous course of Libelling in any kind :

Nor of the punishment of it, which in some cases was Capital by the Imperial Laws. As appears Cod. l. 9. T. 36.

Nor how patiently some great men, very great men indeed, have born *Animo civili* (that's *Suetonius* his word) *laceratam existimationem*, the tearing and rending of their Credit and Reputation, with a gentle, nay, a generous mind.

But of all Libels, they are most odious which pretend Religion : As if that of all things did desire to be defended by a Mouth that is like an open Sepulchre, or by a Pen that is made of a sick and a loathsome Quill.

There were times when Persecutions were great in the Church, even to exceed Barbarity itself: Did any Martyr or Confessor, in those times, Libel the Governours? Surely no, not one of them to my best remembrance: Yet these complain of Persecution without all shew of cause; and in the mean time Libel and Rail without all measure. So little of kin are they to those which suffer for Christ, or the least part of Christian Religion.

My Lords, it is not every mans spirit to hold up against the venom which Libellers spit. For St. *Ambrose*, who was a stout and a worthy Prelate, tells us, not that himself, but that a far greater man than he, that's King *David*, had found out (so it seems in his judgment 'twas no matter of ordinary ability) *Grande inventum*, a great and mighty invention, how to swallow and put off those bitter Contumelies of the Tongue: And those of the Pen are no whit less, and spread farther. And it was a great one indeed, and well becomed the greatness of *David*. But I think it will be far better for me to look upward, and practise it, than to look downward, and discourse upon it.

In the meantime I shall remember what an Antient under the name of St. *Hierom* tells me, *Indignum est & preposterum*, 'Tis unworthy in itself, and preposterous in demeanour for a man to be ashamed for doing good, because other men glory in speaking ill.

And I can say it clearly and truly, as in the presence of God, I have done nothing, as a Prelate, to the uttermost of what I am conscious, but with a single heart, and with a sincere intention for the good Government and Honour of the Church, and the maintenance of the Orthodox Truth and Religion of Christ, Professed, Established, and Maintained in this Church of England.

For my care of this Church, the reducing of it

into Order, the upholding of the External Worship of God in it, and the setting of it to the Rules of its first Reformation, are the causes (and the sole causes, whatever are pretended) of all this malicious storm, which hath loured so black upon me and some of my Brethren. And in the mean time, they which are the only, or the chief Innovators of the Christian World, having nothing to say, accuse us of Innovation; they themselves and their Complices in the mean time being the greatest Innovators that the Christian World hath almost ever known. I deny not but others have spread more dangerous Errours in the Church of Christ; but no men, in any Age of it, have been more guilty of Innovation than they, while themselves cry out against it: *Quis tulit Gracchos?*

And I said well, *Quis tulit Gracchos?* For 'tis most apparent to any man that will not wink, that the intention of these men, and their Abettors, was and is to raise a Sedition, being as great Incendiaries in the State (where they get power) as they have ever been in the Church? *Novatian* himself hardly greater.

Our main Crime is (would they all speak out, *Burton* as some of them do) that we are Bishops; were we not so, some of us might be as passable as other men.

And a great trouble 'tis to them, that we maintain that our calling of Bishops is *Jure Divino*, by Divine Right: Of this I have said enough, and in this place, in *Lighton's* Case, nor will I repeat. Only this I will say, and abide by it, that the Calling of Bishops is *Jure Divino*, by Divine Right, though not all Adjuncts to their Calling. And this I say in as direct opposition to the Church of *Rome*, as to the Puritan humour.

And I say farther, that from the Apostles times, in all Ages, in all places the Church of Christ was governed by Bishops: And Lay-Elders never heard of, till *Calvin's* new-fangled device at *Geneva*.

Now this is made by these men, as if it were *Contra Regem*, against the King, in right or in power.

But that is a meer ignorant shift; for our being Bishops, *Jure Divino*, by Divine Right, takes nothing from the King's Right or power over us. For though our Office be from God and Christ immediately, yet may we not exercise that power, either of Order or Jurisdiction, but as God hath appointed us, that is, not in his Majesties, or any Christian Kings Kingdoms, but by and under the power of the King given us so to do.

And were this a good Argument against us, as Bishops, it must needs be good against Priests and Ministers too; for themselves grant that their Calling is *Jure Divino*, by Divine Right; and yet I hope they will not say, that to be Priests and Ministers is against the King, or any His Royal Prerogatives.

Next, suppose our Callings, as Bishops, could not be made good *Jure Divino*, by Divine Right; yet *Jure Ecclesiastico*, by Ecclesiastical Right it cannot be denied. And here in *England* the Bishops are confirmed, both in their power and means, by Act of Parliament. So that here we stand in as good case, as the present Laws of the Realm can make us. And so we must stand, till the Laws shall be repealed by the same power that made them.

Now

Car. 16.

Anno 1640. Now then, suppose we had no other string to hold by (I say suppose this, but I grant it not) yet no man can Libel against our Calling (as these men do) be it in Pulpit, Print, or otherwise, but he Libels against the King and the State, by whose Laws we are established. Therefore, all these Libels, so far forth as they are against our Calling, are against the King and the Law, and can have no other purpose, then to stir up Sedition among the People.

If these men had any other intention, or if they had any Christian or Charitable desire, to Reform any thing amiss; why did they not modestly Petition his Majesty about it, that in his Princely wisdom he might set all things right, in a just and Orderly manner? But this was neither their intention, nor way. For one clamours out of his Pulpit, and all of them from the Press, and in a most virulent and Unchristian manner, set themselves to make a heat among the People; and so by Mutiny, to effect that, which by Law they cannot; And, by most false and unjust Calumnies, to defame both our Callings and Persons. But for my part, as I pity their rage, so I heartily pray God to forgive their malice.

You may see it in the Example of St. Paul himself, whose very Zeal in the darkness of his understanding,

which he then had, made him persecute Christ and his Church, *Acts* 22. 3; 4. And he was very dangerous Company then; for he breathed out threatnings against the Disciples, *Acts* 9. 1. So true is that of Saint Greg. Naz. Orat. 21. *Zelus Iracundiam acuit*, All Zeal puts an edge to anger it self. And that must needs be dangerous in the dark. *Pag.* 5.

For the main scope of these Libels, is to kindle a Jealousie in mens minds, that there are some great Plots in hand, dangerous Plots (so says Mr. Burton expressly) to change the Orthodox Religion Established in England; and to bring in, I know not what, *Romish* Superstition in the room of it. As if the external decent Worship of God could not be upheld in this Kingdom, without bringing in of Popery.

Now by this Art of theirs, give me leave to tell you, That the King is most desperately abused and wounded in the minds of his People; and the Prelates shamefully.

The King most desperately: For there is not a more cunning trick in the world, to withdraw he Peoples hearts from their Sovereign, than to perswade them that he is changing true Religion, and about to bring in gross Superstition upon them.

And the Prelates shamefully; for they are charged to seduce, and lay the Plot, and be the Instruments.

For his Majesty first. This I know, and upon this occasion take it my duty to speak: There is no Prince in Christendom more sincere in his Religion, nor more constant to it, than the King. And he gave such a Testimony of this at his being in Spain, as I much doubt, whether the best of

that Faction durst have done half so much, as his Majesty did in the face of that Kingdom. And this you, my Lord, the Earl of Holland, and other Persons of Honour, were Eye and Ear-Witnesses of, having the happiness to attend Him there. *Car. 16.*

And at this day, as his Majesty (by God's great blessing both on him and us) knows more, so is he more settled and more confirmed, both in the Truth of the Religion here Established, and in Resolution to maintain it.

And for the Prelates; I assure my self they cannot be so base, as to live Prelates in the Church of England, and labour to bring in the Superstitions of the Church of Rome, upon themselves and it. And if any should be so foul, I do not only leave him to God's Judgment, but (if these Libellers, or any other, can discover that his base and irreligious falshood) to shame also, and severe punishment from the State: And in any just way, no mans hand shall be more, or sooner against him, than mine shall be.

And for my self, to pass by all the scandalous reproaches, which they have most injuriously cast upon me, I shall say this only,

First, I know of no Plot, nor purpose of altering the Religion established.

Secondly, I have ever been far from attempting any thing that may truly be said to tend that way in the least degree, and to these two I here offer my Oath.

Thirdly, If the King had a mind to change Religion, (which I know he hath not, and God forbid he should ever have) he must seek for other Instruments. For as basely as these men conceive of me, yet I thank God, I know my duty well both to God and the King: And I know that all the duty I owe to the King, is under God. And my great happiness it is (though not mine alone, but your Lordships and all his Subjects with me) that we live under a Gracious and a Religious King, that will ever give us leave to serve God first, and him next. But were the days otherwise, I thank Christ for it, I yet knew not how to serve any man against the Truth of God, and I hope I shall never learn it.

But to return to the business: What is their Art to make the world believe a change of Religion is endeavoured? What? Why, forsooth, they say, there are great Innovations brought in by the Prelates, and such as tend to the advancement of Popery.

Now that the vanity and falshood of this may appear, I shall humbly desire your Lordships to give me leave to recite briefly all the Innovations charged upon us, be they of less or greater moment, and as briefly to answer them. And then you shall clearly see, whether any cause hath been given of these unfavoury Libels; and withal, whether there be any shew of cause to fear a change of Religion. And I will take these great pretended Innovations in order, as I meet with them.

First, I begin with the News from Ipswich.

Where the first Innovation is, That the last years *Pag.* 2. Fast was enjoyed to be without Sermons in London, the Suburbs, and other infected Places, contrary to the Orders for other Fasts in former times: Whereas Sermons are the only means to humble men, &c.

To this I say First, That an after-age may, without offence, learn to avoid any visible inconvenience observed in the former. And there was visible inconvenience observed in mens former flocking to Sermons in infected places.

Secondly,

Anno 1640. Secondly, This was no particular Act of the Prelates; but the business was debated at the Council Table, being a matter of State, as well as of Religion. And it was concluded for no Sermons in those infected places, upon this Reason; That infected Persons or Families, known in their own Parishes, might not take occasion upon those by-days to run to other Churches, where they were not known, as many use to do, to hear some humorous men preach: For on the Sundays, when they better kept their own Churches, the danger is not so great altogether.

Nor thirdly, is that true, that Sermons are the only means to humble men. For though the Preaching of God's Word, where it is performed according to his Ordinance, be a great means of many good effects in the Souls of men; yet no Sermons are the only means to humble men. And some of their Sermons are fitter a great deal for other operations; namely, to stir up Sedition, as you may see by Mr. Burton's: For this his printed Libel was a Sermon first, and a Libel too. And 'tis the best part of a Fast to abstain from such Sermons.

pag. 3. 2. The second Innovation is, That Wednesday was appointed for the Fast-day, and that this was done with this intention, by the example of this Fast without Preaching, to suppress all the Wednesday Lectures in London.

To this I answer First, that the appointing of Wednesday for the Fast-day was no Innovation. For it was the day in the last Fast before this: And I my self remember it so, above forty years since, more than once.

Secondly, If there had been any Innovation in it, the Prelates named not the day; my Lord Keeper, I must appeal to your Lordship: The day was first named by your Lordship, as the usual and fittest day. And yet I dare say, and swear too, that your Lordship had no aim to bring in Popery; nor to suppress all, or any the Wednesday Lectures in London. Besides, these men live to see the Fast ended, and no one Wednesday Lecture suppressed.

pag. 3. 3. The third Innovation is, That the Prayer for seasonable weather was purged out of this last Fast-Book, which was, say they, one cause of Shipwrecks and Tempestuous weather.

To this I say, First in the General; This Fast-Book, and all that have formerly been made, have been both made, and published by the command of the King, in whose sole power it is to call a Fast. And the Archbishop and Bishops to whom the ordering of the Book is committed, have power under the King, to put in, or leave out, whatsoever they think fit for the present occasion; as their Predecessors have ever done before them. Provided that nothing be in contrary to the Doctrine or Discipline of the Church of England,

And this may serve in the General for all Alterations, in that or any other Fast-Book or Books of Devotion upon any particular occasions, which may and ought to vary with several times, and we may, and do, and will justify, under His Majesties Power, all such Alterations made therein.

Secondly, For the particular. When this last Book was set out, the weather was very seasonable. And it is not the Custom of the Church, nor fit in itself to pray for seasonable weather when we have it, but when we want it. When

the former Book was set out, the weather was extremely ill, and the Harvest in danger; Now the Harvest was in, and the weather good. *Car. 16.*

Thirdly, 'Tis most inconsequent to say, that the leaving that Prayer out of the Book of Devotions, caused the Shipwrecks and the Tempests, which followed. And as bold they are with God Almighty, in saying it was the cause: For sure I am, God never told them that was the cause. And if God never revealed it, they cannot come to know it; yet had the Bishops been Prophets, and foreseen these Accidents, they would certainly have prayed against them.

Fourthly, Had any Minister found it necessary to use this Prayer at any one time during the Fast, he might with ease, and without danger, have supplied that want, by using that Prayer to the same purpose which is in the ordinary Liturgy.

Fifthly, I humbly desire your Lordships to weigh well the Consequence of this great and dangerous Innovation. The Prayer for fair weather was left out of the Book for the Fast; therefore the Prelates intend to bring in Popery. An excellent Consequence, were there any shew of Reason in it.

4. The Fourth Innovation is, That there is one *pag. 3.* very useful Collect left out, and a Clause omitted in another.

To this I answer First, as before; It was lawful for us to alter what we thought fit.

And Secondly, Since that Collect made mention of Preaching, and the Act of State forbade Sermons on the Fast-days in infected places; we thought it fit, in pursuance of that Order, to leave out that Collect.

And Thirdly, for the branch in the other, which is the first Collect, though God did deliver our Forefathers out of Romish Superstition, yet (God be blessed for it) we are never in. And therefore that Clause being unfittingly expressed, we thought fit to pass it over.

5. The Fifth Innovation is, That in the sixth *pag. 3.* Order for the Fast, there is a passage left out concerning the abuse of Fasting in relation to merit.

To this I answer, That he to whom the ordering of that Book to the Press was committed, did therefore leave it out; because in this Age and Kingdom there is little opinion of meriting by Fasting.

Nay, on the contrary, the contempt and scorn of all fasting (save what humorous men call for of themselves) is so rank, that it would grieve any Christian man to see the necessary Orders of the Church concerning Fasting, both in Lent, and at other set times, so vilified as they are.

6. The Sixth Innovation is, That the Lady Elizabeth and her Princely Children are dashed (that is their Phrase) out of the new Collect, whereas they were in the Collect of the former Book. *pag. 3.*

For this First, The Author of the News knows full well that they are left out of the Collect in the latter Editions of the Common-Prayer Book, as well as in the Book for the Fast. And this was done according to the Course of the Church, which ordinarily names none in the Prayer, but the Right Line descending. Yet this was not done till the King himself commanded it; as I have to shew under his Majestie's hand.

Secondly,

Secondly, I beseech your Lordships to consider, what must be the Consequence here: The Queen of Bohemia and her Children are left out of the Collect, therefore the Prelates intend to bring in Popery; For that (you know) they say is the end of all these Innovations. Now, if this be the end and the Consequence, truly the Libellers have done very dutifully to the King, to poison his People with this conceit; That the Lady Elizabeth, and her Children, would keep Popery out of this Kingdom, but the King and his Children will not. And many as good Offices as these have they done the King quite through these Libels, and quite through his Kingdoms. For my part, I honour the Queen of Bohemia, and her Line, as much as any man whatsoever, and shall be as ready to serve them, but I know not how to depart from my Allegiance, as I doubt these men have done.

Pag. 3.

7. The Seventh Innovation is, *That these words [Who art the Father of thine Elect and of their Seed] are changed in the Preface of that Collect, which is for the Prince and the King's Children.* And, with a most spiteful inference, *That this was done by the Prelates to exclude the King's Children out of the number of God's Elect.* And they call it an intolerable impiety and horrid Treason.

To this I answer, First, That this Alteration was made in my Predecessor's time, before I had any Authority to meddle with these things, further then I was called upon by him.

Secondly, This is not therefore to lay any aspersion upon my Predecessor; for he did in that but his duty: For his Majesty acknowledges, it was done by his special direction, as having then no Children to pray for.

And thirdly, This Collect could not be very old, for it had no being in the Common-Prayer Book all Queen Elizabeth's time, she having no Issue.

The truth is, it was made at the coming in of King James; and must of necessity be changed over and over again *pro ratione Temporum*, as Times and Persons vary. And this is the intolerable Impiety, and horrid Treason they charge upon Us.

In this Method the Innovations are set down in the *News from Ipswich*. But then in Mr. Burton's *News from Friday-street*, (called his *Apology*) they are in another Order, and more are added. Therefore with your Lordships leave I will not repeat any of these, but go on to the rest, which Mr. Burton adds.

Burton's
Apology
Page 2.

8. The Eighth Innovation is, *That in the Epistle the Sunday before Easter, we have put out In, and made it, At the Name of Jesus every Knee shall bow; which alteration, he saith, is directly against the Act of Parliament.*

Here give me leave to tell you it is *At the Name of Jesus*, in the late learned Translation made in King James his time. About which many learned Men of best note in the Kingdom were employed, besides some Prelates.

But to this I answer, First, It is true, the Common-Prayer Book was confirmed by Act of Parliament, and so all things contained in it, at the passing of that Act. But I hope, if any thing were false printed then, the Parliament did not intend to pass those slips for current.

Secondly, I am not of opinion, that if one word be put in for another, so they bear both the same sense, that there is any great matter done against the Act of Parliament.

Thirdly, This can make no Innovation. For In the Name, and At the Name of Jesus, can make no Essential difference here. And Mr. Prynne (whose Darling business it hath long been to cry down the honour due to the Son of God, at the mentioning of his saving Name Jesus) knows the Grammar Rule well, *In a place, or At a place, &c.*

Fourthly, If there were any Error in the change of *In* into *At*; I do here solemnly protest to you, I know not how it came: For Authority from the Prelates, the Printers had none; and such a word is easily changed in such a negligent Press as we have in England. Or if any altered it purposely, for ought I know, they did it to gratify the Preciser sort. For therein they followed the Geneva Translation, 1557. where the words are, *At the Name of Jesus*. And that is Ninety four years ago; and therefore no Innovation made by us.

Fifthly, This I find in the Queens Injunctions, without either word, *In* or *At*. *Whosoever the Name of Jesus shall be in any Lesson, Sermon, or otherwise pronounced in the Church (it is enjoined) that due reverence be made of all persons, Young and Old, with lowliness of Course, and uncovering of the heads of the Menkind, as therunto doth necessarily belong, and heretofore hath been accustomed.* So here is necessity laid upon it, and custom for it, and both expressed by Authority in the very beginning of the Reformation; and is therefore no Innovation now.

9. The Ninth Innovation is, *That no places are changed in the Prayers set forth for the Fifth of November: And ordered to be read (they say) by All of Parliament. The first place is changed thus, from, Root out that Babylonish and Antichristian Sect, which say of Jerusalem, &c. Into this form of words, Root out that Babylonish and Antichristian Sect (of them) which say, &c. The second place went thus in the old; Cut of these workers of Iniquity, whose Religion is Rebellion. But in the Book printed 1635. it is thus altered: Cut off those workers of Iniquity, who turn Religion into Rebellion, &c.*

To this I say first, It is a notorious untruth, that this Book was ordered to be read by Act of Parliament. The Act of Parliament indeed is printed before it; and therein is a Command for Prayers and Thanksgivings every Fifth of November; but not one word or syllable for the Form of Prayer: That is left to the Church, therefore here is no Innovation against that Act of Parliament.

Secondly, The Alteration first mentioned, that is, *That Sect, or That Sect of them*: is of so small consequence, as it is not worth the speaking of. Besides, if there be any thing of moment in it, it is answered in the next.

Thirdly, Both for that and the second place, which seems of more moment; and so for the rest, not only in that Book, but that other also for his Majesties Coronation; His Majesty expressly commanded me to make the Alterations, and see them printed. And here are both the Books with his Majesties Warrant to each of them. So that herein I conceive I did not offend, unless it were that I gave not these men notice of it, or asked them leave to obey the King.

Against this there can be but two Objections, should Malice it self go to work. The one is, *that I moved his Majesty to command the Change.* And the other, *that now, when I saw my self challenged for*

for it, I procured his Majesties Hand for my security.
 Anno 1640. To these I answer clearly; First, That I did not move the King, directly, or indirectly, to make this change.

And Secondly, That I had his Majesties hand to the Book, not now, but then, and before ever I caused them to be printed, as now they are. And that both these are true, I here again freely offer my self to my Oath.

And yet Fourthly, that you may see his gracious Majesty used not his power only in commanding this change, but his wisdom also; I shall adventure to give you my Reasons, such as they are, why this Alteration was most fit, if not necessary.

My first Reason is, In the *Litany* in Hen. VIII. his time †: And also under Edward VI. || there was this Clause: *From the Tyranny of the Bishop of Rome, and all his detestable enormities, from all false Doctrine, &c. Good Lord, deliver us.* But in the *Litany* in Queen Elizabeths time this Clause about the Pope was left out, and it seems of purpose, for avoiding of Scandal: And yet the Prelates for that not accounted Innovators, or Introducers of Popery. Now it is a far greater scandal to call their Religion Rebellion, then it is to call their chief Bishop Tyrant.

And this Reason is drawn from Scandal, which must ever be avoided as much as it may.

My second Reason is, That the Learned make but three Religions to have been of old in the World, *Paganism*, *Judaism*, and *Christianity*. And now they have added a fourth, which is *Turcism*, and is an absurd mixture of the other three. Now if this ground of theirs be true (as it is generally received) perhaps it will be of dangerous consequence sadly to avow, that the Popish Religion is Rebellion. That some opinions of theirs teach Rebellion, that is apparently true, the other would be thought on, to say no more. And this Reason well weighed, is taken from the very foundations of Religion itself.

My third Reason is, Because if you make their Religion to be Rebellion, then you make their Religion and Rebellion to be all one. And that is against the ground both of State and the Law. For when divers *Romish* Priests and Jesuits have deservedly suffered death for Treason, is it not the constant and just profession of the State, that they never put any man to death for Religion, but for Rebellion and Treason only? Doth not the State truly affirm, that there was never any Law made against the life of a Papist, *quaerens* a Papist only? And is not all this stark false, if their very Religion be Rebellion? For if their Religion be Rebellion, it is not only false, but impossible, that the same man in the same Act should suffer for his Rebellion, and not for his Religion.

And this King James of ever blessed memory understood passing well, when (in his premonition to all Christian Monarchs) he saith, *I do constantly maintain that no Papist, either in my time, or in the time of the late Queen, ever died for his Conscience.* Therefore he did not think, their very Religion was Rebellion. Though this Clause passed through Inadvertency in his time. And this Reason is grounded both upon the Practice, and the Justice of the Law.

Which of these Reasons, or whether any other better, were in his Majesties thoughts, when he commanded the alteration of this Clause, I know not. But I took it my duty to lay it before you, that the King had not only Power, but Reason to command it.

10. The Tenth Innovation is, *That the Prayer for the Navy is left out of the late Book for the Fast.* Car. 16. Pag. 3.

To this I say, There is great Reason it should. For the King had no declared Enemy then; nor (God be thanked) hath he now. Nor had he then any Navy at Sea. For almost all the Ships were come in, before the Fast-Book was set out.

But howsoever, an excellent Consequence it is, if you mark it; The Prayer for the Navy was left out of the Book for the Fast, therefore by that, and such like Innovations the Prelates intend to bring in Popery. Indeed, if that were a piece of the Prelates Plots to bring in Popery from beyond Sea, then they were mightily overseen that they left out the Prayer for the Navy. But else what Reason or Consequence is in it, I know not, unless perhaps Mr. Burton intended to befriend Dr. Baskwick, and in the Navy bring hither the *Whore of Babylon* to be ready for his Christening, as he most profanely scoffs.

Well; I pray God the time come not upon this Kingdom, in which it will be found, that no one thing hath advanced or ushered in Popery so fast, as the gross Absurdities even in the Worship of God, which these Men, and their like, maintain both in Opinion and Practice.

11. The Eleventh Innovation is, *The reading of the Second Service at the Communion Table, or the Altar.* Pag. 105.

To this; First, I can truly say, that since my own memory, this was in use in very many places, as being most proper (for those Prayers are then read which both precede and follow the Communion,) and by little and little this Ancient Custom was altered, and in those places first, where the Emissaries of this Faction came to preach. And now if any in Authority offer to reduce it; this ancient course of the Church is by and by called an Innovation.

Secondly, With this the Rubricks of the *Common-Prayer Book* agree: For the first Rubrick after the Communion tells us, that upon Holy-days, though there be no Communion, yet all else that is appointed at the Communion shall be read. *Shall be read?* That is true, but where? Why, the last Rubrick before the Communion tells us, that the Priest, standing at the North side of the Holy Table, shall say the Lord's Prayer, with that which follows. So that not only the Communion, but the Prayers which accompany the Communion (which are commonly called the Second Service) are to be read at the Communion Table. Therefore if this be an Innovation, it is made by the Rubrick, not the Prelates; And Mr. Burton's Scoff, that this *Second Service* must be served in for dainties †, favours too much of Belly and Profanation.

12. One thing sticks much in their Stomachs, and they call it an Innovation* too. And that is, *bowing, or doing Reverence at our first coming into the Church, or at our nearer approaches to the Holy Table, or the Altar, (call it whether you will)* In which they will needs have it, *that we worship the Holy Table, or God knows what.* † Pag. 104. [Then the second Service as dainties, must be said there.] * Pag. 105.

To this I answer: First, That God forbid we should worship any thing but God himself.

Secondly, That if to worship God when we enter into his House, or approach his Altar, be an Innovation, it is a very old one.

Anno 1640. For *Moses* did reverence at the very door of the Tabernacle, *Num.* 20. 6. *Hezekiah*, and all that were present with him, when they had made an end of offering, bowed and worshipped, (*2 Chron.* 29. 29.) *David* calls the People to it with a *Venite*, *O come let us worship and fall down, and kneel before the Lord our Maker*, (*Psal.* 95. 6.) And in all these places (I pray mark it) it is bodily Worship.

Nor can they say, that this was Judaical Worship, and now not to be imitated. For long before *Judaism* began, *Bethel*, the House of God, was a place of Reverence, *Gen.* 28. 17, &c. Therefore certainly, Of, and To God.

And after Judaical Worship ended, *Venite, Adoremus*, as far upwards as there is any tract of a Liturgy, was the *Introitus* of the Priest all the Latin Church over.

And in the daily Prayers of the Church of *England*; this was retained at the Reformation; and that *Psalms*, in which is *Venite, Adoremus*; is commanded to begin the Morning Service every day, and for ought I know, the Priest may as well leave out the *Venite*, as the *Adoremus*; the calling the People to their duty, as the duty itself, when they are come.

Therefore even according to the Service Book of the Church of *England*, the Priest and the People both are called upon, for external and bodily Reverence and Worship of God in his Church. Therefore they which do it, do not Innovate. And yet the Government is so moderate (God grant it be not too loose therewith) that no man is constrained, no man questioned, only religiously called upon, *Venite, Adoremus, Come, let us worship*.

For my own part, I take my self bound to worship with Body, as well as in Soul, when ever I come where God is worshipped. And were this Kingdom such as would allow no Holy Table, standing in its proper place (and such places some there are) yet I would worship God when I came into his House. And were the times such, as should beat down Churches, and all the curious carved work thereof with Axes, and Hammers, as in *Psalms* 74. 6. (and such times have been) yet would I worship in what place soever I came to pray, though there were not so much as a Stone laid for *Bethel*. But this is the misery; it is Superstition now adays for any man to come with more Reverence into a Church, than a Tinker and his Bitch come into an Ale-house; the Comparison is too homely, but my just Indignation at the Profaneness of the times, makes me speak it.

And you my Honourable Lords of the Garter, in your great Solemnities, you do your Reverence, and to Almighty God, I doubt not, but yet it is *versus Altare*, towards his Altar, as the greatest place of God's Residence upon Earth. (I say the greatest, yea, greater than the Pulpit. For there it is, *Hoc est Corpus meum*, This is my Body. But in the Pulpit, it is, at most, but, *Hoc est Verbum meum*, This is my Word. And a greater Reverence (no doubt) is due to the Body, than to the Word of our Lord. And so, in Relation, answerably to the Throne, where his Body is usually present; than to the Seat, whence his Word useth to be Proclaimed. And God hold it there, at his Word; for, as too many men use the matter, It is *Hoc est Verbum Diaboli*, This is the word of the Devil, in too many places, Witness Sedition, and the like to it.) And this Reverence ye do, when ye enter the Chappel, and when you approach nearer to offer. And this

is no Innovation, for you are bound to it by your Order, and that is now New.

And Idolatry it is not, to worship God towards his Holy Table; For if it had been Idolatry, I presume Queen *Elizabeth*, and King *James* would not have practised it, no not in those Solemnities. And being not Idolatry, but true Divine Worship, You will, I hope, give a poor Priest leave to Worship God, as your selves do: For if it be God's Worship, I ought to do it as well as you: And if it be Idolatry, you ought not to do it more than I.

I say again, I hope a poor Priest may worship God with as lowly Reverence as you do, since you are bound by your Order, and by your Oath, according to a Constitution of *Henry* the Fifth, (as appears*) to give due Honour and Reverence, *Domino Deo, & Altari ejus, in modum virorum Ecclesiasticorum*; That is, to the Lord your God, and to his Altar (for there is a Reverence due to that too, though such as comes far short of Divine Worship) and this in the manner, as Ecclesiastical Persons both Worship and do Reverence.

The Story which led in this Decree is this, King *Henry* the Fifth, that Noble and Victorious Prince, returning gloriously out of *France*, sate at this Solemnity; and finding the Knights of the Order scarce bow to God, or but slightly, and then bow towards Him and his Seat, startled at it (being a Prince then grown as Religious, as he was before victorious) and after asking the Reason; for till then the Knights of the Order never bowed toward the King or his Seat; the Duke of *Bedford* answered, *It was settled by a Chapter Act three years before*. Hereupon that Great King replied, *No, I'll none of this, till you the Knights do it Satis bene, well enough, and with due performance to Almighty God*. And hereupon the forenamed Act proceeded, that they should do this duty to Almighty God, not slightly, but *Ad modum virorum Ecclesiasticorum*, as low, as well, as decently, as Clergy-men use to do it.

Now if you will turn this off, and say, it was the Superstition of that Age so to do; Bishop *Jewel* will come in to help me there. For where *Harding* names divers Ceremonies, and particularly bowing themselves and adoring at the Sacrament, I say, adoring at the Sacrament, not adoring the Sacrament; there Bishop *Jewel* (that learned, painful, and reverend Prelate) approves all both the kneeling and the bowing, and the standing up at the Gospel (which as ancient as it is in the Church, and a common Custom, is yet fondly made another of their Innovations||:) And further the Bishop adds, *That they are all commendable gestures, and tokens of Devotion, so long as the People understand what they mean, and apply them unto God*. Now with us the People did ever understand them fully, and apply them to God, and to none but God, till these factious Spirits, and their like, to the great dis-service of God and his Church, went about to perswade them, that they are Superstitious, if not Idolatrous gestures: As they make every thing else to be, where God is not served slovenly.

13. The Thirteenth Innovation is, The placing of the Holy Table Altar-wise, at the upper end of the Chancel, that is, the setting of it North and South, and placing a Rail before it, to keep it from profanation, which Mr. *Burton* says, is done to advance and usher in Popery.

Car. 16.

* In libro Nigro Windsor. inf. p. 65.

|| B. Jewel's Reply to Harding's Answer. Art. 3. Div. 29.

Page 45. 105.

To

Anno
1640.

To this I answer, That it is no Popery to set a Rail to keep profanation from that Holy Table: Nor is it any Innovation to place it at the upper end of the Chancel as the Altar stood. And this appears both by the Practice, and by the Command and Canon of the Church of England.

First, By the Practice of the Church of England. For in the King's Royal Chappels, and divers Cathedrals, the Holy Table hath ever since the Reformation stood at the upper end of the Quire, with the large or full side towards the People.

And though it stood in most Parish Churches the other way, yet whether there be not more reason, the Parish Churches should be made conformable to the Cathedral and Mother Churches, than the Cathedrals to them, I leave to any reasonable man to judge.

And yet here is nothing done either by violence or command to take off the Indifferency of the standing of the Holy Table either way, but only by laying it fairly before men, how fit it is there should be Order and Uniformity; I say, still reserving the Indifferency of the standing.

But howsoever, I would fain know, how any discreet moderate man dares say, That the placing of the Holy Table Altar-wise (since they will needs call it so) is done either to advance or usher in Popery? For did Queen Elizabeth banish Popery, and yet did she all along her Reign, from first to last, leave the Communion Table so standing in her own Chappel Royal, in St. Pauls, and Westminster, and other places; and all this of purpose to advance or usher in that Popery which she had driven out?

And since her death, have two gracious Kings kept out Popery all their times, and yet left the Holy Table standing, as it did in the Queens time, and all of purpose to advance or usher in Popery which they kept out?

Or what is the matter? May the Holy Table stand this way in the King's Chappel, or Cathedrals, or Bishops Chappels, and not elsewhere? Surely, if it be decent, and fit for God's Service, it may stand so (if Authority please) in any Church. But if it advance or usher in any Superstition and Popery, it ought to stand so in none.

Nor hath any King's Chappel any Prerogative (if that may be called one) above any ordinary Church to dis-serve God in by any Superstitious Rites: Where, give me leave to tell you, that the King and his Chappel are most jeeringly, and with scorn abused, in the last leaf of Mr. Burton's *Mutinuous Appeal*, for such it is.

Secondly, This appears by the Canon or Rule of the Church of England too, for it is plain in the last Injunction of the Queen; That the Holy Table ought to stand at the upper end of the Quire, North and South, or Altar-wise. For the words of the Queens Injunctions are these:

The Holy Table in every Church (mark it, I pray, not in the Royal Chappel, or Cathedrals only, but in every Church) *shall be decently made, and set in the place where the Altar stood.* Now the Altar stood at the upper end of the Quire North and South, as appears before by the Practice of the Church. And there to set it otherwise, is to set it cross the place, not in the place where the Altar stood: And so *Stulti dum vitant vitia* — weak men, as these Libellers are, run into one Superstition, while they would avoid another; For they run upon the Superstition of the Cross, while they seek to avoid the Superstition of the Altar. So you

see here is neither Popery nor Innovation in all the practice of Queen Elizabeth, or since.

These words of the Injunction are so plain, as that they can admit of no shift.

And give me leave to tell you, that a very learned Prelate of this Church, and one, whom I think these men will not accuse, as a man like to advance or usher in Popery, is of the same opinion: It is, my Lord, the Bishop of Salisbury.

Some difference was lately rising about placing the Communion Table in a Parish Church of his Diocess. The Bishop, careful to prevent all disorder, sends his Injunction under his Hand and Seal to the Curate and Churchwardens, to settle that business: In which he hath these two passages remarkable. I have seen and read the Order.

The first passage is this; *By the Injunction of Queen Elizabeth* (saith he) *and by Can. 82. under King James, the Communion Tables should ordinarily be set and stand with the side to the East-wall of the Chancel.* Therefore this is no Innovation, since there is Injunction and Canon for it.

The other passage is this; *It is Ignorance* (saith that learned Bishop) *to think that the standing of the Holy Table there, relishes of Popery.* Therefore, if it do not so much as relish of Popery, it can neither advance it, nor usher it in. And therefore, this is a most odious slander and scandal cast upon us.

So here is enough both for the Practice and Rule of the Church of England since the Reformation. Now before that time, both in this and other Churches of Christendom, in the East and West ordinarily the Holy Table or Altar stood so: Against this Mr. Burton says little.

But the *Lincolnshire Minister* comes in to play the Puritan for that. Concerning which Book (falling thus in my way) and the Nameless Author of it, I shall only say these two things:

The one is, that the Author prevaricates from the first word to the last in the Book; for he takes on him both for the name and for the placing of the Holy Table, and the like, to prove, that Generally and Universally, and ordinarily in the whole Catholick Church, both East and West, the Holy Table did not stand at the upper end of the Quire or Chancel. And this he must prove, or he doth nothing.

Now when he comes to make his Proofs, they are almost all of them particular, few or none general and concludent: For he neither brings Testimonies out of the General and received Rituals of the Eastern and Western Churches, nor of Fathers and Histories of the Church; which speak in General terms of all, but where they speak of particular Churches only.

So that suppose the most that can be, that is, suppose his quotations be all truly alledged, and true too in the sense that the Minister takes them (though in very truth, the places, most of them, are neither truly alledged, nor sensed) yet they are but exceptions of, and exemptions from the General practice. And you know both in Law and Reason, *Exceptio firmat Regulam in non exceptis*. So that upon the sudden I am not able to resolve, whether this Minister hath done more wrong to himself or his Readers, for he hath abused both.

The other is, that in the judgment of very many learned men, which have perused this Book, the Author is clearly conceived to want a great deal of that Learning to which he pretends: Or else to have written this Book wholly and resolvedly against both his Science, and his Conscience.

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And

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And for my own part, I am fully of opinion, this Book was thrust now to the Press, both to countenance these Libellers, and as much as in him lay, to fire both Church and State.

And though I wonder not at the Minister, yet I should wonder at the Bishop of the Diocese (a man of learning and experience) that he should give Testimony to such a business, and in such times as these.

And once more, before I leave the Holy Table, Name, and Thing, give me leave to put you in mind, that there is no danger at all in the Altar, Name, or Thing. For at the beginning of the Reformation, though there were a Law for the taking down of the Altars, and setting up of Holy Tables in the room of them; yet in some places the Altars were not suddenly removed. And what says the Queen in her Injunction to this? Why, she says, *That there seems no matter of great moment in this, saving for uniformity, and the better imitation of the Law in that behalf.* Therefore for any danger or hurt that was in the Altar, Name, or thing, they might have been left standing, but for Uniformity, and the Imitation of the Law.

But howsoever, it follows in the same Injunction, *That when the Altar is taken down, the Holy Table shall be set in (not cross) the place where the Altar stood; which (as is aforesaid) must needs be Altar-wise.*

14. The Fourteenth and the last Innovation comes with a mighty Charge, and it is taken out of an Epistle to the Temporal Lords of his Majesties Privy Council. Of which Epistle we got one sheet, and so (for ought I yet know) that Impression staid: In that sheet is this Charge, The words are,

The Prelates to justify their proceedings, have forged a new Article of Religion, brought from Rome, (which gives them full power to alter the Doctrine and Discipline of our Church at a blow, as they interpret it) and have foisted it (such is their language) into the beginning of the Twentieth Article of our Church. And this is in the last Edition of the Articles, Anno 1628. in affront of his Majesties Declaration before them, &c.

The Clause (which they say is forged by us) is this: *The Church* (that is, the Bishops, as they expound it) *hath Power to decree Rites and Ceremonies, and Authority in matters of Faith* (The word is *Controversies of Faith*, by their leave.) *This Clause (say they) is a Forgery fit to be examined, and deeply censured in the Star-Chamber. For it is not to be found in the Latin or English Articles of Edward VI. or Queen Elizabeth, ratified by Parliament.*

And then in the Margent thus, *If to forge a Will or Writing be censurable in the Star-Chamber, which is but a wrong to a private man: How much more the Forgery of an Article of Religion, to wrong the whole Church, and overturn Religion, which concerns all our souls?*

This is a heavy Charge, my Lords; but I thank God the Answer is easie.

And truly I grant, that to forge an Article in Religion in whole or in part, and then to thrust it upon the Church, is a most hainous Crime, far worse than the forging of a Deed; and is certainly very deeply censurable in this Court. And I would have humbly besought you, that a deep censure might have been laid upon it, but that this sheet was found after, and so is not annexed to the Information, nor in Judgment at this present before you.

But then, my Lords, I must tell you, I hope to make it as clear as the day, that this forgery was not, that this Clause mentioned was added by the Prelates to the Article, to gain power to the Church, and so to serve our turns: But that that Clause in the beginning of the Article was by these men, or at least by some of their Faction, razed out, and this to weaken the just power of the Church to serve their turns.

They say (to justify their Charge) that this Clause is not to be found in the Articles, English or Latin, of either Edward VI. or Queen Elizabeth.

I answer: The Articles of Edward VI. and those made under Queen Elizabeth differ very much. And those of Edward VI. are not now binding. So whether the Clause be in or out of them, it is not much material.

But for the Articles of the Church of England, made in the Queens time, and now in force, that this Clause for the power of the Church to decree Ceremonies, and to have Authority in Controversies of Faith, should not be found in English or Latin Copies, till the Year 1628. that it was set forth with the King's Declaration before it, is to me a miracle, but your Lordships shall see the falshood and boldness of these men.

What! Is this Affirmative Clause in no Copy, English or Latin, till the Year 1628? Strange! Why, my Lords, I have a Copy of the Articles in English, of the Year 1612. and of the Year 1605. and of the Year 1593. and in the Latin of the Year 1563. which was one of the first printed Copies, if not the first of all: For the Articles were agreed on but the Nine and twentieth day of January,

According to the English Account.

Anno 1563.

According to the Julian Account.

And in all these, this Affirmative Clause for the Churches power is in. And is not this strange boldness then to abuse the World, and falsely to say it is in no Copy, when I my self, out of my own store, am able to shew it in so many, and so anciently?

But, my Lords, I shall make it plainer yet: For it is not fit concerning an Article of Religion, and an Article of such consequence for the Order, Truth, and Peace of this Church you should rely upon my Copies, be they never so many, or never so ancient.

Therefore I sent to the publick Records in my Office, and here under my Officers hand, who is a publick Notary, is returned me the XX. Article with this Affirmative Clause in it. And there is also the whole Body of the Articles to be seen.

By this your Lordships see how free the Prelates are from forging this part of the Article. Now let these men quit themselves and their Faction, as they can, for their *Index Expurgatorius*, and their foul razure in leaving out this part of the Article. For to leave out of an Article is as great a Crime as to put in; and a main razure is as censurable in this Court as a forgery.

Why, but then my Lords, what is this *Mystery of Iniquity*?

Truly, I cannot certainly tell, but as far as I can, I'll tell you.

The Articles you see were fully and fairly agreed to, and subscribed in the Year 1563. But after this, in the Year 1571. there were some that refused to subscribe, but why they did so, is not recorded. Whether it were about this Article, or any other, I know not. But in fact this is manifest, that

Anno 1640. that in that year 1571. the Articles were Printed both in *Latin* and *English*, and this Clause for the Church left out of both. And certainly, this could not be done, but by the malicious cunning of that Opposite Faction. And though I shall spare dead mens names where I have not certainty; yet if you be pleased to look back and consider who they were that Governed businesses in 1571. and rid the Church almost at their pleasure; and how potent the Ancestors of these Libellers began then to grow, you will think it no hard matter to have the Articles Printed, and this Clause left out.

And yet it is plain, That, after the stir about Subscription in the year 1571. the Articles were settled and subscribed unto at last, as in the year 1562. with this Clause in them for the Church: For looking farther into the Records which are in mine own hands, I have found the Book of 1563. subscribed by all the Lower-House of Convocation, in this very year of Contradiction, 1571. Dr. John Elmar, (who was after Lord Bishop of London) being there *Proloquutor*: Alexander Nowel, Dean of St. Pauls, having been *Proloquutor* in 1563. and yet living and present and subscribing in 1571. Therefore I do here openly in Star-Chamber charge upon that pure Sect this foul corruption of falsifying the Articles of the Church of England; let them take it off as they can.

I have now done, and it is time I should, with the Innovations charged upon the Prelates, and fit to be answered here.

Some few more there are, but they belong to matter of Doctrine, which shall presently be answered, *Iusto Volumine*, at large, to satisfy all well-minded people. But when Mr. Burton's Book which is the main one, is answered, (I mean his Book, not his Railing) neither *Prynne*, nor *Eastwick*, nor any Attendants upon *Rabshakeh* shall by me or my care be answered. If this Court find not a way to stop these Libellers Mouths and Pens, for me they shall rail on till they be weary.

Page 175. Yet one thing more I beseech you give me leave to add. It is Mr. Burton's charge upon the Prelates, That the Censures formerly laid upon Malefactors are now put upon God's Ministers for their Vertue and Piety.

A heavy charge this too. But if he or any man else can shew that any man hath been punished in the High Commission, or elsewhere, by the Prelates, for Vertue and Piety, there is all the reason in the World we should be severely punished our selves. But the truth is, the Vertue and Piety for which these Ministers are punished, is for Preaching Schism and Sedition, many of their Sermons being as bad as their Libels; As Burton's Libel was one of his Sermons first. But whether this stuff have any Affinity with Vertue and Piety, I submit to any Christian Reader.

Page 7. And yet Mr. Burton is so confident of his Innocency, even in this cause wherein he hath so foully carried himself, that he breaks forth into these words, *I never so much as once dreamed, that Impiety and Impudency it self, in such a Christian State as this is, and under such a gracious Prince, durst ever thus publicly have called me in question, and that upon the open Stage, &c.*

You see the boldness of the Man, and in as bad a cause, as (I think) in this kind ever any man had.

I shall end all with a passage out of St. Cyprian*, when he, then Bishop of Carthage, was bitterly railed upon by a pack of Schismatics, his answer was, and it is now mine; They have railed both bitterly and falsely upon me, and yet *Non oportet me paria cum illis facere*; It becomes not me to answer them with the like, either Levities or Revilings, but to speak and write that only which becomes *Sacerdotem Dei*, a Priest of God.

Neither shall I in this give way (though I have been extremely vilified) to either grief or passion to speak, remembering that of the Psalmist, *Psalm. 37. 8. Fret not thy self, else shalt thou be moved to do evil.*

Neither yet by God's Grace shall the Reproaches of such men as these, make me faint or start aside, either from the right way in matter of practice, (they are St. Cyprian's words again) or *à certa regula*, from the certain Rule of Faith. *Ibid. p. 10.*

And since in former times, some spared not to call the Master of the House *Beelzebub*, how much more will they be bold with them of his Household, as it is in St. Matthew, Chap. 10. 25? And so bold have these men been; but the next words of our Saviour are, *Fear them not.*

I humbly crave pardon of your Lordships for this my necessary length, and give you all hearty thanks for your Noble patience, and your Just and Honourable Censure upon these Men, and your unanimous dislike of them, and defence of the Church.

But because the business hath some reflection upon my self, I shall forbear to censure them, and leave them to God's Mercy, and the King's Justice.

But the great quarrel which arose in the ensuing Parliament, was, about the Oath imposed by the Canons made in that Convocation having an &c. in it: The Oath it self here followeth:

I A. B. do swear, That I do approve the Doctrine and Discipline of Government established in the Church of England, as containing all things necessary to Salvation. And that I will not endeavour by my self, or any other directly or indirectly, to bring in any Popish Doctrine, contrary to that so established. Nor will I ever give my consent to alter the Government of this Church by Archbishops, Bishops, Deans, and Arch-Deacons, &c. as it stands now established, and as by right it ought to stand, nor yet ever to subject it to the usurpations and superstitions of the See of Rome; And all these things do I plainly and sincerely acknowledge and swear according to the plain and common sense and understanding of the same words, without any equivocation, or mental evasion, or secret reservation whatsoever; And this I do heartily, willingly and truly, upon the Faith of a Christian, So help me God in Jesus Christ.

The Exceptions taken against this Oath, were, especially three, to which some add a fourth: First, That the word &c. leaves the Oath too loose, that neither the makers nor the Takers could know the meaning.

Answer hereto was made, That in the Canons a particular Enumeration is made of all persons having Ecclesiastical Jurisdiction, as Archbishops, Bishops, Deans, Archdeacons, Deans and Chapters, and other persons having exempt or peculiar Jurisdictions, and therefore for avoiding Tautology the &c. was added as an expression importing all the foregoing, than which nothing in the Canons was more known.

The

Anno 1640. The *Second* was, That the Commanding an Oath in things of Indifferency was an Affront to the Government.

The Answer was, the Sanction was added by the King to this Canon, and it was added to prevent alterations in Church Government by those who had no power, and to continue it the same till allowed by lawful Authority.

The *Third* Objection was, That the Juror declares he swears willingly, whereas he was under restraint by the most severe Penalties.

Hereunto it was Answered, The Oath of Allegiance, 3 *Jac.* enjoyns this recognition that the Juror do it *heartily, truly, and willingly*, and yet there is a great penalty upon not taking.

The *Fourth* or last Objection was, That as the *Scots* condemned the *Arminian* Tenets (for which they were blamed) without defining what they were, so did these the *Socinians* without defining what they were.

Answer: The *Arminian* Tenets were but five, and might easily have been enumerated, but *Socinianism* is a complication of many and gross Errors; but more especially the *Presbyterians* Oath here and in *Scotland* were used to brand any Episcopal person with the name of an *Arminian* or Popishly addicted; though those five Points Controverted in *Holland* were here in *England* amongst our Divines amicably and peaceably tolerated to be entreated of, and fairly disputed, till the excesses of some hot men on both sides, caused his Majesty to emit his Proclamation to cause those Disputes to surcease, especially in Pulpit Debates.

Upon the conclusion of this Synod, they grant to the King an ample Benevolence of four shillings in the pound for six years, towards his intended Expedition against the *Scots*, at which Exception was taken upon a great mistake, as if it had been an usurpation upon the power of Parliaments, no Convocation having power so to do but only in time of Parliament: For why may not our Clergy give their own without the leave of any, and yet for instance and precedent the Convocation, *Anno* 1585. after having given one subsidy confirm'd by Parliament, did afterwards add two shillings per pound without leave of the Parliament.

His Majesty, as you heard, ordered the March of his Army against the *Scots*: several Councils were held for the advance of Money, and the City of *London*, as is usual, being importuned to lend, pretend poverty, whereas the City never more abounded with Treasure, Bullion, and all manner of rich Merchandize, having enjoyed peace and plenty of Commerce for forty years, Their Plenty (saith one) bred Luxury, Luxury filled them with all Vices answerable; unfaithful they were to their Sovereign, ungrateful to their own Members and Friends, &c.

The King to let them see themselves and their own demerits, how much they depended upon his bounty and goodness, and how little they had deserved, his Majesty had granted them a Patent on account of their Plantation in *London-Derry* in *Ireland*; and this Patent they had forfeited by usurping upon their Neighbours, and taking more Land than their Patent would empower; for this the City was sued in the *Star-Chamber*, their Lands sentenced to be forfeit to his Majesty, Fines imposed upon the Undertakers, notwithstanding a small Fine in respect of the forfeiture by his Majesty and their Patent restored. This gracious dealing of his Majesty with that City was by them complained of, and bore in mind to be revenged

upon occasion. Hereupon order being sent to the Lord Mayor and Sheriffs for the collecting of the Arrearages of Ship-money, as like orders were sent into other Counties upon the same affair, and the Mayor and Sheriffs giving the Council-Board no account thereupon, and having not executed the Writ by distraint upon any one person; the Order following was issued against the said persons:

At White-hall, July 5. 1640.

Present

The King's Most Excellent Majesty.

Lord Archbishop of Canterbury,

Lord Keeper,

Lord Treasurer,

Lord Marquess Hamilton,

Earl Marshal,

Earl of Salisbury,

Earl of Bridgewater,

Earl of Holland,

Earl of Berks,

Earl of Strafford,

Earl of Cork,

Lord Goring,

Lord Cottington,

Lord Newburgh,

Mr. Treasurer,

Mr. Secretary Windebanke,

Sir Thomas Rowe,

Lord Chief Justice of the Common-Pleas.

Whereas the Lord Mayor of *London*, and the two Sheriffs, did this day appear before his Majesty and the Board, to give an account of their proceedings upon the Writ for the *Ship business* this present year: Forasmuch as it did appear, that besides all former neglects in the execution of that Writ, his Majesty having respited the Information against them for the same; yet they have not since distrained any one person according to the said Writ. It was this day ordered by his Majesty, with the advice of the Board, that his Majesties Attorney General shall forthwith prefer an Information in the *Star-Chamber* against the Lord Mayor and Sheriffs of *London* and *Middlesex*, for their contempt and default in the execution of the said Writ; and shall forthwith proceed against them *De die in Diem*, until the Cause be ready for hearing: and if upon Examination of the said Cause, his Majesties Attorney General shall find sufficient Cause against any of the Aldermen, that then he do prefer one other Information against the said Aldermen; and in like manner do proceed against them apart.

A Gallant Army was now the second time raised against the *Scots*, who not performing their former stipulations, and having under-hand encouragement and assistance from some Male-content persons here in *England* of their perswasion as to Church Discipline, had already in a second Rebellion taken up Arms against their Sovereign, but pretended they were only to deliver a Petition to his Majesty in order to the redress of their Grievances, and that some Incendiaries about his Majesty, their enemies might be removed from the King's Person and Counsels, they were now already on their March ready to pass the River *Tine*, which to impede the Lord *Conway* had posted

Anno.
1640. posted himself with three thousand Foot, and about one thousand Horse on the adverse part of the River; hereupon *Lesley* the *Scotch* General desires his leave to pass towards his Majesty, with the humble Petition and request of his Majesties good Subjects of his Native Kingdom of *Scotland*; The Lord *Conway* for answer told him, That he should readily permit him to pass with a few in order thereunto, but he would not permit his Army to pass; hereupon *Lesley* Commands three hundred Horse to pass the River, who were driven back by the *English* Foot, which play'd upon them by their small Shot from a Breast-work on the *English* side of the River; hereupon *Lesley* having placed his great Guns behind the blind of some Bushes, lets fly amongst the *English*, who having nothing to secure them but their Breast-work retired and fled; hereupon the *Scots* Horse again advance, and are entertain'd by Commissioner General *Wilmot* who gallantly charg'd them back to the River, but these were overpower'd by the numbers of the *Scots*, and being withal gall'd and annoyed by the *Scottish* Ordnances were forced to retire in disorder, two hundred *English* being slain and taken Prisoners. The Lord *Conway* was blamed for his ill conduct in this Action, having no other security but the aforesaid Breast-works for the Foot, and no great Guns well made use of on his part to oppose to those of the Rebels; nay, some have not stick'd to affix on him either Cowardize or Treachery for this his evil manage; however he retreats to his Majesty at *Northallerton*, where the Noble Earl of *Strafford* was very severe upon him because of this defect. Sir *Jacob Ashley*, Governor of *Newcastle*, judging the Town not tenable, deserts it, and sinks his Ordnance in the River.

About this time the Queens Majesty was safely delivered of her third Son *Henry*, who was afterward created Duke of *Glocester*, and died after his Majesties return to his Kingdoms, a Prince of great hopes and worth, and Gallantry.

After the Lord *Conway*'s defeat at *Newbourne* upon *Tine*, the Earl of *Strafford* under his Majesty took care of his Army, for that the Earl of *Northumberland*, Lord General thereof, was not able by reason of sickness to undertake the Command; and this gallant Army to which the Gentry of *England* had so nobly and freely contributed, lay quarter'd in *Yorkshire* and the Bishoprick of *Durham*, and for that divers disorders, as is usual on such occasions, were committed by the Souldiery in their Quarters, the Inhabitants of that County at the general Assizes at *York* on the twenty eighth of *July* exhibited their Petition complaining (though at a very unseasonable time, the Kingdom being then invaded by the *Scots*) hereof.

To the King's most Excellent Majesty.

The humble Petition of the Gentry of your Majesties County of *York*, now assembled at the Assizes at *York*, *July* 28. 1640.

May it please your Sacred Majesty,

YOur most humble Subjects shew unto your Sacred Majesty, that in all humility this Country had endeavoured to fulfil your Majesties Commands with the forwardest of your Majesties Subjects, and the last year in the execution of your Majesties Royal Commands about

the Military Affairs did expend one hundred thousand pounds to our great impoverishment, and far above the proportion of other Counties; which although at that time we were willing (out of a desire to serve your Majesty) to do, yet for the future the burthen is so heavy, that we neither can, nor are able to bear it. Now upon this our chearfulness to serve you, we thought to have found equal favours with other Counties.

But so it is, most Gracious Sovereign, to our great grief, and (as we conceive) to the great disservice of your Majesty, we find our selves oppressed with the Billetting of unruly Souldiers, whose Speeches and Actions tend to the burning of our Villages and Houses, and to whose Violences and Insolencies we are so daily subject, as we cannot say we enjoy our Wives, Children and Estates safely: wherefore we are emboldned, humbly to present these our Complaints, beseeching that as the Billetting of Souldiers in any of your Subjects Houses against their will, is contrary to the Antient Laws of this Kingdom confirmed by your Majesty in the *Petition of Right*, we most humbly pray, that this insupportable burthen be taken from us, lest by their Insolencies some such sad Accidents may happen, as will be much displeasing unto your Sacred Majesty and your Loyal and Obedient Subjects, who will never cease to pray for your Majesties long and happy Raign over us.

| | |
|----------------------------|-------------------------------|
| <i>Phillip Wharton,</i> | <i>Henry Cholmeley,</i> |
| <i>Ferdinand Fairfax,</i> | <i>George Trotter,</i> |
| <i>Henry Belkiss,</i> | <i>Henry Darley,</i> |
| <i>William Savile,</i> | <i>Richard Remington,</i> |
| <i>Francis Wortley,</i> | <i>William Franchland,</i> |
| <i>Thomas Gower,</i> | <i>Thomas Hebblethwaite,</i> |
| <i>Jo. Hotham,</i> | <i>Jo. Hotham,</i> |
| <i>Ed. Stanhop,</i> | <i>Christopher Pearcihey,</i> |
| <i>Henry Griffith,</i> | <i>Jos. Pearcy.</i> |
| <i>William Sheffield,</i> | <i>Brian Stapleton,</i> |
| <i>Richard Darly,</i> | <i>Phillip Stapleton,</i> |
| <i>Jo. Ramsden,</i> | <i>Ing. Hopson,</i> |
| <i>Hugh Cholmeley,</i> | <i>Henry Anderson,</i> |
| <i>Hugh Bethell,</i> | <i>George Crosbie,</i> |
| <i>William Strickland,</i> | <i>George Marwood.</i> |
| <i>Thomas Remington,</i> | <i>Thomas Hisketh,</i> |
| <i>Thomas Metham,</i> | <i>Jo. Anlabie,</i> |
| <i>Robert Strickland,</i> | <i>Christopher Legard,</i> |
| <i>Jo. Legard,</i> | <i>Jo. Inglebie,</i> |
| <i>George Butler,</i> | <i>Mar. Norcliffe.</i> |
| <i>Francis Monntone,</i> | With divers others. |

His Majesties Affairs, though he had now a very good Army on foot, were very much perplexed, and intricate; Money, the Sinews of War, was not over plenteous with the King, and a considerable part of his Subjects here at home wish'd well perhaps (though to their own and the Kingdoms infamy) to the *Scottish* designs; his Majesty was hereupon necessitated to borrow of the *Spanish* Merchants, and others of the *Bullion* then in the Mint at the Tower of *London* the sum of 40000*l.* which was punctually repaid by his Majesty, and though the Kingdom then lay under an Invasive War [Oh the Indignity hereof!] from the rebellious *Scots*, his Majesties own Subjects; breaking thorough all ties both Sacred and Civil by their Rebellion to the King, and Invasion of this Kingdom, yet would not the foregoing Parliament grant any succours and aids to his Majesty for their Chastisement; but on the contrary they

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1640. they were encourag'd in these their attempts by some here at home, to the embroilment and ruin of at last both these Kingdoms; yea, and of themselves and their Party too, I speak of the Presbyterian Faction, who afterwards, we know by whom, were fairly laid aside, and some of their Chiefs committed to Prisons and other hardships, by those who had been undertakers with them in their unfortunate and mischievous designs. This Defensive War, for so it was on his Majesties part, was not at all approved of by these sorts of men, but they endeavour'd what they could to debauch the common Souldiers, and caused them to Mutiny against their Commanders, which they did in several places, as in *Devonshire, Warwickshire*, and in other Counties, as appears by an Order of Council, dated *June 28. 1640.*

At White-hall, June 28. 1640.

Present

The King's Most Excellent Majesty.

Lord Archbishop of Canterbury,
Lord Keeper,
Lord Treasurer,
Lord Privy-Seal,
Lord Duke of Lenox,
Lord Marquess Hamilton,
Earl Marshall,
Lord Admiral,
Lord Chamberlain,
Earl of Dorset,
Earl of Salisbury,
Earl of Bridgewater,
Earl of Holland,
Earl of Berks,
Earl of Lanericke,
Earl of Cork,
Lord Goring,
Lord Cottington,
Lord Newburgh,
Mr. Treasurer,
Mr. Secretary Windebanke,
Sir Thomas Rowe,
Lord Chief Justice of the Common-Pleas.

His day (his Majesty being present in Council) the Board was informed, that the Souldiers under the Regiment of Colonel *Lunsford*, were fallen into such a Mutiny against their Officers, and disorders likewise in the County of *Warwick*, in their passage through the said County, as that a great part of them are run away, and the rest persisting in so much disobedience, as that they are ready all to *disband*; and that there is such a general remissness and backwarkness in the Deputy Lieutenants and others, to whom it appertains, to countenance and assist the Officers and Commanders in punishing and reducing them to conformity and obedience; and especially in the raising and following of Hue-and-Cries for the apprehending of those that run away, as that they seem rather to foment, than to endeavour the suppressing and reformation thereof: upon consideration and debate whereof had, and for that Information hath been given to the Board from other Counties of the like Mutinies and disorders, and of the like remissness and backwardness, (though

not altogether in so high a degree) in those that should assist the Commanders and Officers for punishing and suppressing the same; whereby a great number of the Souldiers are disbanded and run away, to the great disservice of his Majesty and the publick, and the high contempt and scandal of all Authority and Government: It was therefore resolved and ordered, That a Proclamation should be forthwith published throughout the Kingdom, requiring the Deputy Lieutenants and Justices of Peace in the several Counties, and all others to whom it appertains, that they use all possible diligence and endeavor for the apprehending and punishing according to the Laws, of all those that shall be found to have run away from their Commanders and Officers; and likewise that they assist and endeavor all that possibly they may, in punishing and suppressing of the Mutinies of the Souldiers against their Officers, or any other insolencies and disorders by them committed: whereof his Majesties Attorney General is hereby required to take notice, and accordingly to prepare a Proclamation ready for his Majesties Signature.

The Privy Council being informed of another Mutiny as in *Herefordshire, Somersetshire, and Dorsetshire*, and of some men slain, writ Letters likewise thereupon to the several Lord Lieutenants of the respective Counties, to assist the Officers of those Souldiers in their reduction and deserved punishments.

Moreover the Government of the City of *London* it self became very disorderly, and was very troublesom to the Governours thereof, for daily Tumults were made, and privately and underhand encouraged by the foregoing Male-contents, which caused the Privy Council several times to raise the Militia of *Middlesex* and *Surry* to appease them, and for the keeping and maintaining of the peace of the City and adjacent Counties, as may appear by the Orders of the Council-board hereupon, and his Majesties Proclamation for the suppression of those Tumults, which we shall omit.

And for that the Souldiers, as in Marches of all Armies, consisting of new raised men, were very forward and ready of themselves to Mutiny, without being influenced hereto by any other Male-contents to this *Scottish* Expedition, and for that it was the opinion of men learn'd in the Laws, that Martial Law could not legally be executed in the King's Army, but when an Enemy is near to the King's Army, a Mutiny hapning amongst the Souldiers under the Lord *Conway's* conduct, and others, in the County of *Essex*, a Commission of Oyer and Terminer was directed to the Lord Chief Justice *Brampstone* for the Trial of the last mentioned at *Chelmsford* in *Essex*.

Nelther were there lacking Mutinies and Complaints ever studiously disseminated amongst the vulgar by the Presbyterian Faction, concerning Ecclesiastical Affairs, and more particularly about the late Book of Canons compiled by the Convocation, and ratified by his Majesty, the great matter of these mens Exception thereto was the Oath &c. which by all means must be Popish, and a kind of *Trojan*; nay, having nothing less than the Pope and the Conclave of Cardinals in the Belly of it, howsoever the meaning thereof was innocent and harmless in the sence of the Compilers thereof, or of any other unbiassed persons;

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1640. persons; yet most horrid Exclamations were every where raised against it: As the Exceptions from *Northamptonshire*; from *Dorsetshire* and *Kent* sufficiently testify, which we shall here subjoin for that they, all of them, run upon the same mistake, as if the Oath obliged the taker thereof never to consent to any alteration though it was made by right Authority, whereas the known and undoubted meaning thereof was only to prevent alterations made by way of Tumults and Uproars, and unlawful Authority, such as those were lately in the Church of *Scotland*, against which Popery, Presbytery, and Socinianism those Canons were chiefly level'd.

1. **T**hey of *Northamptonshire* said, That the taking of this Oath doth seem to establish the legality of it, and prepare a way for the imposing of other new Oathes; whereas it is questionable, whether any Oath may be imposed, not establish'd and appointed by Parliament.

2. The taking of it, may seem to approve the exacting of it of all the persons of whom it is required; many of whom cannot take it (probably) in judgment, as not being acquainted with the Doctrine and Discipline of the Church, nor the Controversies concerning them.

3. It is required, we should swear all things necessary for salvation to be contained in the Doctrine and Discipline of the Church of *England*.

1. It is not declared, What is to be accounted the Doctrine of the Church.

The Book of Homilies hath been disclaimed: The Articles claimed by the *Arminians* and others; and some of them corrupted.

2. It hath not been conceived, that any particular kind of Discipline was necessary to salvation.

The *Presbyterians* have been derided and writ against, for making the Discipline a part of the Kingdom of Christ.

It's acknowledged, That the Reformed Churches that differ from us in Discipline, want nothing necessary to salvation.

4. It's required to swear, Not to consent to the alteration of the Government by Archbishops, Bishops, Archdeacons, &c. as it is by Law established, and by right they ought to stand: which Clause we dare not swear to, for these causes:

1. Because we judge it unlawful to swear the perpetuation of any meer Ecclesiastical Ordinance which is subject to such corruptions as may necessitate an alteration; and such we judge this Government to be, at least in part; for Archbishops, Archdeacons and Deans are but Ecclesiastical, whatever may be said for Bishops,

2. We have taken the Oath of Supremacy, by which we acknowledge the King's Majesty and his Successors Supream Head of the Church, and Governour in Causes and over Persons Ecclesiastical as well as Civil, which this Oath seems to contradict.

In that,

1. It binds from consenting to the alteration of Church Government, so that if the King or his Successors should alter it, we must dissent and Preach against them, as in the eighth Canon.

2. It binds to acknowledge a further Right that Archbishops and Bishops, &c. have in the Government of Church, than that which is given them by Law, meaning a Divine Right, as we are induced to believe:

Because,

1. Many Bishops have so declared themselves.

2. In the first Canon they have not given the King any power in Ecclesiastical Government, disclaiming only Papal, Popular, Independent, Coactive power, but not Episcopal; whereas the Controversies of this time require a more precise and open declaration.

3. It seems to make more account of the the Discipline, than of the Doctrine of the Church; for in that we abjure Consent to any alteration, in this we abjure endeavour to induce Popish Errors only.

4. This Clause is administered with an &c. which we conceive was never tendred in any Oath before now.

5. There are some things in the Discipline of the Church, which we have just ground to desire and endeavour the alteration of, should it be offered. As,

That the Bishop delegates his power to be officiated by a Chancellor, whereby it comes to pass, that the sentence of Excommunication, which is incompatible with a meer Lay-man (as our Church teacheth against *Presbyterians*) is devolved upon a meer Lay-man, and the Plaister provided by the thirteenth Canon is too narrow for this sore.

For,

The Grave Minister to whom the pronouncing the Sentence belongs, is but the Chancellors Voice to speak what he decrees; and so the power of Excommunication is still in him.

5. The whole Oath is filled with so many ambiguities, that we dare not take it.

6. The taking of it, makes us approve of the Synod, by which there are induced and tolerated divers Ceremonies contrary to the Book of Common Prayer, which we have subscribed unto, and must in this Oath (if we take it) abjure.

7. It is required, to be taken heartily and willingly, and yet they that refuse it, are threatened with severe punishments; by which means it is to be feared, that many that are weak, may forswear themselves.

1. **T**hose of *Devonshire* complain, that they are bound to take it willingly (and so they must the Oaths of Allegiance and Supremacy) which they say they cannot do with a safe Conscience, and so shall be perjured, [if so, they ought to submit to the penalty, and not to raise Tumults.

Anno 1640. 2. That they must swear sincerely, without any mental reservation, yet that &c. in the Oath, referreth and implyeth somewhat more than is expressed; which they must conceive or understand.

3. That they must acknowledge both the Doctrine and Discipline of our Church, to contain all things necessary to salvation: which is not true of the Discipline.

4. That they are tyed never to give consent to any alteration of the said Discipline, though the King and State should enjoin them thereunto.

5. That it crosseth or contradiceth the Oath of Allegiance and Supremacy which they have already taken; because if the King by Parliament would disanul any part of the Ecclesiastical Discipline, or by a Synod shall alter it, they are bound never to consent.

6. That it is a flat bandy against the power of Parliaments; because the Clergy can constitute no Canons, much less create or impose Oaths, unless the Parliament confirm them: and therefore they think it a project to suppress all Parliaments for ever.

7. That it clips the wings of the King's Royal Prerogative and Spiritual Supremacy, bereaving him and his Successors from altering any thing in Church Government, either by Synod, Convocation or Parliament.

The men of Kent their Queries follow hereafter:

1. Whether it be lawful to take an Oath with an &c. where there may be a doubt, how much is thereby signified?

2. Whether to affirm in an Oath, that such a thing ought so by right to stand, doth not suppose it to be a Divine Right?

3. Whether it be lawful to swear the perpetual maintaining any Order meerly Ecclesiastical?

4. Whether the Superiority of Archbishops above Bishops, and the substitution of Archdeacons, Deans, &c. be not meerly Ecclesiastical?

5. Whether when Divine Authority hath ordained only Bishops to be Church Governours, particularly in point of Excommunication, it be lawful to consent any more than passively, to any other Governours Ecclesiastical, to exercise the same Authority of Excommunication?

6. Whether since the Church of England rejects the Lay-Elders of other Churches, it doth not thereby condemn the giving of any power to Commissaries, Chancellors and Officials which are meerly Lay-men, to meddle in Excommunication even jointly with Ministers, much less as chief Surrogates, being but his Deputies and Ecclesiastical?

7. Whether the Scriptures Authorize such power being given to meer Lay-men?

8. Whether having sworn to the King's Supremacy in all causes Ecclesiastical, it be not a violation of that Oath, or at least a hazard of it in time to come, to swear not to give consent to such an alteration in Government, which may at least possibly be thought fit, and even be commanded with all Authority by the King or any Succellor of his hereafter?

These Queries are answered before, for the main of them, as are also the foregoing Exceptions in the beginning of this year, whether we shall remit the Reader, and now proceed.

The Scotch Army (as before is said) having entered England under the Command of Lesley as General, the Earl of Kalendar as Lieutenant General, and Alexander Hamilton as Major General at a Ford of the Tweede, call'd Cold Stream, the Noble Earl of Montross, then a Covenanter, commanding the Van-guard, and first taking the River, they did by slow Marches in a weeks space arrive at Newbourn, a small Village belonging to the Earl of Northumberland situate of the Tine, and there, as before, our Reader is given to understand, hapned the first Action betwixt the Scots and English; wherein and the manner how the latter were worsted, we have already declared; and that they might not seem to be altogether without Abettors and Maintainers of their quarrel here in England, and making necessity (which can never justify any evil action) the ground of their Invasion, they emit and published certain considerations to manifest the legality of their present invading of England, and declared their intentions to their Brethren here in England in the six following Considerations.

Six Considerations of the Lawfulness of their Expedition into England manifested.

AS from the beginning till this time, we have attempted nothing presumptuously in this great work of Reformation, but have proceeded upon good grounds, and have been led forward by the good hand of God; so now, from our own perswasion, are we ready to answer every one that asketh us a reason of this our present Expedition, which is one of the greatest and most notable parts of this wonderful work of God, beseeching all to lift up their minds above their own particulars, and without prejudice or partiality, to lay to heart the Considerations following.

First, As all men know and confesse what is the great force of necessity, and how it doth justify actions otherwaies unwarrantable, so it cannot be denied but we must either seek our peace in England at this time, or lie under the heavy burdens which we are not able to bear.

1. We must maintain Armies on the Borders, and all places nearest to hazard, for the defence and preservation of our Country, which by laying down of Arms, and disbanding of our Forces, should be quickly over-run by Hostile Invasion, and the incursions of our enemies.

2. We shall want Trade by Sea, which would not only deprive the Kingdom of many necessities, but utterly undo our Boroughs, Merchants, Mariners, and many others who live by Fishing, and by Commodities Exported and Imported, and whose particular callings are utterly made void, by want of Commerce with other Nations and Sea-trade.

3. The

Anno. 1640. 3. The Subjects through the whole Kingdom; shall want administration of Justice; and although this time past, the marvellous power and providence of God hath kept the Kingdom in order and quietness without any Judicatories sitting, yet cannot this be expected for afterward, but shall turn to confusion. Any one of the three, much more all of them put together threaten us with most certain ruin, unless we speedily use the remedy of this Expedition. And this we say not from fear, but from feeling: for we have already felt to our unspeakable prejudice, [what it is to maintain Armies, what to want Traffick, what to want Administration of Justice.] And if the beginning of these evils be so heavy, what shall the growth and long continuance of them prove unto us? So miserable a being all men would judge, to be worse than no being.

Secondly, If we consider the nature and quality of this Expedition, it is defensive, and so the more justifiable. For proof hereof let it be remembred,

1. The King's Majesty misled by the crafty and cruel Faction of our Adversaries began this years War, not we. When Articles of Pacification had been the other year agreed upon, Arms laid down, Forts and Castles rendered, an Assembly kept, and concluded with the presence and consent of his Majesties High Commissioner, the promised Ratification thereof in Parliament (contrary to the aforesaid Articles) was denied unto us, and when we would have informed his Majesty by our Commissioners, of the reasons and manner of our proceedings, they got not so much as presence or audience. Thereafter his Majesty being content to hear them, before that they came to Court or were heard, War was concluded against us at the Council Table of England, and a Commission given to the Earl of Northumberland for that effect.

First, The Parliaments of Ireland and England were also convocate, for granting Subsidies unto this War against us, as is notoure, Plots have been hatcht, and Military preparations made against us: many Invasions by Sea, which have spoiled us of our Ships and Goods: Men, Women and Children killed in *Edenburgh* by his Majesties Forces in the Castle: Our Enemies therefore are the Authors and beginners of the War, and we defenders only.

2. We intend not the hurt of others, but our own peace and preservation, neither are we to offer any injury or violence: And therefore have furnished our selves according to our power with all necessaries, not to fight at all, except we be forced to it in our own defence, as our Declaration beareth.

3. We shall retire and lay down Arms, as soon as we shall get a sure peace, and shall be satisfied in our just demands. Upon which ground even some of those who would seem the greatest Royalists, hold the Wars of the Protestants in *France* against the King, and the Faction of the *Guisians* to have been lawful defensive Wars, because they were ever ready to disband and quiet themselves, when they got assurance of Peace and Liberty of Religion. Now this present Expedition being in the nature of it defensive, hence it appeareth that it is not contrary, but consonant to our former Protestations, Informations, and

Remonstrances: In all which there is not one word against defensive War in this cause; but strong reasons for it, all which militate for this Expedition. *Car. 16.*

Our first Information sent to *England* this year, though it accuseth all offensive or invasive War, yet sheweth plainly, that if we be invaded either by Sea or Land, we must do as a man that fighteth himself out of Prison. If a private man when his House is blocked up, so that he can have no liberty of Commerce and Traffick to supply himself and Family, being also in continual hazard of his life, not knowing when he shall be assaulted by his Enemies who lie in wait against him, may in this case most lawfully step forth with the Forces which he can make, and fight himself free; of how much more worth is the whole Nation? and how shall one and the same way of defence and liberation be allowed to a private man, and disallowed to a whole Nation?

Thirdly, We are called to this Expedition by that same divine providence and vocation which hath guided us hitherto in this great business. We see the expediency of it, for the glory of God, for the good of the Church, for advancing the Gospel, for our own peace: after seeking of God, and begging light and direction from Heaven, our hearts are inclined to it, God hath given us zeal and courage to prosecute it, ability and opportunity for undertaking it, unanimous Resolution upon it, scruples removed out of minds where they were harboured, encouragements to achieve it from many passages of divine providence, and namely from the proceedings of the last Parliament in *England*, their Grievances and desires being so homogeneous and akin to ours, we have laboured in great long-suffering by Supplications, Informations, Commissions, and all other means possible, to avoid this Expedition. It was not premeditated nor affected by us (God knows) but our enemies have necessitated and redacted us unto it, and that of purpose to sow the seed of National Quarrels: yet as God hitherto hath turned all their plots against themselves, and to effects quite contrary to those that they intended; so are we hopeful that our coming into *England* (so much wished and desired by our Adversaries for producing a National quarrel) shall so far disappoint them of their aims, that it shall link the two Nations together in stricter and stronger bonds, both of Civil and Christian love, than ever before.

And that we may see yet further evidences of a calling from God to this Voyage, we may observe the order of the Lords steps and proceedings in this work of Reformation. For, beginning at the gross Popery of the *Service Book*, and Book of Canons, he hath followed the back trade of our defection, till he hath Reformed the very first and smallest Novations, which entred in this Church. But so it is, that this back trade leadeth yet further, to the Prelacy in *England*, the fountain whence all those *Babylonish* streams issue unto us: The Lord therefore is still on the back trade, and we following him therein, cannot yet be at a stay. Yea, we trust, that he shall so follow forth this trade, as to chase home the Beast, and the false Prophet to *Rome*, and from *Rome* out of the World. Besides, this third Consideration resulteth from the former two; for if this Expedition be necessary,

Anno 1640. necessary, and if it be defensive, then it follows inevitably, that we are called unto it, for our necessary defence is warranted, yea commanded by the Law of God and Nature, and we are obliged to it in our Covenant.

Fourthly, The lawfulness of this Expedition appeareth, if we consider the party against whom, which is not the Kingdom of England, but the *Canterburian Faction* of Papists, Artheists, Arminians, Prelates, the misleaders of the King's Majesty, and the Common Enemies of both Kingdoms. We perswade our selves, that our Brethren and Neighbours in England, will never be so evil advised, as to make themselves a Party against us, by their defence and patrociny of our Enemies among them, as sometimes the *Benjamites* made themselves a Party against the *Israelites*, by defending the *Gibeathites* in their wicked cause, *Judg. 20.* We pray God to give them the wisdom of the wise Woman in *Abel*, who when *Joab* came near to her City with an Army, found out a way which both kept *Joab* from being an Enemy to the City, and the City from being an Enemy to him, *2 Sam. 20.* As touching the Provision and Furniture of our Army in England, it shall be such as is used among friends, not among enemies. The rule of humanity and gratitude will teach them to furnish us with necessities, when as beside the procuring of our own peace, we do good Offices to them. They detest (we know) the churlishness of *Nabal*, who refused Victuals to *David* and his men, who had done them good and no evil, *1 Sam. 20.* And the inhumanity of the men of *Succoth* and *Penuel*, who denied bread to *Gideon's* Army, when he was pursuing the Common Enemies of all *Israel*, *Judg. 8.* But let the *English* do of their Benevolence, what humanity and discretion will teach them; For our own part our Declaration sheweth, that we seek not Victuals for nought, but for Money or Security: And if this should be refused (which we shall never expect) it were as damnable as the barbarous cruelty of *Edom* and *Moab*, who refused to let *Israel* pass through their Country, or to give them Bread and Water in any case, *Numb. 20. Judg. 11.* and this offence the Lord accounted so inexpiable, that for it he accursed the *Edomites* and *Moabites* from entering into the Congregation of the Lord, unto the tenth Generation, *Deut. 23. 3, 4.*

Fifthly, The fifth Consideration concerneth the end for which this Voyage is undertaken. We have attested the searcher of hearts, It is not to execute any disloyal act against his Majesty, It is not to put forth a cruel or vindictive hand against our Adversaries in England, whom we desire only to be Judged and Censured by their own Honourable and High Court of Parliament, It is not to enrich our selves with the Wealth of England, nor to do any harm thereto. But by the contrary, we shall gladly bestow our pains and our means to do them all the good we can, which they might justly look for at our hands, for the help which they made us at our Reformation, in freeing us from the *French*, a bond of peace and love betwixt them and us to all Generations. Our Conscience, and God who is greater than our Conscience beareth us record, that we aim altogether, at the glory of God, peace of both Nations, and honour of the King, in suppressing and punishing (in a

legal way) of those who are the troublers of *Israel* the Fire-brands of Hell, the *Korahs*, the *Baalams*, the *Doegs*, the *Rabshakehs*, the *Hammans*, the *Tobiabs* and *Samballars* of our time, which done, we are satisfied. Neither have we begun to use a Military Expedition to England, as a mean for compassing those our pious ends, till all other means which we could think upon have failed us, and this alone is left to us as *ultimum & unicum remedium*, the last and only remedy.

Sixthly, If the Lord shall bless us in this our Expedition, and our intentions shall not be crossed by our own sins and miscarriage, or by the opposition of the *English*, the fruits shall be sweet, and the effects comfortable to both Nations, to the Posterity, and to the Reformed *Kirks* abroad: Scotland shall be Reformed as at the beginning, the Reformation of England long prayed and pleaded for by the Godly, thereby shall be according to their wishes and desires, perfected in Doctrine, Worship and Discipline. Papists, Prelates, and all the Members of the Antichristian Hierarchy, with their Idolatry, Superstition, and human Inventions shall pack from hence, the names of *Sects* and *Separatists* shall no more be mentioned, and the Lord shall be one, and his name one throughout the whole Island, which shall be glory to God, honour to the King, Joy to the Kingdoms, comfort to the posterity, example to other Christian *Kirks*, and Confusion to the incorrigible Enemies.

His Majesty on the other hand, for opposing the *Scots*, and the strengthening of his Kingdom of England, now under an actual Invasion, issued out Commissions of Array to the several Lieutenancies of England; and withal, declared his Royal Pleasure, that these latter should not derogate, or be any waies prejudicial to the former Commissions granted unto the Lord Lieutenants, &c. for their commanding and ordering of the standing Militia's of their respective Counties, but that it should be lawful for them to execute both these concurrent Commissions, and the Earl Marshal of England was to command by advice and direction from his Majesties Privy-Council, all the power of arrayed men on the South side of *Trent*, and pursuant hereto, he had a Commission granted him under the Broad Seal of England.

Great were the discouragements his Majesty every way met with in this necessary and defensive war against these his worst of Subjects, for that his Majesty having called the Gentry of the County of *York* unto them, and declaring his resolution to lead them on himself in Person to the Frontiers of that County, several of the Gentry thereof very fairly deliver a Petition to his Majesty for their excuse herein, for that by reason of the Poverty of their County, they were not able to advance, and more according to his Majesties expectation, except they might have 14 daies Pay from his Majesty before-hand, whereas at the time of the delivery of this Petition, or very shortly after, the *Scots* were upon the point of entering into the aforesaid County, and setting the Bishoprick of *Durham* under Contribution, and being shortly after also possessed of *Newcastle*; such and so great were the difficulties his said Majesty then labour'd under, the circumstances hereof were very well known to sundry of the Peers, and others

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1640. others of this his Majesties Kingdom of England, who, as it afterwards notoriously appeared in the ensuing Troubles, were no very great Enemies to the Scots in this their Invasion of England. These men hereupon Petition his Majesty for the summoning of a Parliament, where they very well knew the Scotch War and Invasion would be, if not justified and abetted, yet palliated and excused. There were two Petitions of this nature, and they stuffed with their pretended Grievances; the one from several Peers, the other from the City of London; though this later had been expressly prohibited by the Council Board. And they were as followeth.

To the King's most Excellent Majesty.

The humble Petition of your Majesties most Loyal and Obedient Subjects, whose Names are here under-written, in behalf of themselves and divers others.

Most Gracious Sovereign,

THE sense of that Duty and Service which we owe unto your Sacred Majesty, and our earnest Affection to the good and welfare of this your Realm of England, have moved us in all humility to beseech your Royal Majesty, to give us leave to offer unto your most Princely Wisdom, the Apprehension which we and other your faithful Subjects have conceived of the great Distempers and Dangers now threatening the Church, and state of your Royal Person, and the fittest means by which they may be prevented.

The Evils and Dangers whereof your Majesty may be pleased to take notice, are these;

1. That your Sacred Majesty is exposed to hazard and danger in the present Expedition against the Scottish Army, and by the occasion of the War, your Revenue is much wasted, your Subjects burthened with Coat and Conduct Money, Billetting of Souldiers, and other Military Charges, and divers Rapines and Disorders committed in several parts in this your Realm, by the Souldiers raised for that Service, and your whole Kingdom become full of fear and discontent.

2. The sundry Innovations in matters of Religion, the Oath and Canons lately imposed upon the Clergy, and other your Majesties Subjects.

3. The great Encrease of Popery, and Implying of Popish Recusants, and others ill affected to the Religion by Law established in places of Power and Trust, and especially commanding of Men and Arms both in the Field and other Counties in this Realm, whereas by the Laws they are not permitted to have Arms in their own Houses.

4. The great mischief which may fall upon this Kingdom, if the Intentions which have been credibly reported, of bringing in of Irish Forces, shall take effect.

5. The urging of Ship-money, and prosecution of some Sheriffs in the Star-Chamber for not levying of it.

6. The heavy Charges of Merchandize to the discouragement of Trade, the multitude of Monopolies, and other Patentees, whereby the Commodities and Manufactures of the Kingdom are much burthened, to the great and universal Grievance of your People.

7. The great grief of your Subjects by the Intermision of Parliaments, in the late former dissolving of such as have been Called, with the hoped Effects which otherwise they might have procured.

For a remedy whereof, and prevention of the danger that may ensue to your Royal person, and to the whole State, we do in all humility and faithfulness beseech your most Excellent Majesty that you would be pleased to summon a Parliament within some short and convenient time, whereby the cause of these, and other great Grievances, which your poor Petitioners now lye under, may be taken away, and the Authors and Counsellors of them, may be there brought to such Legal Trial, and condign punishment, as the nature of the offence does require, and that the present War may be composed by your Majesties wisdom without Bloodshed, in such manner as may conduce to the honour and safety of your Majesties person, and content of your People, and continuance of both of your Kingdoms against the common Enemy of the Reformed Religion.

Francis Bedford.

Ro. Essex.

William Harbord.

Warwick.

Earl of Bristol.

Mulgrave.

Say and Seal.

Ed. Howard.

Bullingbrook.

Mandevile.

Brook.

Pagett.

To the King's most Excellent Majesty.

The humble Petition of your Majesties Subjects the Citizens of London.

Most Gracious Sovereign,

BEING moved with the Duty and Obedience which by the Laws your Petitioners owe unto your Sacred Majesty, they humbly present unto your Princely and pious wisdom, the several pressing grievances following; viz.

1. The pressing and unusual Impositions upon Merchandize, Importing, and Exporting, and the urging and Levying of Ship-money, notwithstanding both which, Merchants Ships and

Anno 1640. and Goods have been taken and destroyed both by Turkish and other Pirates.

2. The multitude of Monopolies, Patents, and Warrants whereby Trade in the City, and other parts of the Kingdom, is much decayed.

3. The sundry Innovations in matter of Religion.

4. The Oath and Canons lately enjoined by the late Convocation, whereby your Petitioners are in danger to be deprived of their Ministers.

5. The great concourse of Papists, and their Inhabitations in London, and the Suburbs, whereby they have more means and opportunity of plotting and executing their designs against the Religion established.

6. The seldom Calling, and sudden Dissolutions of Parliaments, without the redress of your Subjects Grievances.

7. The Imprisonment of divers Citizens for Non-payment of Ship-money, and Impositions, and the prosecution of many others in the Star-Chamber, for not conforming themselves to Committees in Patents of Monopolies, whereby Trade is restrained.

8. The great danger your Sacred Person is exposed unto in the present War, and the various fears that seized upon your Petitioners, and their Families by reason thereof, which grievances and fears have occasioned so great a stop and distraction in Trade, that your Petitioners can neither Buy, Sell, Receive, or Pay as formerly, and tends to the utter ruin of the Inhabitants of the City, the decay of Navigation and Cloathing, and the Manufactures of this Kingdom.

Your humble Petitioners conceiving that the said Grievances are contrary to the Laws of this Kingdom, and finding by Experience that they are not redressed by the ordinary Course of Justice, do therefore most humbly beseech your most Sacred Majesty to cause a Parliament to be Summoned with all convenient speed, whereby they may be relieved in the premises.

And your Petitioners and Loyal Subjects shall ever pray, &c.

Before the delivery of these Petitions, his Majesty had resolved, and had accordingly issued out his Writs for Summoning a great Council of the Peers to convene at York on the 24th day of September following; and therefore for answer to the Peers their Petition, his Majesty commanded them to offer what they had to propose to the aforesaid Council, in order to the honour of his Majesty, and the safety of the Kingdom. And that it may farther appear, that the desires of these Petitioners, and of the Scots themselves, now actual Invaders of this Kingdom, did almost naturally tend to one and the same Centre, viz. the Calling of a Parliament, where they ve-

ry well knew things must necessarily run high, to the prejudice both of his Majesty and the Church, the retrenchment, if not total ruin of both, which some of these Petitioners aimed at. There comes also a Petition from the Scotch Army, directed to the Earl of Lanerick, Secretary of Scotland, which was delivered to his Majesty, and answered by his Majesty accordingly. The Petition and Answer hereafter follow.

To the King's most Excellent Majesty.

The humble Petition of your Commissioners of the late Parliament, and others of his Majesties most Loyal Subjects of the Kingdom of Scotland.

Humbly Sheweth,

That whereas through many sufferings, in this time past, *Extream* necessity hath constrained us, for our reliefs, and obtaining our humble and just desires, to come into England; where, according to our Intentions formerly delivered, we have in all our Convoy, lived upon our own Means, Victuals and Goods brought along with us; and neither troubling the Peace of the Kingdom of England, nor hurting any of your Majesties Subjects of whatsoever quality in their Persons or Goods, having carried our selves in a most peaceable manner, till we were pressed by strength of Arms to put such forces out of the way, as did without our deservings, and (as some of them at the point of death have confessed) against their own Consciences opposed our peaceable passage at Newburne upon Tyne; and have brought their own blood upon their own heads against our purposes and desires, expressed by Letters sent to them at Newcastle. For preventing of the like, or greater Inconveniencies, and that without further opposition we may come to your Majesties presence, for obtaining from your Majesties Justice and Goodness, full satisfaction to our just Demands, we your Majesties most humble and loyal Subjects, do persist in that most humble and submissive way of petitioning, which we have kept from the beginning, and from the which, no provocation of your Majesties Enemies and ours, no Adversity we have hitherto sustained, no prosperous success that can befall us, shall be able to divert our minds; most humbly entreating, that your Majesty would in the depth of your Royal Wisdom consider at least our pressing Grievances, and provide for the repair of our wrongs and losses, and with the Advice of the States of the Kingdom of England, convened by Parliament, settle a firm and durable Peace against all Invasions by Sea and Land.

That we may with Cheerfulness of heart pay unto your Majesty, as our Native King, all Duty and Obedience, that can be expected from Loyal Subjects; and that against the many and great Evils which at this time threaten both Kingdoms, whereat all your Majesties good Loyal and Loving Subjects tremble to think, and which we unanimously beseech God Almighty

Car. 16.

*Sept. 4.
The Petition
of the
Scotch
Commissioners
of the
late Par-
liament.*

might to avert; that your Majesties Throne may be established in the midst of us in Religion and Righteousness.

And your Majesties Answer we humbly desire, and earnestly wait for.

At the Court at York, Sept. 5.
1640.

His Majesty's Answer thereunto

His Majesty hath seen and considered this within-written Petition, and is graciously pleased to return this Answer by me, That he finds it in such General Terms, that till you express the particulars of your Desires, his Majesty can give no direct Answer thereunto: wherefore his Majesty requireth, that you would set down the particulars of your Demands with expedition; he having been always ready to redress the Grievances of his People. And for the mature deliberation of the weighty Affairs, his Majesty hath already given out Summons for the meeting of the Peers of this Kingdom in the City of York, the Twenty fourth day of this Month, that with the Advice of the Peers, you may receive such Answer to your Petition, as shall most tend to his honour, and the peace and welfare of his Dominions. And in the mean time, if Peace be that you so much desire, as you pretend he expects, and by this his Majesty commands, that you advance no further with your Army into these parts, which is the only means that is left for the present to preserve Peace between the two Nations, and to bring these unhappy Differences into a Reformation; which none is more desirous of than his most sacred Majesty.

Lanercik.

Great were the oppressions of his Majesties Subjects in the County of Northumberland and Bishoprick of Durham, each of which were assessed at 300 l. per diem, upon pain of plundering; whilst in the mean time, according to the Scotch mode of mercy, they permitted their Souldiers to rife Houses, break up Shops, and to act what other Insolencies they pleased; but more particularly the pious and learned Dr. Morton, Lord Bishop of Durham, the Dean of that Church, and all the Episcopal Clergies Lands, having been heretofore used and put to superstitious uses, were seized for the use of the Scotch Army, an action much applauded, and very grateful to our English Presbyterians, whose interests were the same, and actions had now openly the same tendency. Thus luckily went on every thing in England for the promotion of the Scotch designs; but an unlucky accident from Scotland did somewhat abate the tumour of their success: For the Earl of Hodington, a Covenanter, who commanded as Major General in Lowbrian, having regain'd some pieces of Cannon taken by the English Garrison of Berwick, which had been left as useless by Lesley at Dunse, and having convey'd them to Dungleffe, was the next day slain with twenty more Knights and Gentlemen in the midst of his Court by the Stones which flew from a Vault near adjoining, which it seems was then casually blown up with the Ammunition in it.

The Earl of Strafford was very desirous, and several times did advise his Majesty to have put an end to these Commotions by the decision of Battel, which in all likelihood might have prevented the ensuing Troubles; but the King was loth to run the hazard, not knowing how to recruit himself if worsted, unless he should condescend as much, or more, to his own Subjects in the ensuing Parliament, which was now resolved upon by the advice of the Peers convened at York, whither the Peers were summoned to attend his Majesty, where on the 24th of September, his Majesty spake as followeth.

Car. 16.

His Majesties Speech to his Great Council of Peers assembled at York, Septemb. 24. 1640.

My Lords,

UPon sudden Invasions where the dangers are near and instant, it hath been the custom of my Predecessors to assemble the Great Council of the Peers, and by their advice and assistance, to give a timely remedy to such Evils, which could not admit a delay so long, as must of necessity be allowed for the Assembling of the Parliament.

This being our Condition at this time, and an Army of Rebels lodged within this Kingdom, I thought it most fit to conform my self to the practice of my Predecessors in like cases; that with your advice and assistance We might justly proceed to the Chastisement of these Insolencies, and securing of my good Subjects.

In the first place, I must let you know, that I desire nothing more, than to be rightly understood of my people. And to that end, I have of my self resolved to call a Parliament; having already given order to my Lord Keeper to issue the Writs instantly, so that the Parliament may be assembled by the third of November next: Whither if my Subjects bring those good affections, which become them towards me, it shall not fail on my part to make it a happy meeting. In the meantime, there are two points wherein I shall desire your advice, which indeed were the chief cause of your meeting.

First, What answer to give to the Petition of the Rebels, and in what manner to treat with them? Of which, that you may give a sure Judgment, I have ordered, that your Lordships shall be clearly and truly informed of the State of the whole business, and upon what reasons the advices that my Privy Council unanimously gave me, were grounded.

The second is, How my Army shall be kept on foot and maintained, until the Supplies of a Parliament may be had? For so long as the Scotch Army remains in England, I think no man will counsel me to duband mine: For that would be an unspeakable loss to all this part of the Kingdom, by subjecting them to the greedy appetite of the Rebels, besides the unspeakable dishonour that would thereby fall upon this Nation.

Here his Majesty, by the Earl of Traquair, made known how unreasonable the Scotch Commissioners demands, made at Lowdon, and acknowledged by the Lord Lowdon, were, as that they subverted the fundamental Laws of that Kingdom, the prerogative and dignity of the King, and the very Constitution of the Parliament itself. Secondly, the Scots Petition, heretofore mentioned to be sent to the Secretary of Scotland,

Anno 1640. Scotland, was read and communicated to the Peers, as were also the Petitions of the County Palatine of *Durham*, presented to the Assembly by the Bishop of *Durham*, complaining of their oppression from the Scots. The third thing under debate was, the subsistence of the English Army until the Convention of the Parliament, which, as you have heard, his Majesty of himself had resolved should meet on the Third of November following. The debates upon these great Affairs produced a Treaty at *Rippon* with the Scots. The Commissioners for the English were eight Earls, *Bedford*, *Hertford*, *Essex*, *Salisbury*, *Warwick*, *Bristol*, *Holland*, *Berkshire*; and eight Lords, *Mandevill*, *Wharton*, *Pages*, *Brook*, *Pawlet*, *Howard*, *Savile*, *Dunmore*; to whom, for information and assistance, were added by his Majesty the Earls of *Traquaire*, *Morton*, and *Lanerike*, Secretary *Vane*, Sir *Lewis Steward*, and Sir *John Burrough*. This Treaty his Majesty had reason to believe might have done very much to the appeasing and quieting of all Discontents, as well as to the prevention of the ruin of the Northern Counties, which lay under the oppression, and at the mercy of the Scotch Army. This Treaty should have begun at *York*, but the Scots objected, That the Earl of *Strafford*'s presence, who was declared by them to be their grand Enemy, might retard the proceedings thereof. Hereupon *Rippon* is the place agreed on, where Commissioners for both Parties met, the Scots again excepting at the presence of the Earl of *Traquaire*, for that they termed him an *Incendiary*, and what not? They were answered, That he being a Person well knowing in the Laws of *Scotland*, and of the Actions now in debate, was present, and might be, though not as a Commissioner; which satisfied those of *Scotland*: And so the Treaty proceeded, which had likely to have broken off upon a Preliminary insisted upon by the Scots, which was, That they desired to know how their Army must be maintained until the Peace was concluded and secured, till which time they were not willing to grant any Cessation. Hereat the Noble Earl of *Strafford* was highly incensed, and again desires leave of his Majesty to fight them, no way doubting but that he should have been able to have driven them back again into *Scotland*; and indeed his Glory, as well as safety, did herein consist: But contrary counsels were followed, to the great regret of that Noble Earl. And so it was deemed meet by the Noble men and Counsellors of the adverse party, to the infamy of our Nation, That the Scotch Army should be paid and maintained by the English Purse. These were the Counsels and Actions which were the ruin of that great Personage. The other point under debate was, How the English Army was to be maintained until the Parliaments convention? Hereupon the state of the Army being declared by the Earl of *Strafford*, the Lieutenant General thereof, it was computed, that for three Months time 200000 *l.* was required for the pay thereof; which was resolved to be borrowed of the City of *London*, and the Peers were desired by Bond to secure the same to the City: And for the days of repayment, the Peers were to confer with the Officers of his Majesties Revenue. Hereupon the Lords wrote to the City of *London* accordingly.

Upon the Sixteenth of *October* following, the ensuing Articles were by the Commissioners on both sides agreed upon at *Rippon*.

1. That there be a Cessation of Arms, both by Sea and Land, from this present.

2. That all Acts of Hostility do henceforth cease.

3. That both Parties shall peaceably return, during the Treaty, whatsoever they possess at the time of the Cessation.

4. That all such persons who lived in any of his Majesties Forts beyond the River of *Tees*, shall not exempt their Lands which lie within the Counties of *Northumberland* and the Bishoprick, from such Contributions as shall be laid upon them for the payment of eight hundred and fifty pounds *per diem*.

5. That none of the King's Forces upon the other side of *Tees*, shall give any impediment to such contributions, as are already allowed for the competency of the Scotch Army, and shall fetch no Victuals nor Forrage out of their bounds, except that which the Inhabitants and Owners thereof shall bring voluntarily unto them, and that any restraints or detention of Victuals, Cattle, or Forrage, which shall be made by the Scots within those bounds for their maintenance, shall be no breach.

6. That no recruit shall be brought into either Armies, from the time of Cessation, and during the Treaty.

7. That the Contribution of Eight hundred and fifty pounds *per diem*, shall be only raised out of the Counties of *Northumberland*, Bishoprick, Town of *Newcastle*, *Cumberland* and *Westmerl.* And that the Not-payment thereof, shall be no breach of the Treaty, but the Countries and Towns shall be left to the Scots power to raise the same, but not to exceed the Sum agreed upon, unless it be for charges of driving, to be set by a prizor of the Forrage.

8. That the River of *Tees* shall be the bounds of both Armies, (excepting always the Town and Castle of *Seockton*, and the Village of *Eggscliffe*) and the Countries of *Northumberland* and Bishoprick be the limits, within which the Scottish Army is to reside, having liberty for them to send such Convoys as shall be necessary for the gathering up only of the Contribution, which shall be unpaid by the Counties of *Northumberland* and *Cumberland*.

9. That if any person commit any private infolence, it shall be no breach of our Treaty, if, upon complaint made by either parties, reparation and punishment be granted.

10. If Victuals be desired upon the price which shall be agreed upon, and ready Money offered for the same, and refused, it shall be no breach of the Cessation to take such Victuals, paying such prices.

11. No new Fortifications to be made during the Treaty, against either parties.

12. That the Subjects of both Kingdoms may in their Trade of Commerce freely pass to and fro, without any stay at all; but it is particular-ly

Anno 1640. ly provided, That no Member of either Army passe without a formal Pass, under the hands of the General, or of him that commands in chief.

To these Capitulations, which had so great an influence upon the Life of the great Earl of Strafford, he was said to be consenting; and herein some very much question his prudence, for that he very well knew, *What* (as one discourseth, whether well or ill, is left to the Reader's judgment) the Scots had in design against him, they had already verbally declared, if not, the language of their actions was express enough; a fair warning for him to seek some place of more secure retreat, and Ireland especially, where he had the temptation of well-disciplin'd Souldiers ready to obey his command, and attend his conduct. Had he observed the dictates of this advantage, and stood upon a military defence, possibly he might have fought them into other resolutions; and had he been defeated, yet might he then have resorted for refuge to some forraign Land; whereas his repair to London was in effect, a rendering up of himself captive to the will of his deadliest enemies, that City being now turned perfect Scotch, and (as to inclination) more theirs then his Majesties Subjects. Two things may be said in his excuse: First, He was opinionated of his own Innocence, and Innocence usually makes men bold and daring. True, but not always safe. For where ignorance, malice prepossessed, self-interest, passion, all or any one invades the Throne of Justice (a thing not very rare) the just man runs a great hazard of unjust sentence. Again, flight imports a seeming faultiness: True this also, and so doth Condemnation, under which, though never so injurious, the guiltless suffer as guilty. And therefore it is the greater wisdom, and not the greater blemish, where both are at election, to live, than die a suspected Delinquent.

At this Treaty of Rippon it was, That the Noble Earl of Montrose first discovered his secret Faith and Loyalty to his Prince, having before sufficiently smelt out the rancidity and evil favour of the Covenanters intentions, and he found himself only made use of, and managed by other persons for their own, and to evil ends. The occasion thus; At his return from his Travels in France, where by the King's favour he had commanded the Scots Guard, he was recommended for his Sovereign favour and preferment to the Lord Marques of Hamilton, who fearing a competitor, upon knowledge and experience of Montrose his worth and gallantry, cunningly dissuades him from any farther applications, for that his Majesty had no kindness for his natural Subjects, the Scots; and intended to reduce their Nation to a Province; the young Lord hereby inflamed against his Majesty, and not permitted by Hamilton's contrivance (possessing his Majesty with the danger of the power and popularity of Montrose, being by his ancient descent of the Royal Family of Scotland) to kill the King's hand, his Majesty turning sideways from him, hereupon in passion he posts for Scotland, where he found all things fitted for his resentments, & here he becomes a principal Lord amongst the Covenanters, and hearty in their Service till his Conviction, which was about the time of the foregoing Pacification, *Anno Dom.* 1639. From thenceforward he dissembled his intentions, thinking to signalize his Fidelity to his Prince and the sincerity of his Conviction by some eminent Service; which he not having any opportunity, he writes to his

Majesty at *Tork*, and with his own hand ascertains his Faith to his Majesty. These Letters it seems were by Hamilton's Agents about the King, stol'n at Night out of the King's Pocket, copied out, and communicated to the Covenanters at *Newcastle*, who concealing their information, laboured underhand to render the Earl odious to the People, and thereby unserviceable to his Majesty.

This was not (saith Mr. Sanderfon) the last exercise of some Bed-chamber-men, and they Scots, betraying his most secret Dispatches. And hereupon it was, says another Author, that the Lord Archbishop of Canterbury, writing to his Majesty about the Popish Plot designed against the Life of his Sacred Majesty, as well as of that Renowned Archbishop, said, Sir, for God's sake and your own Safety, secrecy, I beseech you send me back this Letter, and all that comes with it, speedily and secretly, and trust not your own Pockets with them; I shall not eat nor sleep in quiet till I receive them.

And in regard there is and hath been much Discourse of this grand Popish Design and Plot against his Majesty, and the Religion of the Church of England, as then flourishing and established by Law, as well as against the Life of that great Archbishop, the victorious Champion thereof, give me leave to acquaint our Reader, That the Plot was first discovered to Sir William Boswell, Ambassadour for his Majesty at the Hague, and by him communicated to his Grace, by whom it was made known to his Majesty; as followeth.

Sir William Boswell's first Letter to the Archbishop of Canterbury concerning the Plot.

May it please your Grace,

THE offers (whereof your Grace will find a Copy) here enclosed towards a further and more particular Discovery, were first made unto me at the second hand, and in speech, by a Friend of good quality and worth in this place; but soon after (as soon as they could be put into order) were received by the Principal Party; and delivered me in Writing by both together, upon Promise and Oath, which I was required to give, and gave accordingly, not to reveal the same to any other man living but your Grace, and by your Graces hand unto his Majesty.

In like manner they have tied themselves not to declare these things unto any other but my self, until they should know how his Majesty and your Grace would dispose thereof. The Principal giving me wishal to know, that he puts himself and this Secret into your Graces Power, as well because it concerns your Grace so nearly after his Majesty, as that he knows your Wisdom to guide the same aright, and is assured of your Grace's Fidelity to his Majesties Person, to our State and to our Church.

First, Your Grace is humbly and earnestly pressed to signify his Majesties Pleasure (with all possible speed) together with your Graces Disposition, intention and purpose to carry all with silence from all but his Majesty until due time.

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Secondly, When your Graces shall think fit to shew these things unto his Majesty, to do it immediately, not trusting to Letters, or permitting any other Person to be by or in Hearing; And to overeat and counsel his Majesty as in a Case of Conscience to keep the same wholly and solely in his own Bosom, from the knowledge of all other Creatures living but your Grace; until the business shall be clear, and sufficiently in his Majesties and your Graces hands to effect.

Thirdly, Not to Enquire or Demand the Names of the Parties from whom these Overtures do come, or any further Discoveries and Advertisements in Pursuit of them which shall come hereafter, until due Satisfaction shall be given in every part of them. Nor to betray unto any Person but his Majesty in any measure or kind, that any thing of this nature, or of any great Importance is come from me.

For as I may believe, these Overtures are Verifiable in the way they will be laid, and that the Parties will not shrink; so I make account that if never so little a glimpse or shadow of these Informations shall appear by his Majesties or your Graces speech or carriage unto others, the means whereby the business may be brought best unto Trial will be utterly disappointed; and the Parties, who have in Conscience towards God, and Devotion to his Majesty, affection to your Grace, and Compassion of your Country, disclosed these things, will run a present and extreame hazard of their Persons and Lives. So easily it will be conjectured (upon the least occasion given upon his Majesties or your Graces parts) who is the Discoverer; by what means, and how he knows so much of these things, and where he is: These are the Points, which together with the offers they have pressed me especially to represent most seriously unto your Grace.

For my own particular, having most humbly craved pardon of any Error or Omissions, that have befallen me in the Messaging of this business, I do beseech your Grace to let me know;

First, Whether, and in what order I shall proceed hereafter with the Parties?

Secondly, What points of these offers I shall chiefly and first put them to enlarge and clear?

Thirdly, What other points and enquiries I shall propose unto them, and in what manner?

Fourthly, How far further I shall suffer my self to hear and know these things?

Fifthly, Whether I shall not rather take the Parties Answers and Discoveries sealed up by themselves, and having likewise put my own Seal upon them, without questioning what they contain, so to transmit them to his Majesty or your Grace?

Sixthly, Whether I may not insinuate upon some fair occasions, that there will be a due regard held of them and their Service, by his Majesty and your Grace, when all Particulars undertaken in these General Offers, and necessary for Perfection of the discovery and work intended, shall be effectually delivered to his Majesty or your Grace?

Upon these Heads, and such other as his Majesty and your Grace shall think proper in the business, I

must with all humility beseech your Grace to furnish me with Instructions, and Warrant for my Proceedings under his Majesties hand with your Graces attestation, as by his Majesties goodness and Royal disposition is usual in like cases.

May it please your Grace to entertain a Cypher with me upon this occasion, I have sent the Counterpart of one here enclosed: In the vacant spaces whereof your Grace may insert such Names more, with Numbers to them, as you think requisite.

If these Overtures happily sort with his Majesties and your Graces mind, and shall accordingly prove effectual in their operation, I shall think my self a most happy man to have had my Oblations in so Pious a Work for my most Gracious Sovereign and Master: More particularly, in that your Grace under his Majesty shall be, Opifex rerum & mundi melioris origo. Which I shall incessantly beg in my Prayers at his hands, who is the giver of all good things, and will never forsake or fail them, who do not first fail and fall from him, The God of all Mercy and Peace, with which I shall remain ever

Your Graces most Dutiful

and Obligated Servant,

William Boswell.

I have not dared more to trust this business without a Cypher, but by a sure hand, for which I have sent this Bearer my Secretary Express, but he knoweth nothing of the Contents hereof.

Sir William Boswell's Endorsement.

For your Grace. Hague in Holland, Sept. 9. 1640. Styl. loci.

The Archbishops Endorsement with his own hand.

Received Sept. 20. 1640. Sir William Boswell's Letter about the Plot against the King.

Andreas ab Habernfield his Letter to the Archbishop of Canterbury, concerning the Plot revealed to him, Dated at the Hague, Septemb. 14. New Style, 1640. which he sent enclosed in Sir William Boswell's first Letter, Septemb. 14. 1640.

Most Illustrious and most Reverend Lord,

ALL my Senses are shaken together as often as I revolve the present business, neither doth my Understanding suffice to conceive what wind hath brought such horrid things, that they should see the Sun-shine by me; for besides expectation this good man became known unto me, who when he had heard me discoursing of these Scottish stirs, said, that I knew not the Nerve of the business, that these things which are commonly scattered abroad

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are superficial. From that hour he every day became more familiar to me, who acknowledging my Dexterity herein with a full breast poured forth the burdens of his Heart into my bosom, supposing that he had discharged a burden of Conscience wherewith he was pressed. Hence he related to me the Factions of the Jesuits, with which the whole earthly world was assaulted, and shewed, that I might behold how through their poison, Bohemia and Germany were devoured, and both of them maimed with an irreparable wound; that the same Plague did creep through the Realms of England and Scotland, the matter whereof revealed in the adjacent writing he discovered to me: Which things having heard, my Bowels were contracted together, my Loins trembled with horror that a pernicious Gulf should be prepared for so many thousands of Souls, with words moving the Conscience; I inflamed the mind of the man, he had scarce one hour concocted my admonitions but he disclosed all the secrets, and he gave free liberty that I should treat with those whom it concerned, that they might be informed hereof. I thought no delay was to be made about the things; the same hour I went to Sir William Boswell the King's Leger at the Hague, who being tied with an Oath of Secrecie to me, I communicated the business to him, I admonished him to weigh these things by the ballance, neither to defer but act, that those who were in danger might be speedily succoured; He, as becomes an honest man, mindful of his duty, and having nearer looked into the business, refused not to obey the motions; moreover he forthwith caused that an Express should be dispatched, and sent word back again what a most acceptable Oblation this had been to the King and your Grace, for which we rejoiced from the Heart, and we judged that a safe and favourable Deity had interposed it self in this business, whereby you might be preserved.

Now that the verity of the things related might be confirmed, some principal Heads of the Conspiracy were purposely pretermitted, that the knowledge of them might be extorted from the circumvented Society of the Conspirators.

Now the things will be speedily and safely promoted into Act, if they be warily proceeded in at Brussels. By my advice, that day should be observed wherein the Packet of Letters are dispatched, which under the title of, to Monsr. Strario Arch-Deacon of Cambray, tied with one Cover are delivered to the Post-Master; such a Packet may be secretly brought back from him, yet it will be unprofitable, because all the inclosed Letters are written Characteristically: Likewise another Packet coming weekly from Rome, which is brought under this Subscription, To the most Illustrious Lord Count Rosetti, Legat for the time; these are not to be neglected; to whom likewise Letters writ in the same Character are included; That they may be understood, Read is to be consulted with. The forenamed day of dispatch shall be expected: In Read's House an accumulated Congregation may be circumvented, which succeeding, it will be your Graces part to order the business. The intestine Enemy being at length detected by God's Grace, all bitterness of mind which is caused on either side, may be abolished, delivered to Oblivion, deleted and quieted, the Enemy be invaded on both parts: Thus the King,

and the King's Friends, and both Kingdoms near to danger shall be preserved, delivered from eminent danger.

Your Grace likewise may have this Injunction by you, if you desire to have the best advice given you by others, that you trust not overmuch to your Pursevents, for some of them live under the stipend of the Popish party; How many Rocks and how many Scylla's, how many displeasing Charybdes appear before your Grace, in what a dangerous Sea the Cockboat of your Graces life, next to Shipwrack is tossed, your self may judge, the Foredeck of the Ship is speedily to be driven to the Harbour.

All these things I whisper into your Graces ear, for I know it bound with an Oath of Secrecie, therefore by open Name I would by these presents become known to your Grace,

Hague, Sept. 14.
S. N. 1640.

Your Graces most

Observant and most

Obedient,

Andrew Habernfeld.

Andreas ab Habernfeld, a Physician or Chaplain (as some affirm) to the Queen of Bohemia, His Endorsement hereon,

Illustrissimo ac Reverendissimo Dom. Domino Gulielmo Archiepiscopo Cantuariensi, Primati & Metropolitano totius Regni Angliæ, Domino meo.

The Archbishops Endorsement with his own hand,

Received Octob. 14. 1640. Andreas ab Habernfeld his Letters sent by Sir William Boswell about the Discovery of the Treason.

The General Overture and Discovery of the Plot sent with Sir William Boswell's first Letter, Sept. 6. 1640. Foreign Stile.

THE King's Majesty and Lord Archbishop of Canterbury are to be secretly informed by Letters,

1. That the King's Majesty and Lord Archbishop are both of them in great danger of their lives.

2. That the whole Commonwealth is by this means endangered, unless the mischief be speedily prevented.

3. That these Scottish troubles are raised, to the end, that under this pretext the King and Archbishop might be destroyed.

4. That there is a means to be prescribed, whereby both of them in this case may be preserved, and this tumult speedily composed.

5. That although these Scottish Tumults be speedily composed, yet that the King is endangered, and that there are many ways by which destruction is plotted to the King and Lord Archbishop.

Qqqqq 2

6. That

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6. That a certain Society hath conspired, which attempts the death of the King and Lord Archbishop, and Convulsion of the whole Realm.

7. That the same Society every Week deposits with the President of the Society, what intelligence every of them hath purchased in eight days search, and then confer all into one Packet, which is weekly sent to the Director of the business.

8. That all the Confederates in the said Conspiracy may verily be named by the Poll, but because they may be made known by other means, it is thought meet to defer it till hereafter.

9. That there is a ready means whereby the Villany may be discovered in one Moment, the chief Conspirators circumvented, and the primary Members of the Conjuratation apprehended in the very Act.

10. That very many about the King, who are accounted most faithful and intimate, to whom likewise the more secret things are intrusted, are Traytours to the King, corrupted with a Forreign Pension, who communicate all secrets of greater or lesser moment to a Forreign Power.

11. These, and other most secret things, which shall be necessary for the security of the King, may be revealed if these things shall be acceptable to the Lord Archbishop.

12. In the meantime, if his Royal Majesty, and the Lord Archbishop desire to consult well to themselves, they shall keep these things only superficially communicated unto them, most secretly under deep silence, not communicating them so much as to those whom they judge most faithful to them, before they shall receive by name in whom they may confide, for else they are safe on no side. Likewise they may be assured, that whatever things are here proposed are no Figments, nor Fables, nor vain dreams, but such real verities, which may be demonstrated in every small tittle, for those who thrust themselves into this business, are such men who mind no gain, but the very Zeal of Christian Charity suffers them not to conceal these things, yet both from his Majesty and the Lord Archbishop some small Exemplar of Gratitude will be expected.

All these Premises have been communicated under good Faith, and the Sacrament of an Oath, to Mr. Leiger Ambassadour of the King of Great Britain at the Hague, that he should not immediately trust, or communicate these things to any Mortal, besides the King and the Lord Archbishop of Canterbury.

Present, &c.

Subscribed, &c.

Haga Com. Sept. 6. 1640.

In the Stile of that place.

Detectio, &c. offerenda Serenissima Regia Majestati Britanniae & Dom. Archiepiscopo Cantuariensi, &c.
Sept. 6. 1640.

The Archbishops own Endorsement,
Received Sept. 10. 1640. The Plot against the King.

The Archbishop of Canterbury's Letter to the King concerning the Plot, with the King's Direction in the Margent, written with his own Hand.

May it please your Grace,

AS great as the secret is which comes herewith, yet I choose rather to send it in this silent covert away, and I hope safe, than to come thither, and bring it my self. First, Because I am no way able to make haste enough with it. Secondly, Because should I come at this time and antedate the meeting Sept. 24. there would be more jealousy of the business, and more enquiry after it, especially, if I being once there, should return again before that day, as I must if this be followed, as is most fit.

The Danger it seems is imminent, and laid by God knows whom, but to be executed by them which are very near about you (for the great honour which I have to be in danger with you, or for you, I pass not, so your Sacred Person and the State may be safe.) Now may it please your Majesty, This Information is either true, or there is some mistake in it: If it be true, the persons which make the Discovery will deserve thanks and reward; if there should be any mistake in it, your Majesty can lose nothing but a little silence.

The business (if it be) is extream foul; The discovery thus by God's Providence offered, seems fair. I do hereby humbly beg it upon my knees of your Majesty, that you will conceal this business from every Creature and his Name that sends this to me. And I send his Letters to me to your Majesty, that you may see his sense both of the Business and the Secresie. And such Instructions as you think fit to give him, I beseech you let them be in your own Hand for his Warrant without imparting them to any. And if your Majesty leave it to his discretion to follow it therein in the best way he can, that in your own Hand will be Instruction and Warrant enough for him. And if you please to return it herewith presently to me, I will send an Express away with it presently.

Afternoon, and now I make this Dispatch before I sleep. Herewith I send his Warrant as you advise, which indeed I judge to be the better way.

In the mean time I have by this Express returned him this Answer, That I think he shall do well to hold on the Treaty with these men with all care and secresie, and drive on to the Discovery so soon as the business is ripe for it, that he may assure himself and them, they shall not want reward, if they do the Service; That for my part he shall be sure of secresie, and that I am most confident your Majesty will not impart it to any. That he have a special eye to the Eighth and Ninth Proposition.

Sir, for God's sake and your own safety, secresie in this business: And I beseech you send me back this Letter, and all that comes with it, speedily and secretly, and trust not your own Pockets with them, I shall not eat nor sleep in quiet till I receive them. And so soon as I have you to proceed, especially when I expressly command you to do so, them

Car. 16.

The Archbishops Letter to the King concerning it.

I beseech your Majesty read these Letters as they are endorsed, &c. 1, 2, 3, &c. Ye had reason so to do.

It is an unanswerable Dilemma.

I concur orally with you in opinion, assuring you that no body doth or shall know of this business, and to shew my care to conceal it, I received this but this

I like your answer extream well, and do promise not to deceive your Confidence, nor make you break your word.

I have sent all back, I think these Apolliles will be warrant enough for

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them again, and your Majesties Warrant to proceed, no diligence shall be wanting in me to help on the Discovery.

This is the greatest Business that ever was put to me; And if I have herein proposed or done any thing amiss, I most humbly crave your Majesties pardon. But I am willing to hope I have not herein erred in Judgment, and in Fidelity I never will.

These Letters came to me (saith the Archbishop) on Thursday, Septemb. 10. at Night, and I sent these away according to the Date hereof, being extreemly wearied with writing this Letter, copying out these other which come with this, and dispatching my Letters back to him that sent these, all in my own hand; once again secesie for God's sake, and your own: To his most blessed protection I commend your Majesty and all your Affairs, and am

Your Majesties most humble

* The King's Hand and Date.

* York 13th. Lambeth, Sept. 11. 1640.

and faithful Servant,

William Cant.

† The Archbishops Postscript.

As I had ended these, whether with the labour or indignation, or both, I fell into an extreame faint sweat, I pray God keep me from a Fever, of which three are down in my Family at Croyden.

These Letters came late to me, the Express being beaten back by the wind.

The Archbishops Indorsement with his own Hand,

Received from the King, Sept. 16. 1640. For your Sacred Majesty, Yours Apostyled, The King's answer to the Plot against him, &c.

Sir William Boswell's second Letter to the Archbishop of Canterbury.

May it please your Grace;

This Evening late I have received your Graces Dispatch, with the Enclosed from his Majesty, by my Secretary Oveart, and shall give due Account with all possible speed of the same according to his Majesties and your Graces Commands, Praying heartily that my endeavours which shall be most Faithful may also prove Effectual to his Majesties and your Graces Content, with which I do most humbly take leave, being always

Your Graces most Dutiful and Humble Servant,

Hague, 24 Of Septemb. 1640. Stil. Angl.

William Boswell.

The Archbishop's Endorsement.

Rec. Sept. 30. 1640. Sir William Boswell his Acknowledgment that he hath received the King's Directions and my Letters.

Sir William Boswell's third Letter to the Archbishop, sent with the larger Discovery of the Plot.

Car. 16.

May it please your Grace,

Upon Receipt of his Majesties Commands, with your Graces Letters of 9 and 18 Sept. last, I dealt with the Party to make good his offers formerly put in my hand, and transmitted to your Grace; This he hopes to have done by the enclosed, so far as will be needful for his Majesties satisfaction; yet if any more Particular Explanation of Discovery shall be Required by his Majesty or your Grace, He hath promised to add: hereunto, whatsoever he can remember and know of truth. And for better Assurance and Verification of his Integrity, he professeth himself ready (if required) to make Oath of what he hath already declared, or shall hereafter declare in the business.

His name he Conjures me still to conceal, though he thinks his Majesty and your Grace, by the Character he gives of himself, will easily imagine who he is, having been known so generally through Court and City, as he was for three or four years in the Quality and Employment he acknowledgeth (by his Declaration enclosed) himself to have had.

Hereupon he doth also redouble his most humble and earnest Suit unto his Majesty and your Grace to be most Secret and Circumspect in the business, that he may not be suspected to have discovered, or had a hand in the same.

I shall here humbly beseech your Grace to let me know what I may further do for his Majesties Service, or for your Graces particular behoof; that I may accordingly endeavour to approve my self as I am

Your Graces most Dutiful and obliged Servant,

Hague, Octob. 15. 1640.

William Boswell.

The Archbishop's Endorsement,

Rec. Octob. 14. 1640. Sir William Boswell in Prosecution of the great business. If any thing come to him in Cyphers, to send it to him.

Which said larger Discovery here followeth:

A large particular Discovery of the Plot and Treason against the King, Kingdom and Protestant Religion, and to raise the Scottish Wars.

Most Illustrious and Reverend Lord,

WE have willingly and cordially perceived that our offers have been acceptable both to his Royal Majesty, and likewise to your Grace. This is the only Index to us, That the blessing of God is present with you, whereby a spur

Anno 1640. spur is given, that we should so much the more cheerfully and freely utter & detect those things whereby the hazard of both your lives, the subversion of the Realm and State both of England and Scotland, the tumbling down of his most Excellent Majesty from his Throne is intended. Now lest the Discourse should be enlarged with superfluous Circumstances, we will only premise some things which are meerly necessary to the Business.

They may first of all know, That this good man, by whom the ensuing things are detected, was born and bred in the Popish Religion, who spent many years in Ecclesiastical Dignities. At length being found fit for the expedition of the present Design, by the Counsel and Mandate of the Lord Cardinal Barberino, he was adjoynd to the assistance of Master Cuneus (Con) by whom he was found so diligent and sedulous in his Office, that hope of great promotion was given to him; yet he, led by the instinct of the good Spirit, hath, howsoever it be, contemned sweet promises, and having known the vanities of the Pontifical Religion (of which he had sometimes been a most severe defender) having likewise noted the malice of those who fight under the Popish Banner, felt his Conscience to be burthened; which burden, that he might ease himself of, he converted his mind to the Orthodox Religion. Soon after, that he might exonerate his Conscience, he thought fit, that a desperate Treason machinated against so many souls, was to be revealed, and that he should receive ease if he vented such things into the bosom of a Friend; which done, he was seriously admonished by the said Friend, that he should shew an example of his Conversion and Charity, and free so many innocent souls from imminent danger. To whose monitions he willingly consented, and delivered the following things to be put in writing, out of which the Articles not long since tendered to your Grace, may be clearly explicated and demonstrated.

1. First of all, That the hinge of the Business may be rightly discerned, it is to be known, that all those Factions with which all Christendom is at this day shaken, do arise from the Jesuitical off-spring of Cham, of which four Orders abound throughout the World.

1. Of the first Order are Ecclesiasticks, whose Office is to take care of things promoting Religion.

2. Of the second Order are Politicians, whose Office it is by any means to shake, trouble, reform the state of Kingdoms and Republics.

3. Of the third Order are Seculars, whose property it is to obtrude themselves into Offices with Kings and Princes, to insinuate and immix themselves in Court-businesses, Bargains and Sales, and to be busied in Civil Affairs.

4. Of the fourth Order are Intelligencers, (or Spies) men of inferiour condition, who submit themselves to the services of the Great Men, Princes, Barons, Noblemen, Citizens, to deceive (or corrupt) the minds of their Masters.

2. A Society of so many Orders, the King-

dom of England nourisheth: For scarce all Spain, France, and Italy can yield so great a multitude of Jesuits as London alone; where are found more than fifty Scottish Jesuits. There the said Society hath elected to it self a seat of iniquity, and hath conspired against the King, and the most faithful to the King, especially the Lord Archbishop of Canterbury, and likewise against both Kingdoms.

3. For it is more certain than certainty it self, that the fore-named Society hath determined to effect an universal Reformation of the Kingdom of England and Scotland. Therefore the determination of the end, necessarily infers a determination of means to the end.

4. Therefore to promote the undertaken Villany, the said Society dubbed it self with the Title of, The Congregation of propagating the Faith; which acknowledgeth the Pope of Rome the Head of the Colledge, and Cardinal Barberino his Substitute and Executor.

5. The Chief Patron of the Society at London, is the Pope's Legat, who takes care of the Business; into whose bosome, these dreggs of Traytors weekly deposite all their Intelligences. Now the Residence of this Legation was obtained at London in the Name of the Roman Pontife, by whose mediation it might be lawful for Cardinal Barberino, to work so much the more easily and safely upon the King and Kingdom. For none else could so freely circumvent the King, as he who should be palliated with the Popes Authority.

6. Master Cuneus did at that time enjoy the Office of the Popes Legate, an universal Instrument of the conjured Society, and a serious promoter of the business, whose secrets, as likewise those of all the other Intelligencers, the present good man, the Communicator of all these things, did receive and expedite whither the business required. *His name was said to be George Con, and a Scotchman, but whether he had any Commission for Legacy, not known, at least would not be acknowledged by the Papists;

Cuneus set upon the chief men of the Kingdom, and left nothing unattempted, by what means he might corrupt them all, and incline them to the Pontifical party: He inticed many with various inticements; yea, he sought to delude the King himself with gifts of Pictures, Antiquities, Idols, and of other vanities brought from Rome, which yet would prevail nothing with the King.

Having entred familiarity with the King he is often requested at Hampton Court, likewise at London, to undertake the cause of the Palatine, and that he would interpose his Authority, and by his intercession perswade the Legat of Colan, that the Palatine in the next Diet to treat of peace, might be inserted into the conditions, which verily he promised, but performed the contrary. He writ indeed, that he had been so desired by the King concerning such things, yet he advised not that they should be consented to, lest peradventure it might be said by the Spaniard, that the Pope of Rome had Patronized an Heretical Prince.

In the meantime, Cuneus smelling from the Archbishop most trusty to the King, that the King's mind was wholly pendulous (or doubtful) resolved that he would move very stone, and apply his forces, that he might gain him to his party: Certainly confiding, that he had a means pre-

Anno. 1640. prepared, for he had a command to offer a Cardinals Cap to the Lord Archbishop in the name of the Pope of Rome; and that he should allure him also with higher promises, that he might corrupt his sincere mind. Yet a fitting occasion was never given whereby he might insinuate himself into the Lord Archbishop (for the Scorpion sought an egg). Free access was to be impetrated by the Earl and Countess of Arundel, likewise by Secretary Windbank: The intercession of all which being neglected, he did fly the company or familiarity of Curwen, worse then the Plague: He was likewise perswaded by others of no mean rank, well known to him, neither yet was he moved.

7. Another also was assayed who hindred access to the detestable wickedness, Secretary Cook, he was a most bitter hater of the Jesuites, from whom he intercepted access to the King, he entertained many (of them) according to their deserts, he diligently enquired into their Factions; by which means every incitement breathing a magnetical (attractive) power to the Popish party, was ineffectual with him; for nothing was so dear unto him that might incline him to Wickedness: Hereupon being made odious to the Patrons of the Conspiracy, he was endangered to be discharged from his Office; it was laboured for three years space, and at last obtained. Yet notwithstanding there remained on the King's part a Knot hard to be untied, for the Lord Archbishop by his Constancy, interposed himself as a most hard Rock.

When Curwen had understood from the Lord Archbishop's part, that he had laboured in vain, his malice and the whole Societies waxed boiling hot: Soon after Ambushes began to be prepared, wherewith the Lord Archbishop, together with the King should be taken.

Likewise a sentence is passed against the King (for whose sake all this business is disposed) because nothing is hoped from him, which might seem to promote the Popish Religion (but especially when he had opened his mind, that he was of this opinion, that every one might be saved in his own Religion, so as he be an honest pious man.)

8. To perpetrate the Treason undertaken, the Criminal execution at Westminster caused by some writings of Puritans, gave occasion of the first fire; which thing was so much exasperated and exaggerated by the Papists to the Puritans, that if it remained unrevenge, it would be thought a blemish to their Religion, the flames of which fire, the subsequent Book of Prayers encreases.

9. In this heat a certain Scottish Earl, called Maxwell, if I mistake not, was expedited to the Scots by the Popish party; with whom two other Scottish Earls, Papists, held correspondence: He ought to stir up the People to Commotion, and rub over the injury afresh, that he might enflame their minds, precipitate them to Armes, by which the hurtful disturber of the Scottish Liberty might be slain.

10. There, by one labour, snares are prepared for the King: For this purpose the present Business was so ordered, that very many of the English should adhere to the Scots; That the

King should remain inferior in Arms, who (thereupon) should be compelled to crave assistance from the Papists; which yet he should not obtain, unless he would condescend unto Conditions, by which he should permit universal Liberty of the exercise of the Popish Religion; for so the affairs of the Papists would succeed according to their desire. To which consent, if he should shew himself more difficult, there should be a present remedy at hand: For the King's Son growing now very fast to his youthful Age (who is educated from his tender Age, that he might accustom himself to the Popish party) the King is to be dispatched; for an Indian Nut, stuffed with most sharp poyson, is kept in the Society (which Curwen at that time shewed often to me in a boasting manner) where in a poyson was prepared for the King, after the example of his Father.

11. In this Scottish Commotion, the Marquess of Hamilton was often dispatched to the Scots in the name of the King, to interpose the Royal Authority, whereby the heat of minds might be mitigated, returned notwithstanding as often without fruit, and without ending the Business: His Chaplain at that time repaired to us, who communicated something secretly with Curwen. Being demanded of me in jest, whether also the Jews agreed with the Samaritans, Curwen thereunto answered, Would to God all Ministers were such as he. What you will, may be hence conjectured.

12. Things standing thus, there arrived at London from Cardinal Richelieu, Mr. Tbo. Chamberlaine, his Chaplain and Almoner, a Scot by Nation, who ought to assist the Colledge of the Confederate Society, and seriously to set forward the Business, to leave nothing unattempted, whereby the first heat might be exasperated. For which Service he was promised the reward of a Bishoprick: He cohabited with the Society four Months space; neither was it lawful for him first to depart, until things succeeding according to his wish, he might be able to return back again with good News.

13. Sir Toby Mathew, a Jesuited Priest, of the Order of Politicians, a most vigilant man of the chief Heads, to whom a Bed was never so dear, that he would rest his head thereon, refreshing his body with sleep in a Chair for an hour or two, neither day nor night spared his Machinations; a man principally noxious, and himself the Plague of the King and Kingdom of England; a most impudent man, who lies to all Banquets and Feasts, called or not called, never quiet, always in action, a perpetual motion; thrusting himself into all Conversations of Superiours; he urgeth Conferences familiarly, that he may fish out the minds of men; whatever he observeth thence, which may bring any commodity or discommodity to the part of the Conspirators, he communicates to the Pope's Legat; the more secret things he himself writes to the Pope, or to Cardinal Barberino. In sum, he adjoyns himself to any mans company, no word can be spoken that he will not lay hold on, and accommodate to his party. In the mean time, whatever he hath fished out, he reduceth into a Catalogue, and every Summer carryeth or conveyeth it to the general Consistory of the Jesuites Politicks, which secretly meets together in

Car. 16.

Of whom mention is made p. 768. and there called Chambers.

* When Priam, Basswick, and Burton had their ears cut off in the Pillory, and Priam stigmatized.

† The Common-Prayer Book sent into Scotland imploring Transubstantiation in the Sacrament. ‡ Or Maxwell.

Anno
1640.
in the Province of *Wales*, where he is an acceptable Guest. There Counsels are secretly hampered, which are most meet for the Convulsion of the Ecclesiastick and Politick Estate of both Kingdoms.

14. Captain *Read* a Scot, dwelling in *Long-Acre Street*, near the *Angel Tavern*, a Secular Jesuit; in his House the business of the whole Plot is concluded, where the Society which hath conspired against the King, the Lord Archbishop, and both Kingdoms, meet together, for the most part every day: But on the day of the Carriers (or Posts) dispatch, which is ordinarily *Friday*, they meet in greater numbers; for then all the Intelligencers assemble and confer in common, what things every of them hath fished out that Week; who that they may be without suspicion, send their secrets by *Toby Matthew* or *Read* himself, to the Popes Legate, he transmits the compacted Packet which he hath purchased from the Intelligencers to *Rome*.

With the same *Read*, the Letters brought from *Rome* are deposited under feigned Titles and Names, who by him are delivered to all to whom they appertain, for all and every of their Names are known to him.

Upon the very same occasion Letters are brought hither under the Covert of Father *Philips*; (he notwithstanding being ignorant of things) from whom they are distributed to the Conspirators.

There is in that very House, a Publick Chapel, wherein an ordinary Jesuit Consecrates, and dwells there. In the said Chapel, Masses are daily Celebrated by the Jesuits; and it serves for the Baptizing of the Children of the House, and of some of the Conspirators.

6. Those who assemble in the forenamed House, come frequently in Coaches or on Horseback in Lay-mens habits, and with a great Train, wherewith they are disguised, that they may not be known, yet they are Jesuits, and conjured Members of the Society.

15. All the Papists of *England* contribute to this Assembly, lest any thing should be wanting to promote the undertaken designs, upon whose Treasury one Widow, owner of the Houses wherein Secretary *Windebanke* now dwelleth, dead above three years since, bestowed Forty thousand English pounds, so likewise others contribute above their Abilities, so as the business may be promoted unto its desired end.

16. Besides the foresaid Houses, there are Convents kept also in other more secret places, of which verily they confide not even among themselves, for fear lest they should be discovered. First, every of them are called to certain Inns, (one not knowing of the other); hence they are severally led by Spies to the place where they ought to meet, otherwise ignorant where they ought to assemble, lest peradventure they should be surprized at unawares.

17. The Countess of *Arundel*, a strenuous She-Champion of the Popish Religion, bends all her Nerves to the Universal Reformation; whatsoever she hears at the King's Court that is done secretly or openly in words or deeds, she presently imparts to the Popes Legat, with whom she meets thrice a day, sometimes in *Arundel House*, now at the Court, or at *Tart Hall*.

The Earl himself being called about three years since, this year must go to *Rome*, without doubt to consult there of matters pertinent to the Design. Car. 16.

At *Greenwich*, at the Earl's cost, a Feminine School is erected, which is but a Monastery of Nuns; for the young Girls therein are sent forth, hither, and thither, into Forreign Monasteries beyond the Seas.

Master *Porter* of the King's Bed-chamber, most addicted to the Popish Religion, is an utter Enemy of the Kings, revealing all his Secrets to the Legat by his Wife; for he rarely meets with himself. In all his actions he is nothing inferior to *Toby Matthew*; it is unexpressible how diligently he intends this business.

His Sons are secretly principled in the *Romish* Belief, but open Professors of the *Reformed*: the eldest is now to receive his Father's place under the future King: A Cardinal's Hat is provided for the other, if the Plot takes.

Three years since, Master *Porter* was to be sent away by the King to *Morocco*, but was prohibited by the Society, lest the business should suffer delay.

He is a Patron of the Jesuits, providing Chapels for them to exercise their Religion in, both at home and abroad.

Secretary *Windebanke*, a fierce Papist, is the greatest Traitor to the King of all. He not only revealeth the King's greatest Secrets, but also communicates Counsels, by which the Design may be best advanced. He at least thrice every Week converseth with the Legate in the Nocturnal Conventicles, and revealeth what is fit to be known; to which end he hireth an House near to the Pope's Legate, to whom he often resorts through the Garden-door; for by this vicinity the Meeting is facilitated. He is bribed with Gifts to be a Partner in the Conspiracy, by whom he is sustained, that he may more sedulously attend his Charge.

His Son is sent expressly to *Rome*, on purpose to insinuate himself into his Holiness.

Digby and *Winter*, Knights, Mr. *Mountague*, who hath been at *Rome*, the Lord *Sterlin*, a Kinsman of the Earl of *Arundel*, a Knight, the Countess of *Newport*, the Dutches of *Buckingham*, and many others, who hath sworn to this Conspiracy, are all most vigilant in the Plot: Some are enticed with hope of Court, others of Political Offices; others attended to the sixteen Cardinals Caps vacant, which are detained so, to feed with vain hopes those who expect them.

The President of the said Society was the Lord *Gage*; a Jesuited Priest, dead some three years since. He had a Palace adorned with wanton Pictures as pretending to profaneness, but palliating thereby a Monastery, wherein forty Nuns were maintained, concealed in so spacious a Palace. It is situated in *Queens-street*. The Jesuits have bought all this Street, and have reduced it to a Quadrangle, where a Jesuital Colledge is tacitly built, with this hope, that it might be openly finished as soon as the General Reformation was accomplished.

The Pope's Legate useth a threefold Character; One common to all Nuncios; Another peculiar to himself and Cardinal *Barberino*; A third where-with he covers some greater secrets to be imparted. Whatsoever things he receiveth from the Society, or Spies, he packeth up in one bundle; with this Address, *To Monsieur Stravio Archdeacon of Cambrai*, from whom they are sent to *Rome*. These

Anno. 1640. These Particulars considered, it will be evident to all,

1. That the Conspiracy against the King and Lord Archbishop is detected, and the means whereby ruin is threatned to both demonstrated.

2. The Imminent dangers to both Kingdoms are rehearsed.

3. The Rise and Progress of that Scottish Fire is related.

4. Means whereby these Scottish troubles may be appeased are suggested; for after the Scots shall know by whom and to what end their minds are incensed, they will speedily look to themselves, neither will they suffer the Forces of both parts to be subdued, lest a middle Party interpose, which seeks the Ruin of both.

5. With what Sword the King's Throat is assaulted, even when these stirs shall be ended, Cuneus his Confession, and a visible Demonstration sheweth.

6. The Place of the Assembly in the House of Captain Read is nominated.

7. The day of the eight daies dispatch by Read and the Legate is prescribed.

8. How the names of the Conspirators may be known.

9. Where this whole Congregation may be circumvented.

10. Some of the principal unfaithful ones of the King's Party are notified by name; many of whose names occur not, yet their habitations are known, their names may be easily extorted from Read.

If these be warily proceeded in, the strength of the whole business will be brought to Light, so the Arrow being foreseen, the danger shall be avoided; which that it may prosperously succeed, the Omnipotent Creator grant.

The Archbishop's Indorsement with his own hand.

Received Octob. 14. 1640. The Narration of the great Treason, concerning which the Discoverer promiseth to Sir William Boswell to discover, which is against the King and State.

That the Papists were instrumental to promote our late troubles; besides the present discovery, the original whereof was found in the Archbishop's Library after his death, and the confirmation hereof by a Bull of Pope Urbanus Octavus directed to Sir Toby Matthews a prime person concerned herein, wherein mention is made of the chief occurrences declared and manifested in that discovery, which Bull was found amongst the Papers of Mr. Secretary Windebanke, and expressly saith that young Count Rosetti the Apostolick Nuncio was committed by his Holiness to the care and administration of the said Sir Toby as a person well versed and knowing in our Affairs; and moreover not to speak of our late discoveries (as that some Jesuits are said to have Preached in the Field Conventicles in Scotland) the Reverend Dr. Du Moulin Prebend of the Church of Canterbury hath openly and in Print averr'd, That he is ready to prove what he hath publicly wrote, that there late a Council of Popish Priests and Jesuits in London to signify the condition of our Affairs to Rome and Paris during our late intestine Wars, and that when our late good King [now the blessed and glorious] Charles, and the first was taken and imprisoned with a design to bring his sacred Head to the Block,

they gave notice hereof to others of their Confederacy of the Sorbon in Paris, then almost wholly Jesuited, desiring a resolution of this important Question, That seeing the state of England was in a likely posture to change the Government, whether it was lawful for the Catholics to work that change for the advancing and securing the Catholick Cause in England, (by making away the King) whom there was no hope to turn from his Heresie. The Answer of the Sorbon was affirmative, and at Rome it was concluded by the Pope and Council, That it was both lawful and expedient for the Catholics to procure that alteration. Dr. Du Moulin in answer to a Popish, Lying, and Scandalous Pamphlet, entituled, *Philanax Anglicus*.

This the aforesaid Reverend and very aged Divine hath promised to make good, and to prove the matter of fact, if any Romanist (which to this day none ever hath done) shall require it at his hands, and this challenge hath been made publick for almost the space of twenty years now last past; and none hath yet appear'd.

A Copy of Pope Urban the Eighth his Bull to Sir Tobias Mathews.

Dilecto Filio Tobia Matheo, Societ. Jesu Sacerdoti, Urbanus Papa VIII.

Dilecte Fili, salutem & Apostolicam benedictionem. Ardens animarum zelus quo jam a tot annis in vinea domini laborando strenuum te militem exhibuisti, promeretur ut tua virtuti d. b. laudem reddamus. Sane magna cum exultatione audivimus labores quos sustines ut sedis Apostolicae amplitudinem augeas, & quo charitatis zelo omnibus omnia fias, ut omnes lucrifacias. Decet certe te virum Apostolicum, magni Apostoli exemplo doctum, ut Judeis fias tanquam Judeus, & iis qui sunt sine lege, tanquam sis sine lege, dummodo sedis Apostolica dignitatem promoveas: ideo cum in magnam Britanniam mittere statuerimus dilectum filium Comitem Rosetti, nostrum & Sedis Apostolicae cum potestate Legati a latere Nuntium, juvenem zelo Dei accensum, Apostolica sollicitudini nostrae satisfactum credidimus, si cum tua cura committeremus. Jussimus igitur ut tibi communicet instructiones sibi datas, & a dilecto filio & Nepote nostro, Francisco Sancta Reverendis. Ecclesiae Card. Barbarino subscrip. Teque ab eo quo pro sede Apostolica zelo ardes rogamus, & in quantum opus est, tibi mandamus, ut praedictum filium, & Nuntium nostrum, in omnibus dirigas, moveas, instruas, lapsus & errores ejus, (qui per juventutem facile accidere possunt) corrigas (ut sedis Apostolica decor inviolatus permaneat) & ut denique in omnibus ei te Angelum custodem praebeas. Magnam certe spem concepimus praedictum filium & Nuntium tuis consiliis adjutum, non parvos in Ecclesia Catholica fructus producturum. Labora igitur, dilecte fili, opus fac Evangelista, ministerium tuum imple, Catholicos zelo Dei accende, ipsos conforta, sed praecipue Amazones illas qua (ut a dilecto filio Georgio Coniteo audivimus) die ac nocte strenue decertant pro dignitate sedis Apostolicae. Non diffidimus de Domino, neque de potentia ejus, quia sicut occasione unius faminae, auctoritas Sedis Apostolica in Regno Angliae suppressa fuit, sic nunc per tot Heroicas faminas (illas imitantes qua a Galileo sequebantur Dominum) societatem ejus assidue sequentes, brevi in eodem Regno restituenda sit. Adhortare igitur illas ut opus aggressum viriliter prosequantur; &

*de sede Apostolica (qua devoti faminei sexus pecu-
Anno liarem Curam gerit) bene mereri pergant. Rogamus
1640. patrem Domini nostri Jesu Christi, ut tibi Spiritum
sanctum suum mittat, qui te in omnibus & per omnia
custodiat. Apostolicam nostramque benedictionem,
dilecte fili, iterum atque iterum tibi impertimur. Da-
tum Romæ apud S. Petrum, sub annulo Piscatoris
pridie idus Maii.*

*Pope Urbane VIII. to his beloved Son
Tobias Mathew Priest, and one of
the Order of the Jesuits.*

BEloved Son, Health and Apostolical Benedi-
ction. Your burning zeal for the salvation
of souls, by which for so many years you have ap-
proved your self a diligent and faithful Workman
in our Lord's Vineyard, deserveth its due praise
and grateful remembrance from us. The truth
is, the account of those troubles that you have
gone thorough for the enlargement of the great-
ness of the Apostolical See, and that charitable
zeal, whereby you have become all things to all
men, that you may gain some, we have heard
with a great deal of rejoycing. It becometh in-
deed such an Apostolical man (in imitation of
the grand Apostle) for the glory and dignity of
the Apostolical See, to become as a Jew to the
Jews, and as one without Law to those who are
without Law: Therefore when we had resolved
to send our beloved Son Count Rosetti (a young
man full of divine zeal) into Britain with
power and authority of our Legate à Latere and
Nuntio of the Apostolical See, we did account
our selves freed and acquitted of all our Apo-
stolical anxiety and duty, when we had recommend-
ed him to your care: and upon that account we
have commanded him to communicate to you all
those instructions which are given to him, and
subscribed by our beloved Son and Nephew, the
most Reverend Cardinal Francisco Barbarino; and
we conjure you by that zeal and respect you have
for the dignity of the Apostolical Sea; yea, we
charge and command you, that (so far as it is
needful) you not only direct, advise and instruct
our aforesaid Son and Nuntio in all things, but
that you correct all his escapes and errors (which
by reason of his youth he may easily be guilty of)
that the glory and Dignity of the Apostolical See,
may remain chaste and inviolate; and in short,
that in all things, you be to him an Angel-Guar-
dian. We have indeed assured our self of a plen-
tiful Harvest from the labours of our foresaid Son
and Nuntio (by the help of your Counsel) in
the Catholick concern. Go on therefore be-
loved Son, do the work of an Evangelist, fulfil
your Ministry, enkindle the Catholicks with a
divine zeal: comfort them all, but chiefly those
Amazones and Virago's for the Catholick cause,
who (as we have had an account from our be-
loved Son Georgio Conneo) night and day do
Champion-like fight for the glory and dignity of
the Apostolical See. We neither distrust God
nor his power; for as the Authority of the Apo-
stolical See was suppressed in the Kingdom of
England by the power and influence of one Wo-
man, so now we hope by the help of so many
Heroick and noble spirited Women, in a short
time to have it restored in that Kingdom to its
antient right and glory again: Pray therefore
exhort and encourage them, to prosecute with a
Masculine spirit the design on foot, and to go on

in meriting from the Apostolical See, which
hath an extraordinary and peculiar care and
concern for that devouter Sex. We beseech
the Father of our Lord Jesus Christ to send
you his holy Spirit to direct and preserve you in
all things. Beloved Son, we send you again and
again both the Apostolical and our Benediction.
Given under our Signet at Rome in St. Peter's Pa-
lace, prid. id. Maii. Car. 16.

The cunning Steersman the Jesuit ('tis not in
the least to be doubted) might look one way and
row another, pretend a kindness for his Majesty
and interest, and yet act underhand quite contra-
ry, pursuant hereunto were collections of Moneys
made heretofore here in England by that party for
the supply of the King's necessities, and by the
procurement of the Queens Majesty to the value
of twelve thousand pounds, or thereabouts,
which was paid into the Exchequer; and this af-
fair managed by *Seigneur Con* the Pope's Resident
with the Queen, Sir John Winter, Sir Knelme Dig-
by, Sir Basil Brooks, Mr. Walter Montague, and
Mr. Foster; a person much valued by *Seigneur
Con*, as appears by the Examinations of Sir Knelme
Digby, and Mr. Mountague taken before a Com-
mittee of Parliament in January last past: All
which Monies were made use of by his Majesty in
the War against the Scots; which yet, as we have
before intimated, was much influenced by the en-
deavours and actions of these men, and of the
great Cardinal Richlen, as you may see before,
Anno 1638. of these Annales p. 768. And yet not-
withstanding all these Intrigues they bore a mor-
tal enmity to the great Archbishop of Canterbury
the great Pillar of our Church, and his late Ma-
jesties most intimate Counsellor, and indeed they
had no small occasion or reason for their so do-
ing, for that his Grace having so great an influ-
ence upon the King, did openly in the Counsel
complain of the insolency and haughty deport-
ment of Sir Knelme Digby, and Mr. Walter Moun-
tague in Court as well as of the audacious resort
of the Papists to hear Mass openly said at Den-
mark-house, which he did in the presence of the
King, with some expressions of vehemency, An-
no 1637. and in the following year writes his un-
answerable Book against the Jesuit Fisher, which
one nameth *the exactest piece of Polemique Divinity
yet extant*. These were injuries not to be for-
given by that Faction, and so the destruction of
that eminent and learned Prelate became the great
concernment of their interest.

We have told you before, that a Treaty was be-
gun at Rippon, but this was only a Treaty of Cel-
sation of Arms till the Parliament might meet,
which the Scots and Scotiz'd party in England only
aimed at, hereupon as to the remaining Articles
upon the Scots and their desires, the Treaty was
adjourned from Rippon to London, a place where
both these had many Abettors, and where the Par-
liament was to convene, an oversight his Majesty
upon the insolencies of the Tumults was very sen-
sible of, For, saith he, *I am prone to think, that had
I call'd this Parliament to any other place in England
(as I might opportunely enough have done) the sad
consequences in all likelihood with Gods blessing might
have been prevented, a Parliament would have been
welcom in any place, and no place afforded a conflu-
ence of so various and vitious humours, as that where
it was unhappily convened, but we must leave all to God
who orders our disorders, and magnifies his wisdom most
when our follies and miseries are most discovered.*

Hereby

Anno.
1640.

Hereby the Scottish Commissioners had that opportunity, they were not nice to make use of, to inflame the City and People to the worst impressions. They were publickly feasted and caressed by the Presbyterian party; here they had preaching and praying after their own mode, which Q. Elizabeth would never permit: The Scotch Commissioners which came here into England to settle some differences in her time, when they petitioned to be allowed in publick, Her Majesty and Council was hereat so startled (fearing Innovation,) that they were absolutely forbidden, as formerly, to use their meetings in *Perry France* in *Turtle-fields*.

And at these Religious Assemblies (they should have been so) were framed and modelled the most of those factious Petitions, Designs and Tumults (as was afterwards made appear) which made a separation, unkindness and distrust betwixt his Majesty and his People; in one word, a departure of his Majesty from London, by reason of the repeated affronts and tumults offered and raised against both his Royal Person, the Lords Spiritual and Temporal, and even the Members of the House of Commons in their rightful Priviledges in their attendance on the Parliament, all which were frequently complained of by his Majesty to both Houses of Parliament, but no remedy was by them ever applied or endeavoured to free his Majesty from the daily affronts of the rude Multitude, or the Lords and Commons who approved not, or abetted these Indignities; but all went on unpunish'd, if not underhand were applauded and encouraged: And these were the grounds and causes of his Majesties leaving London, and of the departure likewise of the far greater number of the House of Peers and of near 200 Commons, who afterwards adhered and declared for his Majesty in the War made upon his Majesty by the residue of the Parliament remaining at Westminster.

In the Calling of this Parliament, his Majesty did resolve not only to oblige his Friends, but his very Enemies also, it was not so much the effect of his necessity, as of his own choice and inclination, he had well hoped to have extinguish'd all the sparks of former Dissentions by forbearing such Conventions for some years; but it was now his resolution to redress all publick grievances in Church and State, and if possible, to exceed the desires of the most factiously discontented, if they had contained themselves within any bounds of moderation: But the Elections of the Members were in very many places carried on with great animosities, popular heats and partiality, which indeed were very ill symptoms of the Crisis of our Distempers, which hereafter ended in the ruin of all Order, both in Church and State.

The Parliament was summoned to meet at Westminster, Novemb. 3. and a very fatal Parliament it proved in the consequence thereof to this Kingdom; we shall omit the usual Solemnities, only acquainting our Reader, that William Lenthall, a Benchman of *Lincolns-Inn*, was chosen Speaker thereof; and in regard many (if not most) of the Members thereof, were very remarkable and eminent for several Services and Exploits in both Parties of Royalists and Parliamentarians, these later afterwards being divided amongst themselves into Presbyterians and Independants, we shall give the Reader a List of that Parliament, not in the least intending to reflect upon the Misfortunes of the one, or the Crimes of the other Party. The goodness of the Cause is a glory to the former, and the latter in their unhappy success I shall not reflect upon.

Causa placet multis Victorix sed Villa Catoni.
Conquest perhaps may some men please,
But the Cause *Cato*, not Success.

Car. 16.

A Catalogue of the Lords Spiritual and Temporal summoned by the King's Writ to appear in Parliament, appointed to meet at Westminster the Third Day of November, 1640.

Prince Charles.
James Duke of York.

Dukes.

George Villiers, Duke, Marquess, and Earl of Buckingham and Coventry, Viscount Villiers, Baron of Whodden; *infra aetatem*.

Marquesses.

John Paulet Marquess of Winchester, Earl of Wiltshire, and Lord St. John of Basing.

Earls.

Thomas Howard Earl of Arundel and Surrey, Earl Marshal of England, and Knight of the Garter. Beyond Seas.

Aubrey Vere, Earl of Oxford, &c.

Algernon Percy, Earl of Northumberland, Lord Poynings, Fitz-pain and Brian, Knight of the Garter, Lord High Admiral.

George Talbot Earl of Shrewsbury, Lord Talbot, Furnival, Verdon, and Strange of Blackmere.

Anthony Gray Earl of Kent, Lord Ruthin.

James Stanley Earl of Derby, Lord Stanley, Strange of Knocking, and of the Isle of Man, Knight of the Garter.

Henry Somerset Earl of Worcester, Lord Herbert, Ragland and Gower.

George Manners Earl of Rutland, Lord Ross of Hamelake, Belvoir and Trusbut.

Francis Clifford Earl of Cumberland, Lord Clifford, Westmerland and Vesey.

Edward Ratcliffe Earl of Sussex, Viscount Fitzwalter, Lord Egremont and Burnel.

Henry Hastings Earl of Huntington, Lord Hastings, Hungerford, Botreaux Moelles, and Molyns.

Henry Bouchier Earl of Bath, and Lord Fitz-warin.

Thomas Wriothesley Earl of Southampton, and Baron Wriothesley of Titchfield.

Francis Russell Earl of Bedford, and Lord Russell.

Philip Herbert Earl of Pembroke and Montgomery, Baron Herbert of Cardiffe and Shirland, Lord Parre and Ross of Kendal, Marmion, and St. Quinton, Lord Chamberlain of his Majesties Household and Knight of the Garter.

William Seymour Earl of Hartford, and Baron Beauchamp.

Robert Devereux Earl of Essex, Viscount Hereford and Bouchier, Lord Ferrers of Chartley, Bouchier, and Lovain.

Theophilus Fyne Earl of Lincoln, and Lord Clinton.

Charles Howard Earl of Nottingham, and Lord Howard of Effingham.

Earls made since the first of King James.

Theophilus Howard Earl of Suffolk, Lord Howard of Walden, and Knight of the Garter.

R r r r r 2

Edward

Anno
1640.
Edward Sackville Earl of Dorset and Baron Buckhurst, Knight of the Garter, and Lord Chamberlain to the Queens Majesty.
William Cecil Earl of Salisbury, Viscount Gramborne and Baron Cecil of Essenden, Knight of the Garter.
William Cecil Earl of Exeter, Baron Burgeley, Knight of the Garter.
Robert Carr Earl of Somerset, Viscount Rochester, and Baron of Branspeth, Knight of the Garter.
John Egerton Earl of Bridgewater, Viscount Brackley, and Baron Ellesmere, Lord President of Wales.
Robert Sidney Earl of Leicester, Viscount Lisle, Baron Sidney of Fenhurst.
Spencer Compton Earl of Northampton, Baron Compton of Compton.
Robert Rich Earl of Warwick, and Lord Rich of Lees.
William Cavendish Earl of Devonshire and Baron Cavendish of Hardwicke *infra etatem*.
James Hamilton Earl of Cambridge, Marquess of Hamilton, Earl of Arran, Baron of Even and Aberbroth, Master of the Horse to his Majesty, Knight of the Garter.
James Stuart Earl of March, Duke of Lenox, Lord Aubigny, Baron of Leighton Bromeswold, Lord Darnley, Mertiven, and St. Andrews, Knight of the Garter.
James Hay Earl of Carlisle, Viscount Doncaster, Lord Hay of Sauley.
Basil Earl of Denbigh, Viscount Fielding, and Baron of Newbhamptox.
John Digby Earl of Bristol, and Baron Digby of Sherborne.
Lionell Cranfield Earl of Middlesex, and Baron Cranfield of Cranfield.
Charles Villiers Earl of Anglesey, Lord Davenport, *infra etatem*.
Henry Rich Earl of Holland, Baron Kensington of Kensington, and Knight of the Garter.
John Hillis Earl of Clare, Lord Houghton of Houghton.
Oliver St. John Earl of Bullingbrook, Lord St. John of Bleis.
Mildmay Fane Earl of Westmerland, Lord le Despencer and Burghwash.

Earls made since the first of King Charles.

Henry Montague Earl of Manchester, Viscount Mandevile, and Lord Kimbolton, Lord Privy Seal.
Thomas Howard Earl of Berkshire, Viscount Andover, and Lord Charleton, Knight of the Garter.
Thomas Wentworth Earl of Cleveland, Lord Wentworth of Nettlested.
Edmond Sheffield Earl of Mulgrave, Lord Sheffield of Butterwike, and Knight of the Garter.
Henry Danvers Earl of Danby, Lord Danvers of Dansey, Knight of the Garter.
Robert Cary Earl of Monmouth, Lord Cary of Leppington.
James Ley Earl of Marleburgh, and Lord Ley of Ley.
John Savage Earl Rivers, Viscount Colchester and Rock Savage, and Lord Darcy of Chich.
Robert Bartue Earl of Lindsey, and Lord Willoughby of Eresby, Lord Great Chamberlain, Knight of the Garter.
William Cavendish Earl of Newcastle, Viscount Mansfield, Lord Boulsover and Ogle.

Henry Cary Earl of Dover, Viscount Rochford and Lord Hunsdon. *Car. 16.*
John Mordaunt Earl of Peterborough, Lord Mordaunt of Turvey.
Henry Gray Earl of Stamford, Lord Gray of Groby, Bonville, and Harrington.
Thomas Finch Earl of Winchelsey, and Viscount Maidstone.
Robert Pierrepont Earl of Kingston upon Hull, Viscount Newark upon Trent, and Lord Pierrepont of Holmes Pierrepont.
Robert Dormer Earl of Carnarvan, Viscount Ascor, and Lord Dormer of Wing.
Mounjoy Blunt Earl of Newport, Lord Mounjoy of Thurston.
Philip Stanhop Earl of Chesterfield, and Lord Stanhop of Shelsford.
Nicholas Tuffin Earl of the Isle of Thanet, and Lord Tuffin of Tuffin.
Ulick de Burgh Earl of St. Albans and Clanrickard, Viscount Trimbridge and Galloway, Baron of Somerhil and Imanney.
Jerome Weston Earl of Portland, Lord Weston of Neyland.
Thomas Wentworth Earl of Strafford, Viscount Wentworth of Wentworth Woodhouse, New-march and Oversley, Raby, Lord Lieutenant of the Realm of Ireland.

Viscounts.

Francis Brown Viscount Mountague of Comdrey. Beyond Seas.

Viscounts made by King James.

John Villiers Viscount Purbeck, Lord of Stoke.
William Fines Viscount Sey and Seal, Lord Sey and Seal.

Viscounts made by King Charles.

Edward Conway Viscount Conway and Killistagh, and Baron Conway of Ragley.
Edward Noel Viscount Camden, and Baron Noel of Ridlington.

Bishops.

William Laud Archbishop of Canterbury his Grace.
Richard Neile Archbishop of York his Grace.
William Juxton Bishop of London, and Lord High Treasurer of England.
Thomas Morton Bishop of Durham.
Walter Curle B. of Winchester.
John Thornburgh B. of Worcester.
John Bridgeman B. of Chester.
John Williams B. of Lincoln.
John Davenant B. of Salisbury.
Robert Wright B. of Coventry and Lichfield.
Godfrey Goodman B. of Gloucester.
Joseph Hall B. of Exeter.
Richard Mountague B. of Norwich.
Barnabas Potter B. of Carlisle.
John Owen B. of St. Asaph.
William Pierce B. of Bath and Wells.
John Bancroft B. of Oxford.
George Coke B. of Hereford.
Matthew Wren B. of Ely, Dean of his Majesties Chapel Royal.
Roger Manwaring B. of St. Davids.
Robert Skinner B. of Bristol.
William Roberts B. of Bangor.

John

Anno. 1640. John Warner B. of Rochester.
 Brian Duppa B. of Gloucester.
 John Towers B. of Peterburgh.
 Morgan Owen B. of Llandaff.

Barons.

Henry Howard Lord Mowbray and Maltravers.
 Henry Clifford Lord Clifford, only Son of Francis
 Earl of Cumberland.
 Henry Neuell Lord Abergavenny.
 James Touchet Lord Audley of Highley.
 Charles West Lord Delaware, *infra etatem*.
 George Berkley Lord Berkley of Berkley Castle.
 Henry Parker Lord Morley and Adomeagle.
 Richard Lemcard Lord Dacres of Hurstmoesux.
 Edward Sutton Lord Dudley of Dudley Castle.
 Edward Stourton Lord Stourton of Stourton.
 Edward Vaux Lord Vaux of Harwooden.
 Thomas Windsor Lord Windsor of Bradenham.
 Thomas Cromwel Lord Cromwel of Ockham.
 William Eure Lord Eure of Whithon.
 Philip Wharton Lord Wharton of Wharton.
 William Willoughby Lord Willoughby of Parham.
 William Paget Lord Paget of Beaufort.
 Dudley North Lord North of Carthage.
 George Brudges Lord Shandos of Sudley.

Barons made by King James.

William Peter Lord Peter of Writtal.
 Dutton Gerrard Lord Gerrard of Gerrards Brom-
 ley.
 William Spencer Lord Spencer of Wormleighton.
 Charles Stanhope Lord Stanhope of Harrington. Be-
 yond Seas.
 Thomas Arundel Lord Arundel of Wardour.
 Christopher Roper Lord Tenham of Tenham, *infra*
etatem.
 Edward Mountague Lord Mountague of Kimbolton;
 eldest Son of Henry Earl of Manchester.
 Robert Grevil Lord Brooke of Beaucham Court.
 Edward Mountague Lord Mountague of Bough-
 ton.
 William Gray Lord Gray of Wark.
 Francis Leake Lord Dancourt of Sutton.
 John Roberts Lord Roberts of Truxo.

Barons made by King Charles.

William Craven Lord Craven of Hamstead Marshal.
 Beyond Seas.
 Thomas Belasis Lord Fauconberge of Sarom.
 John Lovelace Lord Lovelace of Harley.
 John Pawlet Lord Pawlet of Hinton St. George.
 William Harvey Lord Harvey of Kidbrooke.
 Thomas Brudenel Lord Brudenel of Scowon.
 William Maynard Lord Maynard of Estaynes.
 Thomas Coventry Lord Coventry of Alesborough.
 Beyond Seas.
 Edward Howard Lord Howard of Estricke.
 George Goring Lord Goring of Husterpoint.
 John Mohun Lord Mohun of Okehampton.
 Thomas Savil Lord Savil of Rotherham.
 John Butler Lord Butler of Bramfield.
 Francis Leigh Lord Dunsmore.
 William Herbert Lord Powis of Powis.
 Edward Herbert Lord Herbert of Chierbury.
 Francis Cottington Lord Cottington of Hanworth,
 Master of the Court of Wards, and Chancellor
 of the Exchequer.
 John Finch Lord Finch, Baron of Fordwich, Lord
 Keeper of the Great Seal of England.

Some Lords (as Privy Councillours) though
 not Peers of the Kingdom of England, such as
 the King shall be pleased to call thither for their
 Assistance, and sit on the Wool-sacks.

Car. 16.

Judges.

Sir John Bramston Lord Chief Justice of the Kings
 Bench.
 Sir Edward Littleton Lord Chief Justice of the
 Common Pleas.
 Sir Humphrey Davenport Lord Chief Baron.
 The Judges of the Kings Bench.
 The Judges of the Common Pleas.
 The Barons of the Exchequer.

The four Masters of the Chancery there attend-
 ing, according to the Direction of the Lord
 Keeper of the Great Seal of England.

The King's Learned Counsel.

The Serjeants.

Sir John Bankes the King's Attorney General.

The Officers of the higher House of Parliament.

The Clerk of the Crown.

The Clerk of the Parliament.

The Usher.

The Yeoman Usher.

The names of the Knights, Citizens,
 and Burgeffes of the Counties, Ci-
 ties, and Borough-Towns of Eng-
 land and Wales, and the Barony
 of the Ports now sitting in Parlia-
 ment holden at Westminster, the
 Third Day of November, 1640.
 in the Sixteenth Year of the Reign
 of our Sovereign Lord King
 CHARLES.

William Lenthall Esq. Speaker.

Bedford.

Oliver Luke Knight.
 Roger Burgoyne Baronet.
 Bedford Town.
 Beauchamp St. John Kt.
 Samuel Lucke Kt.

Buckingham.

John Hampden Esq.
 Arthur Goodwin Esq.
 Edmund West Esq.
 George Fleetwood Esq.
 Buckingham Town.
 Peter Temple Knight and Baronet.
 Alexander Denton Kt.
 John Dormer.

Wickomb.

Anno
1640.

Wickomb.

Edmund Verney Kt.
Thomas Lane Esq.
Richard Brown Esq.
Wickbury.
John Packington Baronet.
Ralph Verney Esq.
Thomas Scot Esq.
Simon Main Esq.

Wimborne.

William Drake Esq.
Francis Drake Esq.

Wimborne.

Roberts Crooke Esq.
Thomas Fountain Esq.
Thomas Harrison Esq.
Richard Ingoldsby Esq.

Wimborne.

Bulstrode Whitlock Esq.
Peregrine Hoby Esq.

Berkshire.

John Fettiplace Esq.
Henry Martin Esq.

New Windsor.

Cornelius Holland Esq.
Richard Winwood Esq.

Reading.

Francis Knowls Senior, Kt.
Francis Knowls Junior, Kt.
Tanfield Vachel Esq.
Daniel Blagrove Esq.

Abingdon.

George Stonehouse Baron.
John Ball Esq.

Wallingford.

Edmund Dunch Esq.
Thomas Howard Esq.
Robert Packer Esq.

Cornwall.

Alexander Carew Esq.
Bevil Greenvil Kt.
Hugh Buskaven Esq.
Nicholas Trefusis.

Dunchebit.

Ambrose Manaton Esq.
William Coriton Esq.
Thomas Gewen Esq.
John Harris Esq.

Uxbridge.

John Harris Esq.
Joseph Jane Esq.
George Kekewich Esq.
Thomas Povey Esq.

Uxbridge.

John Travanon Esq.
Richard Arundel Esq.
John Mainard Knight of the Bath.
Francis Hollis Esq.

Crucro.

John Rolls Esq.
Francis Rouse Esq.

Bodmin.

John Arundel Esq.
Anthony Nichols Esq.
Thomas Waller Esq.

Hellston.

Francis Godolphin Esq.
Sidney Godolphin Esq.
John Fenrofs Esq.

John Thomas Esq.

Baltair.

George Buller Esq.
Edward Hide Esq.
John Thynn Esq.
Henry Wylls Esq.

Camelsford.

Pierce Edgecombe Esq.
William Glanvil Esq.
William Sey Esq.

Campond.

John Trevor Kt.
James Cambel Esq.

Castloe.

Francis Buller Esq.
Thomas Lower Esq.
John Moyl Esq.

Westloe.

Thomas Arundel Esq.
Henry Killegrew Esq.
John Arundel Esq.

Peurin.

John Bampffield Baronet.
Nicholas Slaining Kt.

Tregony.

Richard Vivion Kt.
John Polewheele Esq.
Thomas Trevor Knight and Baronet.
John Carew Esq.

Bossing.

Christopher Telverton Kt.
Ralph Siddenham Kt.
Lionel Copley Esq.

St. Ives.

Fra. Godolphine Esq.
Edward Waller Esq.
John Fielder Esq.

Fowry.

Jonathan Rashley Esq.
Richard Buller Kt.
Nicholas Gold Esq.

St. Germans.

Benjamin Valentine Esq.
John Moyl Junior Esq.

Wichell.

William Chadwell Esq.
Robert Holborn Esq.
Charles Lord Car.

Wewport.

Richard Edgecomb Esq.

St. Mawes.

Richard Erissey Esq.
George Parry Dr. at Law.
William Priestley Esq.

Hillington.

Arthur Ingram Kt.
Edward Lord Clynton.
Thomas Dacres Esq.

Cumberland.

George Dalston Kt.
Patrick Curwin Baron.
William Ermyn Esq.
Richard Tolson Esq.
Carlisle.
William Dalston Knight and Baronet.
Richard Barveys Esq.
Thomas Cholmley Esq.
Cockermouth.
John Hippsley Kt.
Francis Allen Esq.

Car. 16.

Cam.

Anno
1640.

Cambridgeshire.

Dudley North Knight and Bar.
Thomas Chicbley Esq.
Francis Russel Esq.

Cambridge.

Thomas Eden Dr. at Law.
Henry Lucas Esq.
Nathaniel Bacon Esq.

Cambridge University.

Oliver Cromwell Esq. Lieut. General.
John Lowrey Esq.

Cheshire.

Peter Venebles Esq.
William Brereton Baron.
George Boothe Esq.

Chester City.

Thomas Smith Kt.
Francis Gamul Esq.
William Edwards Esq.
John Ratcliffe Esq. Recorder.

Derbyshire.

John Curson Baronet.
John Cook Kt.

Derby Town.

William Allestree Esq. Recorder.
Nathaniel Hallows Alderman.
Thomas Gell Esq.

Devonshire.

Edward Seymer Esq.
Samuel Rolle Kt.
Nicolas Martin Kt.

Exeter City.

Robert Walker Esq.
Simon Snow Esq.
Samuel Cleark Esq.

Cornels.

Oliver St. John Esq. his Majesties Sol-
licitor.

John Mainard Esq.

Plymouth.

John Young Kt.
John Waddon Esq.

Barnstable.

George Peard Esq.
Richard Ferris Esq.
Philip Skippon Esq. Serjeant Major
General.

John Doddridge Esq.

Pipinton.

Hugh Potter Esq.
Richard Strolle Kt.
Christopher Martin Gent.

Camptock.

John Pym Esq.
John Russel Esq.
Edmond Fowel Esq.
Eliez Crimes Esq.

Clifton, Dartmouth. Hardnes.

Samuel Brown Esq.
Roger Matthews.
Thomas Boon Esq.

Bere-Aston.

William Strode Esq.
Charles Pym Esq.
Francis Drake Baronet.

Tiverton.

Peter Samhail Esq.
George Hartnel Esq.
John Elford Esq.
Robert Shapcot Esq.

Alperton.

Edmund Fowel Kt.

John Northcot Knight and Baronet.

Doniton.

William Poole Esq.
Walter Young Esq.
Charles Vaughan Esq.

Okehampton.

Lawrence Whitaker Esq.
Edward Thomas Esq.

Dorsetshire.

Richard Rogers Esq.
John Brown Esq.
Thomas Trenchard Kt.

Wool.

John Pize Esq.
William Constantine Esq.
George Scut Esq.

Dorchester.

Denzel Hollis Esq.
Dennis Bond Esq.

Ume Regis.

Edmund Prideux Esq.
Richard Rose Esq.

Weymouth.

John Strangeways Kt.
Walter Earle Kt.
Matthew Aller Gent.

Welcombe Regis.

Gerard Napper Esq.
Richard King Esq.
William Sidenham Jun. Esq.
John Bond Dr. of Law.

Bridport.

Giles Strangeways Esq.
Roger Hill Esq.
Thomas Celye Esq.

Shaftsbury.

Samuel Turner Dr. of Physick.
William Whitaker Esq.
John Fry Esq.

John Bingham Esq.

Dareham.

John Trenchard Esq.
Thomas Earle Esq.

Coxe.

John Burlace Esq.
Giles Green Esq.
Francis Chetel Esq.

Essex.

Martin Lumley Knight and Baronet.
William Massam Baronet.

Colchester.

Harbottle Grimston Esq.
Thomas Barington Kt. and Bar.
John Sayer Esq.

Walden.

Henry Mildmay Kt.
John Clotworthy Kt.

Hartwich.

Harbottle Grimston Kt. and Bar.
Thomas Cheek Kt.
Capel Luckyn Esq.

Glocestershire.

John Dutton Esq.
Nathaniel Stephens Esq.
John Seymer Kt.

Glocester.

Thomas Pury Alderman.
Henry Bret Esq.
John Lemhal Esq.

Cirencester.

Car. 16.

Anno
1640.

Cirencester.

Theobald Gorges Kt.

John George Esq.

Cirencester.

Robert Cook Kt.

Edward Stephens Esq.

John Stephens Esq.

Huntingdonshire.

Sidney Montague Kt.

Valentine Walton Esq.

Edward Montague Esq.

Huntingdon.

George Montague Esq.

Abraham Burrel Esq.

Hertfordshire.

William Litton Kt.

Thomas Dacres Kt.

St. Albans.

Richard Jennings Esq.

Edward Wirgat Esq.

Hertford Town.

Charles Viscount Cranburn.

Thomas Fanshaw Knight of the Bath.

William Lemman Esq.

Herefordshire.

Robert Harley Knight of the Bath.

Fitz-William Coninsby Esq.

Edward Harley Esq.

Hereford City.

Richard Weaver Gent.

Richard Seaburn Esq.

Edmund Weaver Esq.

Bennet Hoskins Esq.

Webber.

Arthur Jones Lord Ranelagh.

Thomas Tomkins Esq.

Robert Andrews Esq.

William Crowther Esq.

Wemster.

Sampson Ewre Serjeant at Law.

Walter Kirle Esq.

John Birch Esq.

Kent.

Augustine Skinner Esq.

John Culpepper Kt.

John Boys Esq.

Canterbury.

Edward Masters Kt.

John Nut Esq.

Rochester.

Thomas Walsingham Kt.

Richard Lee Esq.

Maidstone.

Francis Barnham Kt.

Humphrey Tuston Kt.

Thomas Twisden Esq.

Quinborough.

Edward Hales Knight and Baronet.

William Harrison Esq.

Michael Livesey Baronet.

Augustine Garland Esq.

Lincolnshire.

John Wray Knight and Baronet.

Edward Ayscough Kt.

Lincoln City.

Thomas Grantham Esq.

John Broxolme Esq.

Thomas Lyster Esq.

Boston.

Anthony Irby Kt.

William Ellis Esq.

Great Grimsby.

Christopher Wray Kt.

Jervaise Halles Esq.

William Wray Esq.

Edward Rossier Esq.

Stamford.

Jeffrey Palmer Esq.

Thomas Hatcher Kt.

John Weaver Esq.

Gantham.

William Arminy Baronet.

Henry Pelham Esq.

Leicestershire.

Arthur Haslerig Baronet.

Henry Smith Esq.

Leicester Town.

Thomas Lord Gray of Groby.

Thomas Cook Esq.

Peter Temple Esq.

Lancashire.

Ralph Ashton Esq.

Roger Kirby Esq.

Richard Houghton Baronet.

Lancaster Town.

John Harrison Kt.

Thomas Fanshaw Esq.

Robert Bindlose Baronet.

Thomas Fell Esq.

Boston in Anderness.

Richard Shuttleworth Esq.

Thomas Standish Esq.

William Langton Esq.

Belton.

William Ashurst Esq.

Roger Palmer Kt.

Peter Brook Esq.

Wigan.

Orlando Bridgeman Esq.

Alexander Rigby Esq.

John Holcroft Esq.

Clithero.

Ralph Ashton Esq.

Richard Shuttleworth Esq.

Liverpool.

John Moor Esq.

Richard Wyn, Knight and Baronet.

Middlesex.

Gilbert Gerrard Baronet.

John Franklin Kt.

Westminster.

John Glyn Esq.

William Bell Gent.

London.

Anno.
1640.

London.

Thomas Soam Kt.
Isaac Pennington Esq.
Samuel Vassel Merchant.
John Ven Esq.

Monmouthshire.

William Herbert.
John Herbert Esq.
Henry Herbert Esq.
Monmouth Town.
Thomas Trevor Esq.
Thomas Pury Junior Esq.

Northamptonshire.

Gilbert Pickering Baronet.
John Dreydon Baronet.
Peterborough.
William Lord Fitz-William.
Robert Napper Knight and Baronet.
Northampton.
Zouch Tate Esq.
Richard Knightley Esq.
Brackley.
John Crew Esq.
Martin Lister Kt.
Digby Ferrers.
Christopher Hutton Kt.
Edward Harvey Esq.

Nottinghamshire.

Thomas Hutchinson Kt.
Robert Sutton Esq.
John Hutchinson Esq.
Jervas Piggot Esq.
Nottingham.
Gilbert Millington Esq.
Francis Pierrepont Esq.
William Stanhop.
East Retford.
Jervis Clifton Knight and Baronet.
Charles Viscount Mansfield.
William Lister Kt.
Francis Thornhaugh Esq.

Norfolk.

John Pots Knight and Baronet.
Edward Mouniford Kt.
John Palgrave Knight and Baronet.
John Hobart Knight and Baronet.
Norwich.
Richard Harman Esq.
Richard Catlin Esq.
Thomas Atkin Esq.
Erasmus Erle Esq.
Wyn Regis.
John Percival Gent.
Thomas Toll Gent.
Edmund Hudson Esq.
Earl of Salisbury.
Warmouth.
Miles Corbet Esq. Record.
Edward Owner Esq.
Thetford.
Thomas Woodhouse Knight and Baronet.
Framlingham Gandy Esq.

Castle Rising.

John Holland Baronet.
Robert Hutton Knight.
John Spilman Esq.

Car. 16.

Northumberland.

John Fenwick Knight and Baronet.
Henry Piercy Esq.
William Widdrington Esq.
William Fenwick Esq.
Newcastle upon Tyne.
Henry Anderson Kt.
John Blackston Esq.
Robert Ellison Esq.
Bartwick upon Tweed.
Thomas Withrington Kt.
Robert Scawin Esq.
Whorlith.
John Fenwick Esq.
William Carnaby Kt.
John Fiennes Esq.
George Fenwick Esq.

Oxfordshire.

Thomas Viscount Wenman.
James Fiennes Esq.
Oxford University.
Thomas Roe Kt.
John Selden Esq.
Oxford Town.
John Whistler Esq.
John Smith Esq.
John Doyley Esq.
John Nixon Alderman.
Woodstock.
William Lenthall Esq.
Robert Pie Kt.
Banbury.
Nathaniel Fiennes Esq.

Rutlandshire.

Guy Palmes Kt.
James Harrington Kt.
Thomas Waite Esq.

Surrey.

Richard Onslow Kt.
Ambrose Brown Baronet.

Southwark.

Edward Bagshaw Esq.
John White Esq.
George Tompson Esq.
George Snelling Esq.
Blechenley.
John Evelin Esq.
Edward Bishop Junior Esq.
Rigate.
William Lord Viscount Monson.
George Evelin Esq.
Builford.
Robert Parkhurst Kt.
George Abbot Esq.
Nicholas Strongbion Esq.

Anno
1640.

Salton.
Samuel Owsfield Esq.
Thomas Sands Esq.
William Owsfield Esq.
Walsmere.
John Goodwin Esq.
Poynings More Knight and Bar.

Staffordshire.

Edward Littleton Baronet.
Harvey Baggot Kt.
John Bowyer Esq.
Thomas Crompton Esq.

Litchfield.

Richard Cave Kt.
Michael Noble Esq.
Michael Biddulph Esq.
Stafford Town.

Ralph Sneyd Jun. Gent.
Richard Weston Esq.
John Swinfen Esq.
Edward Leigh Esq.

Newcastle under Line.

Richard Loveison Kt. of the Bath.
John Merrick Kt.
Samuel Terrick Esq.

Cambridge.

Ferdinando Stanhop Esq.
Peter Wentworth Knight of the Bath.
George Abbot Esq.

Shropshire.

Richard Lee Baronet.
John Corbet Baronet.
Humphrey Edwards Esq.

Shrewsbury.

Francis Newport Esq.
William Spurlow Merchant.
Thomas Hunt Esq.
William Massam Esq.

Bridgenorth.

Thomas Whitmore Esq.
Edward Acton Esq.
Robert Clives Esq.
Robert Charlson Esq.

Ludlow.

Charles Baldwin Esq.
Ralph Goodwin Esq.
Thomas Mackworth Esq.
Thomas Moor Esq.

Great Wenlock.

William Pierrepont Esq.
Thomas Littleton Esq.
Humphrey Bridges Esq.

Bishops Cleeve.

Robert Howard Knight of the Bath.
Richard More Esq.
Esay Thomas Esq.
John Corbet Esq.

Southampton County.

Henry Wallop Kt.
Richard Whitehead Esq.
Richard Norton Esq.
Winchester.
John Lisle Esq.
William Ogle Kt.
Nicholas Love Esq.

Southampton Town.

George Gallop Esq.
Edward Exton Esq.

Portsmouth.

George Goring Esq.
Edward Dowce Esq.
Edward Booth Esq.

Harmouth.

Philip Lord Lisle.
John Leigh Kt.

Petersfield.

William Lewis Baronet.
William Udale Kt.

Newport alias Medena.

Lucius Viscount Faulkland.
Henry Worsley Baronet.
William Stephens Esq.

Stockbridge.

William Heveningham Esq.
William Jepson Esq.

New Town.

John Meux Esq.
John Barrington Knight and Baronet.
John Bulkley Esq.

Christ Church.

Henry Tulse Esq.
Matthew Davis Esq.
John Kemp Esq.

Whit Church.

Richard Edwards Esq.
Thomas Jervoise Kt.
Richard Jervoise Kt.
Thomas Hufsey Esq.

Limington.

John Burton Esq.
Henry Campton Esq.

Andover.

Robert Wallop Esq.
William Waller Kt.

Suffolk County.

Nathaniel Barnardiston Kt.
Philip Parker Kt.

Ipswich.

John Gurdon Esq.
William Coge Esq.
Francis Bacon Esq.

Dunwich.

Henry Cook Esq.
Anthony Beddingfield Gent.
Robert Brewster Esq.

Oxford.

William Plater Knight and Baronet.
Charles Leveson Kt.

Widburgh.

Squire Bence Esq.
Alexander Bence Esq.

Sudbury.

Simmons d'Ewes Kt. and Bar.
Robert Crane Kt. and Bar.
Brampton Gourdon Jun. Esq.

De Cpe.

Fred. Cornwallis Kt. and Bar.
Roger North Kt.
Morris Barrow Esq.

St. Edmunds Burp.

Thomas Jernin Kt.
Thomas Jernin Esq.
William Spring Baronet.
Thomas Barnardiston Kt.

Car. 16.

Somerset.

Somersetshire.

John Pawley Kt.
John Scowel Knight of the Bath.
George Horner Esq.
John Harrington Esq.

Bristol City.

Humphrey Fleet Esq.
Richard Lang Esq.
Richard Allday Esq.
Luke Hodges Esq.

Bath City.

William Basset Esq.
Alexander Popham Esq.
James Ashe Esq.

Wells City.

Ralph Hopton Knight of the Bath.
Edward Redney Kt.
Lislebone Long Esq.
Clement Walker Esq.

Canterbury.

William Portman Baronet.
George Searle Esq.
John Palmer Esq.

Bridgewater.

Peter Wroth Esq.
Thomas Smith Esq.
Thomas Wroth Kt.
Robert Blake Esq.

Whitehead.

Francis Popham Kt.
Alexander Luttrell Gent.
Edward Popham Esq.
Walter Strickland Esq.

Titchester.

Edward Phillips Esq.
Robert Hunt Esq.
William Sirode Esq.
Thomas Hodges Esq.

Wilton Port.

Edward Kirton Esq.
John Digby Esq.
Thomas Grove Esq.
William Goren Esq.

Sussex.

Thomas Pelham Baronet.
Anthony Stapeley Esq.

Chichester City.

Christopher Lukener Esq.
William Marley Kt.
John Temple Kt.
Henry Peck Esq.

Bosham.

Thomas Middleton Esq.
Paul Ravenscroft Esq.

Sturminster.

Thomas May Esq.
William Canley Esq.
Gregory Norton Baronet.

Havant.

Herbert Marley Esq.
Henry Shelly Esq.

Bournemouth.

John Alford Esq.
William Marley Esq.
Herbert Spranger Esq.

Bramber.

Thomas Bowyer Baronet.
Arthur Onslow Esq.
James Temple Esq.

Thomas Laid Esq.
Thomas Laid Kt.
Edward Laid Esq.
Herbert Laid Esq.

Richard Laid Esq.
Robert Goodwin Esq.
John Laid Esq.

John Laid Esq.
Edward Alford Kt.
Herbert Hey Esq.

Westmerland.

Philip Musgrave Kt. and Bar.
Henry Bellingham Kt. and Bar.
James Bellingham Esq.
Henry Lawrence Esq.

Richard Earl of Cork.
John Brook Kt.
Richard Salmay Esq.
Henry Ireson Esq.

Wiltshire.

James Thorne Kt.
Henry Ludlow Kt.
James Herbert Esq.
Edmund Ludlow Esq.

Robert Hyde Serjeant at Law.
Michael Oldsworth Esq.
John Dove Esq.

Henry Vane Kt.
Benjamin Rudier Kt.
Downton.
Edward Griffin Kt.
Alexander Thistlethwaite Esq.

Robert Reynolds Esq.
Thomas Baints Gent.
George Howe Esq.
Edmund Ludlow.

Thomas Baints Esq.
Edward Ash Gent.
William Wheeler Esq.
John Ash Esq.

George Lowe Esq.
Hugh Rogers Esq.
Rowland Wilson Jun. Esq.

Edward Baynton Esq.
Robert Nicholas Esq.
Chippenhams.

Edward Baynton Kt.
Edw. Hungerford Knight of the Bath.
Neuil Pool Kt.
Anthony Hungerford Esq.

John Danvers Kt.
Robert Jenner Esq.
Thomas Hodges Esq.
Bedwin.

Walter Smith Kt.
Richard Harding Esq.

1640.

Henry Mordaunt Esq.
Edward Mordaunt Esq.
Rudgerthel.
William Mordaunt Esq.
John Evelyn Esq.
William Mordaunt Esq.

Robert Cecil Esq.
William Savil Knight and Baronet.
Roger Kirham Esq.

Wotton Wicket.

Edward Pool Esq.

William Pleydel Esq.

Edward Massey Esq.

Marlborough.

John Frankling Esq.

Philip Smith Esq.

Charles Fleetwood Esq.

Worcestershire.

John Wilds Esq. Sergeant at Law.

Humphrey Salway Esq.

Worcester City.

John Concher Esq.

John Nash Esq.

Droitwich.

Endymion Porter Esq.

Samuel Sandys Esq.

Thomas Rainborough Esq.

Edward Wild Esq.

Evesham.

Richard Creswell Sergeant at Law.

John Coventry Esq.

Samuel Gardiner Esq.

Bowdley.

Henry Herbert Kt.

Warwickshire.

Richard Shuckburg.

John Bargoyn Baronet.

Thomas Boughen Esq.

Coventry.

John Barker Alderman.

William Jesson Alderman.

Warwick.

William Piers Esq.

Godfrey Bosville Esq.

Forkshire.

Ferdinando Lord Fairfax.

Henry Bellasis Esq.

York City.

William Allanson Kt.

Thomas Heil Alderman.

Kingston upon Hull.

Henry Vane Kt. Junior.

Peregrine Pelham Esq.

Marlborough.

Henry Slingsby Bar.

Henry Benson Esq.

William Constable Bar.

Thomas Stockdale.

Scarborough.

Hugh Chamley Kt.

John Horham Esq.

Matthew Boynton Kt. and Bar.

Luke Robinson Esq.

Stippon.

William Mallory Esq.

John Mallory Esq.

Miles Moody Esq.

John Bourchier Kt.

Charles Evelyn Kt.

Richmond.

William Penniman Bar.

Thomas Darcy Kt.

Thomas Chaloner Esq.

Francis Thorp Esq.

Derby.

William Strickland Kt.

John Allured Esq.

Burrow Bridge.

Philip Stapleton Esq.

Thomas Mallory Baronet.

Henry Stapleton Esq.

Chesh.

John Bellasis Esq.

Thomas Ingram Kt.

Francis Lisset Esq.

William Ayscough Esq.

Hulburg.

Richard Hulburg Esq.

Robert Strickland Esq.

Brian Stapleton Esq.

James Chaloner.

Bederley.

John Horham Kt. and Bar.

Michael Wharfen Esq.

John Nelthrop Esq.

James Nelthrop Esq.

Pomfret.

George Wentworth of Wolly Kt.

George Wentworth of Wentworth-Wood-

house Kt.

Henry Arrington Esq.

William White Esq.

Salton.

Henry Darley Esq.

John Wastel Esq.

Richard Darley Esq.

Allerton.

Thomas Heblethwaite Esq.

Henry Cholmley Kt.

Richard Darley Esq.

Cinque Ports.

Walling.

John Ashburnham Esq.

Thomas Everyfield Esq.

John Pellam Esq.

Roger Gravick Esq.

Winchester.

John Finch Esq.

William Smith Esq.

Henry Oxenden Esq.

Samuel Got Esq.

Rye.

John Whist Esq.

William Hay Gent.

John Fagg Esq.

Hummer.

Norton Knatchbull Bar.

Richard Brown Esq.

Beith.

Henry Heyman Baronet.

John Harris Esq.

Thomas Westrow Esq.

Dober.

Anno
1640.

Dorset.
Edward Boyle Kt.
Benjamin Weston Esq.
John Dittus Esq.
Sandwich.
Thomas Peyton.
Edward Partridge Bar.
Charles Rich Esq.
Seaford.
Thomas Parker Kt.
Francis Gerrard Esq.

Wales.

Anglesey.
John Bodvil Esq.
Betwmaris.
John Griffith Senior Esq.
William Jones Esq.

Brecknockshire.

William Morgan Esq.
Brecknock Town.
Herbert Price.
Lodovicus Lewes Esq.

Cardiganshire.

Rich Price Knight and Bar.
Walter Lloyd Esq.
Cardigan Town.
Thomas Wogan Esq.

Carmarthenshire.

Henry Vaughan Esq.
John Lloyd Esq.
Carmarthen Town.
Francis Lloyd Esq.
William Davis Esq.

Carnarvonshire.

Richard Wyn Esq.
Carnarvon Town.
William Thomas Esq.
William Foxwist Esq.

Denbighshire.

Thomas Middleton Kt.
Denbigh Town.
Simon Thelwell Jun. Esq.

Flintshire.

John Mostin Esq.
John Trevor Esq.
Flint Town.
John Salisbury Jun. Esq.
Thomas Middleton Esq.

Glamorganshire.

Philip Lord Herbert.
Cardiffe Town.
William Herbert Esq.
Algernoun Sidney Esq.

Merionethshire.

William Price Esq.
John Jones.

Pembrokeshire.

John Wogan Senior Esq.
Arthur Owen Esq.
Paverford West.
John Stepany Baronet.
Robert Needham Kt.
Pembroke Town.
Hugh Owen Esq.

Montgomeryshire.

John Price Baronet.
Edward Vaughan Esq.
Montgomery Town.
Richard Herlert Esq.
George Devoreux Esq.

Radnorshire.

Charles Price Esq.
Arthur Annesley Esq.
Radnor Town.
Philip Warwick Esq.
Robert Hawley Esq.

Henry Elsing Esquire, Clerk of the
Parliament for the Commons
House.
Edward Birkhead Esquire, Serjeant at
Arms.

Many if not most of the Nobility in the preceding Catalogue, followed the Fortunes of his Majesty in the ensuing War, and were Assembled by his Majesties Command at Oxford, January 1643. the Names of whom, as well as those Loyal Gentlemen of the House of Commons, who adventured their Lives and Fortunes for his Majesty in the same Cause hereafter follow :

The Names of the Lords and Commons of Parliament Assembled at Oxford, January 1643.

The Names of the Lords.

CHARLES Prince.
YORK.
Cumberland.
Edward Littleton C. S.
Francis Cortington.
Duke of Richmond.
M. Hertford.
Earl of Lindsey.
Earl of Dorset.
Earl of Shrewsbury.
Earl of Bath.
Earl of Southampton.
Earl of Leicester.
Earl of Northampton.
Earl of Devonshire.
Earl of Carlisle.
Earl of Bristol.

Earl

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Earl of Berkshire.
Earl of Cleveland.
Earl of Rivers.
Earl of Devon.
Earl of Peterborough.
Earl of Kingston.
Earl of Newport.
Earl of Portland.
Vise. Conway.
Lord Digby.
Lord Montagu and Maitravers.
Lord Wennington.
Lord Cromwell.
Lord Rich.
Lord Paget.
Lord Chandos.
Lord Howard of Charlton.
Lord Lovelace.
Lord Savile.
Lord Ashburnham.
Lord Dunsford.
Lord Seymour.
Lord Piercy.
Lord Wilton.
Lord Leigh.
Lord Hatton.
Lord Jermin.
Lord Carrington.

These Peers following being disabled by several accidents to appear sooner, have since attended.

Viscount Cambrden.
Lord Abingdon.
Lord Arundel.
Lord Capel.
Lord Newport.

Peers employed in his Majesties Service, or absent with leave.

Marquess of Winchester.
Marquess of Worcester.
Marquess of Newcastle.
Earl of Derby.
Earl of Huntingdon.
Earl of Clare.
Earl of Marlborough.
Viscount Faulconbridge.
Lord Morley.
Lord Darcy and Coniers.
Lord Stuart.
Lord Evers.
Lord Daincourt.
Lord Pawlet.
Lord Brudenel.
Lord Powells.
Lord Herbert of Cheshire.
Lord Hopton.
Lord Loughborough.
Lord Byron.
Lord Vaughan.
Lord Withington.

Peers absent in the parts beyond the Seas.

Earl of Arundel.
Earl of St. Albans.
Lord Viscount Montague.
Lord Viscount Stafford.
Lord Stanhope.
Lord Coventry.
Lord Goring.

Lord Craven of Plamsted.
Lord Craven of Ryem.

Peers Confined by the Parliament at Westminster.

Earl of Chesterfield.
Lord Montague of Baughston.

The Knights, Citizens, and Burgeses of the House of Commons.

John Fettiplace.
Alexander Denton.
John Packington.
Thomas Smith.
F. Gamul.
Jo. Harris.
Joseph Jane.
Richard Edgescombe.
Jonathan Rawleigh.
G. Fane.
P. Edgescombe.
William Glenville.
Robert Holburn.
Ra. Sydenham.
Fr. Godolphin.
George Parry.
Ambrose Manaton.
Richard Vyvyan.
Jo. Polembecke.
John Arundel.
Thomas Lower.
Edward Hide.
William Allestree.
Geo. Stonehouse.
Edward Seymour.
Peter Sainthil.
Will. Pool.
Roger Matthew.
Richard Arundel.
Ro. Walker.
Giles Strangways.
John Strangways.
Thomas Hele.
Gerrard Naper.
Samuel Turner.
William Constantine.
Henry Killegrew.
R. King.
John Dutton.
Henry Bret.
William Chadwel.
Theobald Gorges.
John George.
Thomas Fanshawe.
Humf. Conningby.
Richard Seaborn.
Arthur Rawlaugh.
Thomas Tomkins.
Sampson Evers.
John Culpeper.
Jeffry Palmer.
John Harrison.
Thomas Fanshawe.
Roger Palmer.
Orlando Bridgeman.
William Watkins.
John Smith.
Thomas Bladder.
Edward Listeron.
Harvie Baget.
Richard Leveson.
Richard Cave.

Richard

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Richard Weston.
Richard Lee.
Thomas Whitmore.
Edw. Alton.
C. Baldwin.
R. Goodwin.
Thomas Howard.
Thomas Littleton.
Robert Howard.
John Meux.
Marbrey Davis.
F. Cornwallis.
Thomas Germin.
John Taylor.
William Bassett.
William Portman.
Edw. Rodney.
Thomas Hanham.
Edward Phillips.
John Digby.
Edward Kirton.
Charles Lukenor.
Edw. Alford.
John White.
John Ashburnham.
William Smith.
Thomas Leeds.
J. Thinne.
William Pledell.
Ro. Hide.
Edw. Griffin.
Walter Smith.
George Lowe.
Rich. Harding.
Henry Herbert.
Endym. Porter.
Samuel Sandys.
John Bodvil.
William Morgan.
William Thomas.
John Mostin.
Henry Bellasis.
George Wentworth.
William Malory.
Richard Aldburgh.
John Salesbury.
William Herbert.
William Price.
John Price.
R. Herbert.
Charles Price.
Philip Warwick.
Thomas Cook.
Robert Crook.
Herbert Price.
John Whistler.

These Members following, being disabled by several accidents, to appear sooner, have since attended.

Peter Venables.
Sir John Pawler.
Edward Bagshaw.
Sir John Burlafey.
Francis Newport.
Anthony Hungerford.
John Russel.
Thomas Chickley.
Earl of Cork.
Sir Jervase Clifton.
Sir Guy Palmes.
Robert Sutton.
Jervase Holis.

Sir Patricius Curwen.
Sir Henry Bellingham.
Sir George Dalston.
Sir Thomas Standford.
Sir William Dalston.
Michael Wharton.
Sir Robert Hatton.
James Scudamore.
Sir John Brook.
Sir John Stepany.

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Employed in his Majesties Service, or absent with leave, or by sickness.

Sir John Fennick.
Hugh Potter.
Walter Kyrle.
William Stanhop.
Sir William Carnaby.
Sir Thomas Danby.
John Fennick.
Ralph Sneyd.
Sir William Ogle.
Sir Thomas Jermin.
Sir John Stowel.
Sir Robert Strickland.
Sir Philip Musgrave.
John Cowcher.
John Coventry.
Sir Henry Slingsby.
Sir John Mallory.
John Bellasis.
Sir Thomas Ingram.
Lord Mansfield.
Thomas Heblethwait.
Sir Hugh Cholmley.
Sir George Wentworth.
Sir Walter Lloyd.
Sir Henry Vaughan.
Francis Lloyd.
John Vaughan.
Richard Ferrers.
George Hartnol.
Sir William Udall.
Robert Hunt.
Thomas May.
Sir Thomas Bowyer.
Sir Thomas Row.

The King being late in his Throne in the House of Peers; the House of Commons were Commanded by the Black-Rod to attend at the Bar of the Lords House, where his Majesty spake as followeth.

My Lords,

‘ The knowledge that I have of the Scottish Subjects, was the cause of my calling of the last Assembly of Parliament, wherein if I had been believed, I do most sincerely think that things had not fallen as we now see; but it is no wonder that men are so slow to believe, that so great a Sedition should be raised upon so little ground. But now (my Lords and Gentlemen) the Honour and Safety of this Kingdom lying so heavily at Stake, I am resolved to put my self freely upon the love and affections of my English Subjects, as those of my Lords that waited upon me at York very well remember I there declared.

‘ There-

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‘Therefore (my Lords) I shall not mention mine own Interest, or that support I might justly expect from you till the common safety be secured: though I must tell you, I am not ashamed to say, those charges I have been at, have been merely for the securing and good of this Kingdom; though the success hath not been answerable to my desires. Therefore I shall only desire you to consider the best way both for the safety and security of this Kingdom, wherein there are two things chiefly considerable; First, the chasing out of the Rebels. And Secondly, That other, in satisfying your just Grievances, wherein I shall promise you to concur so heartily and clearly with you, that all the World may see my intentions have ever been, and shall be to make this a glorious and flourishing Kingdom. There are only two things more that I shall mention to you. The one is to tell you, that the Loan of Money which I lately had from the City of London, wherein the Lords who waited on me at York assisted me, will only maintain my Army for two Months from the beginning of that time it was granted. Now (my Lords and Gentlemen) I leave it to your consideration, what dishonour and mischief it might be, in case for want of Money my Army be Disbanded, before the Rebels be put out of this Kingdom. Secondly, The securing of the calamities the Northern people endure at this time; and so long as the Treaty is on foot. And in this I may say not only they, but all this Kingdom will suffer the harm, therefore I leave this also to your consideration. For the ordering of the great Affairs whereof you are to Treat at this time; I am so confident of your love to me, and that your care is such for the Honour and Safety of the Kingdom, that I should freely leave to you where to begin: only this, that you may the better know the state of all Affairs, I have Commanded my Lord Keeper to give you a short and free account of those things that have happened in this interim, with this Protestation, that if his account be not satisfactory, as it ought to be, I shall whensoever you desire it, give you a full and perfect account of every particular.

‘One thing more I desire of you, as one of the greatest means to make this an happy Parliament, that you on your parts, as I on mine, lay aside suspicion one of another, as I promised my Lords at York, it shall not be my fault if this be not an happy and good Parliament.

The Lord Keeper Finch, by his Majesties Command, gave the two Houses an account of all things referring to the Scotch Invasion, which his Majesty had plainly (for so indeed it was) called Rebellion, which expression being taken in evil part by some of the House of Commons, his Majesty justifies the expression, and saith two daies after in a Speech in the Peers House, *That though they were his Subjects, and he then in Treaty with them, yet so long as they have an Army against him and invade this his Kingdom of England also, they are not otherwise to be esteemed than such.* The first week of the sitting of this Parliament was spent in settling (as is usual) their grand Committees for Grievances, Religion,

Priviledges, &c. where, for the first of these there was work enough cut out, for that several thousands of Horse and Foot came from several of the Neighbouring and Adjacent Counties (in the same manner as you have before heard they of Scotland did in the foregoing Commissions mentioned *Anno Domini 1637.*) with their Petitions craving redress of great exorbitances both in Church and State, which were taken in by the leading-men of those times, and carefully delivered to the Grand Committees, and in set and framed Speeches aggravated accordingly, and now also Mr. Pryn, Mr. Burton, and Dr. Bastwick appear in publick, enlarged from their respective Prisons, and were accompanied into London with Shouts and Acclamations to the affront of Publick Justice.

The first matter of note in the Commons House, was, the Speech of Mr. Pym, the manner whereof was much to the import of another of the same Gentlemans, spoken in the Parliament lately dissolved, and formerly set down, which for Brevity we shall here omit.

The Lord George Digby, son to the Earl of Bristol, seconds Mr. Pym, and complains of the intolerable burden of Ship-money, of the multitude of Monopolies, of the new Canons, and Oath &c. by them enjoyed, of great abuses in the Pressing of Souldiers and raising Moneys concerning the same, &c. This Noble Person, with others of the House of Commons (which we desire our Reader to take notice of) followed his Majesty in his Fortunes in the Waresuing, and seeing the drift and intentions of some of their fellow Members to tend to Innovation, and in Fine to the ruin of the established Government both in Church and State, betimes deserted the Parliament at Westminster, and were by them for this their loyalty declared (very illegally) Traytors; such were the Lord Faulkland, Sir John Culpeper, Mr. Hyde, afterwards Earl of Clarendon, Mr. Bagshaw, Mr. Waller, adjudged to Death for adhering to King Charles the First, and other eminent Speakers in that Parliament for the pretended Reformation, were by them afterwards illegally Sentenced, Censured, and Imprisoned; such were Sir Edward Deering, Sir Benjamin Rudyard, and others, who in the simplicity of their heart, spoke against (as they thought) matters of the Grievances of these times, yet perceiving the Intentions of their fellow Members to throw down all before them, openly deserted them.

His Majesty willing to take away all matter of offence from the Parliament, Commands by Proclamation, the departure of all Papists from the Cities of London and Westminster; and puts the Command of the Tower (formerly under the Lord Cottington, as Lord Constable thereof) under the power of a Lieutenant, on purpose to take away all umbrage of discontent from the Parliament and City of London, but all (as you will after see) in vain.

On the Tenth of November a Complaint was made in the House of Peers, of the infringement of the Priviledge thereof by the searching of the Studies, Cabinets, and Pockets of the Earl of Warwick, and the Lord Brooke, upon the dissolution of the late Parliament, by Sir William Beecher, who producing a Warrant from the two Secretaries of State for his so doing, was notwithstanding Committed to the Fleet.

Anno 1640. The day following Mr. Pym was sent from the Commons to the Lords with a Message of Impeachment of High Treason against the Earl of Strafford Lord Lieutenant of Ireland, who was thereupon committed to the Black-Rod, and his Brother Sir George Wentworth sent for by order of the Peers by a Serjeant at Arms out of Ireland; and the Commons the same day passed an Order, that all persons who had lately any benefit by Monopolies, and were Countenancers of the same, should be disabled to sit in the House, and that the Speaker should issue out new Warrants for Electing other Members in their places.

Upon the Twelfth of November, the Parliament (in regard of the insupportable burden which lay upon the Northern Counties by reason of the two Armies) borrowed of the City of London the sum of 100000*l.* upon Interest, until the Subsidies might be raised to repay it.

The Peers on the Sixteenth, Petition his Majesty for the liberty of the Bishop of Lincoln a Member of their House, who was accordingly set at liberty from his Imprisonment in the Tower, and was the day following, being a Fast-day, introduced by four Bishops into the Abbey Church of Westminster, where as Dean of that Church he officiated before the Lords.

On the Twenty first, one John James, son of Sir Henry James of Feverisham in Kent, a Romish Catholique, stabbed Mr. Howard (a Justice of Peace for Westminster) in Westminster-hall, to the great hazard of his life. The impulsive to this savage Assault, was supposed to be, because Mr. Howard had framed a list with the names of such Recufants, as were within the Liberties of Westminster, which he was to deliver up to the Committee for Religion. Mr. James was committed to the Gate-house, and the King sent an Express to the Commons, that they should proceed severely against him.

And now the Parliament, by reason of the severity of their intendments and overt actions, began to appear formidable, hereupon Sir Francis Windebank Secretary of State, thought it his best course to retire into France; and for that the Tax of Ship-money was complain'd of as one of the principal Grievances, the Commons did on the seventh of December, Vote the said Tax illegal, which was also, notwithstanding the greatest Lawyers in the Kingdom had subscribed to the legality thereof; and that all the Judges of England had definitively (as before is at large set down) sentenc'd for the King in that Cause against *Hampden*; yet now without any review or Counsel heard, or the Judges reason for their Opinions then delivered so much as required, it was by the House of Peers also voted illegal, and an Order was in February ensuing by that House made for the vacuating of the said Judgment and Record.

Upon the Eleventh of December, Alderman Pennington with a Rabble of Petty Shop-keepers and Apprentices (for as yet the great ones would not appear) presented a Petition against the Bishops and the Ceremonies of the Church, whereat their tender Consciences were offended, though the Presenter of that Petition was not tender to Vote and act against the life of his Sovereign in the bloody Sentence put upon him by that treasonable Court of injustice which sentenced his sacred Majesty to the Block in the year 1648. and for which he afterwards in the year 1660. received the condign Sentence as a Traytor for his enormous Treason; but he began with the ruin of

the Church, and ended in the blood of his Sovereign, and so we leave him to God's mercy. *Car. 16.* But however, for the Honour of the City it may be spoken, that this Petition did not come from, neither was it owned by that Honourable City, but was only carried on by certain Beutifeus managed by some Members of the Commons House, who now taking the advantage of the Complaints of this Petition, Vote on the Sixteenth of December, That the Clergy without a Parliament have no power to make Canons so bind either Laity or Clergy, and that the late Canons are against the Law of the Land, the King's Prerogative, the rights of Parliament, and the property of the Subject, and that they tend to Faction and Sedition. Concerning which Vote one hath this Observation, That this Parliamentary Doctrine was but now newly known, Convocations heretofore not depending on Parliaments but only on the King himself, and that not in Parliament neither, but in his Palace according to the Tenor of the Statute of the twenty fifth of Henry the Eighth, and the constant practice ever since; and as to these particular Canons, they were Authorized by his Majesty, communicated to the Privy Council, the Judges then attending, reading and approving the same, and were passed under the Broad Seal of England, June 30. preceding.

This condemnation of the Canons brings on a Storm upon the head of the Archbishop of Canterbury, whom the Commons name the Author thereof, and a Committee is put upon that Reverend Prelate to enquire into all his actions, and to prepare a Charge against him, the same morning he was named as an incendiary by the Scottish Commissioner in the Upper-House, and a Complaint is promised to be brought in against that great Prelate; accordingly on the Eighteenth he is accused for High Treason by the Commons, the Messenger Mr. Hollis, and the Archbishop was committed to the Gentleman-Usher of the Black-Rod, though without any particular charge brought against him [a thing not very usual.] On the Twenty first, the Archbishop was Fined 500*l.* for the Imprisonment of Sir Robert Howard for keeping the Lady Purbeck in a lewd manner, and Sir John Lamb, and Sir Henry Martin 250*l.* each for the same offence, the Money was ordered to be paid down immediately, and the Archbishop for the sudden advance thereof was forced to sell his Plate, as he himself saith in his Diary; after this he was kept until the first of March under custody of the Black-Rod, and no impeachment was brought up against him until the Twenty sixth of February following, when Sir Henry Vane Junior, brought up fourteen Articles; all consisting of Generals, from the Commons House; these they craved time to prove in particular, but in the mean time without any particular matter alledged, he is Voted guilty of High Treason by the Peers, and sent to the Tower, where afterwards he lay four years, and was then most illegally beheaded. The Parliament having thus removed these two great Supporters of the Church and State, and growing every day more and more upon the affections of the people, at least upon those who were discontented and dissatisfied with the Government of our Church, as it was now by Law established, they began to hammer a Bill for Triennial Parliaments, which was afterwards passed into an Act, as we shall particularly declare.

T t t t

And

And now the Sages of the Law must in order take their turns, these worthy persons had according to their Consciences, delivered their Opinions in the Exchequer Chamber, that the Tax of Shipmoney was legal, and they were under an Oath to do Justice to every man without respect of persons, bribe or reward. The Lord Keeper Finch was the person chiefly aimed at, for that he was Lord Chief Justice of the Common Pleas when that Case was Argued, and was by the Commons thought to have been most hearty and active in that great matter, hereupon the Commons prepare an Impeachment of High Treason against him; in justification of himself, he desires leave to speak in his own behalf before the Commons House; which he did, and gave an account of himself and that action, that there was no carriage or demeanor of his that did in the least influence the Opinions of the rest of his Brethren the Judges, but that they all agreed in the thing, *That if the whole Kingdom were in danger, it was reasonable and fit to lay the burden upon the whole Kingdom, and not upon the Ports only*; after at Serjeants Inn, Crooke and Hatton differed in Opinion, but not of the thing (as we before said) but whether his Majesty was sole Judge; and as to this, *this was not upon the matter in Argument, but upon the Demurrer*. The very next day he was accused before the Lords, but he wisely considering of the violence of those times withdrew himself into Holland, and there remained, until his accusers became the more guilty, and then he returned to his native Country again.

And now we come to the Trial of the great Earl of Strafford: The Commons had delivered in seven Articles all consisting of Generals, on the fatal day the Thirtieth of January; these they distribute into twenty eight Particulars, which Mr. Pym then by order of that House delivered to the Peers as their compleat charge against the said Earl, who being sent for, desiring from his Peers three Months time to answer, in regard some of the Treasons were of fourteen years standing, and his Witnesses remote, besides the charge was long and consisted of two hundred sheets of Paper, and that his answer would be commensurate to the Charge, and in a rough draught it could not be less, and therefore would require more time to engross it, which accordingly he had time given until the 24 of Feb. when it was read in the House of Peers in his Majesties presence, and the day following in the House of Commons. Hereupon several Debates arose betwixt the Lords and Commons, as whether the Earl was to have Counsel allowed him, which the Lords said he should in Pleading matter of Law, but not in matters of Fact. The next was where the place of Trial should be, which was agreed should be Westminster-Hall, for that the House of Peers was deemed too little to contain both the Houses; and for that the Commons said they would come in the body of their House with their Speaker, the Lords would not assent hereto, therefore they yielded at last to come as a Committee.

Accordingly the 22 of March was appointed for the day of his comparing, when Scaffolds being erected on either side of the Hall, the Commons late hereon uncovered as Impeachers and Accusers, in the midst of the lower ascent the Peers, and behind them, but raised above them, there was placed the Chair and Cloth of State for his Majesty, on each side of which there was a Gallery of privacy for the King, Queen, and Prince, suitable to the antient Mode.

At this Trial the Lords Spiritual refused to be present, with respect to the Oath of the Church in the Council of Toledo, Contil. Tol. 4. and according to former Precedents, as 11 Rich. 2. and 21 of Rich. 3. when they did refuse to sit and Vote in those Impeachments in their own persons (for in the later of those they did by their Proxies) with a salvo of their knowndright of being present as Peers and Barons of the Land at all things in any manner to be treated of by the Parliament of England, as any other Barons may, *Which Protestation of theirs was allowed by the whole Parliament, and at the desire of the Archbishop of Canterbury, and others, the Prelates aforesaid, was entered upon the Roll of Parliament by the Commandment of the King, and the assent of the Lords Spiritual and Temporal.*

The Earl of Arundel was appointed for this great Judgment, Lord High Steward of England, and the Earl of Lindsey Lord High Constable, and this great Court set, the Lord Lieutenant the Noble Earl of Strafford was brought to the Bar, when the Lord High Steward declared to him that he was call'd to answer to the Impeachment of Treason presented against him by the Commons of England and Ireland, at the same time his Accusation was read, and his answer thereto, which took up most of that day; the next day he is brought again to the Bar of this great Court, when Mr. Pym aggravated the seven General Articles against him, saying he had subverted the fundamental Laws of England and Ireland, and produced a Paper sealed, which being opened and read, it contained a Vote of the Commons House in Ireland, where they had Voted the Earl Guilty of High Treason, at which the Earl was very much discomposed and said in haste, that there was a Conspiracy against him to take away his life, which was immediately catcht up by the Commons as if he had aspersed the two Parliaments of England and Ireland, but this the Earl denied, and said, he did not thereby intend any reflection upon either of these Parliaments, but upon some particular persons, Members of these Parliaments; now Mr. Pym craves leave to annex three Articles more to the Earls Charge, and that he should immediately answer thereto, to which the Earl Replied, That now his Process being closed, he well hoped he should not be ordered to answer to this new and unexpected Charge, without allowance of more time; but the Peers finding those Articles of no great importance, he was urged to a present Answer. These Articles were three.

First, *That he had withdrawn 24000 l. (some New Ards. Copies have 40000 l.) sterling from the Exchequer in Ireland, and converted to his own use.* cles against the Earl.

Secondly, *That in the beginning of his Government the Garrisons of Ireland had been maintained by the English Treasury.*

Thirdly, *That he had advanced Popish and Infamous persons, as the Bishop of Waterford, and others to the prime Rooms in the Church of Ireland.*

The Earl Answered thereto.

To the first he said, That England was indebted to Ireland that sum, and that he took up the Money upon his own Credit, and paid it again, and that he had the King's Authority for the same, producing his Majesties Letter. The Earl's Answer.

To the second, That the Garrisons had been burdensome to England in former Deputies times; that

Anno. 1640. that he so found them, but that he had so improved the King's Revenues there, as they were not onerous at all to England.

To the last, That he never preferred any but such whom he conceived to be conscientious and honest men; that he could not Prophecy of mens future conditions; and for the Bishop of *Waverford*, he hath satisfied the Law.

These Articles containing no great matter of moment, upon *March 24.* the particular Articles came to be insisted on, they were in number 28. but in regard the Commons did not insist on, nor indeed bring any proof for some of these, these I shall pass by, and briefly set down those whereon they laid any stress, and the great Earl's Answer to them.

The further Impeachment of Thomas Earl of Strafford by the Commons Assembled in Parliament.

The first Article was not insisted upon:

II.

That shortly after the obtaining of a Commission dated the 21 of *March*, in the 8 year of his now Majesties Reign (to wit) the last day of *August* then next following, he the said Earl (to bring his Majesties Liege People into a dislike of his Majesty and of his Government, and to terrifie the Justices of the Peace from executing of the Laws: he, the said Earl, being then President of the King's Council in the Northern parts of *England*; and a Justice of Peace) did publicly at the Assizes held for the County of *York* in the City of *York*, in and upon the said last day of *August*; declare and publish before the people there attending for the administration of Justice according to the Law; and in the presence of the Justices sitting, *That some of the Justices were all for Law, but they should find that the King's little finger should be heavier than the Loyns of the Law.*

Testified by Sir David Fowles and others:

The Earl's Answer.

That Sir David Fowles was his profess enemy, that his words were clearly inverted, that his expression was, *That the little finger of the Law (if not moderated by the King's gracious clemency) was heavier than the King's Loyns.* That these were his words, he verifys'd; First, by the occasion of them, they being spoken to some whom the King's favour had then enlarged from Imprisonment at *York*; as a motive to their thankfulness to his Majesty. Secondly, by Sir William Penniman a Member of the House; who was then present, and heard the words; *Which Sir William declaring to be true; the House of Commons required Justice of the Lord's against him, because he had Voted the Articles as a Member of the House; whereupon Sir William wept.*

III.

March 25. That the Realm of *Ireland* having been time out of mind annexed to the Imperial Crown of this his Majesties Realm of *England*, and governed by the same Laws: the said Earl being Lord Deputy of that Realm, to bring his Majesties Liege people of that Kingdom likewise into dislike of his Majesties Government, and intending the subversion of the fundamental Laws and settled Government of that Realm, and the distraction of his Majesties Liege people there, did, upon *Sept.*

30. in the ninth year of his now Majesties Reign, in the City of *Dublin* (the chief City of that Kingdom, where his Majesties Privy Council, and Courts of Justice do ordinarily reside, and whether the Nobility and Gentry of that Realm do usually resort for Justice) in a publick Speech before divers of the Nobility and Gentry, and before the Mayor, Aldermen, and Recorder, and many Citizens of *Dublin*, and other his Majesties Liege people, declare and publish, that *Ireland was a conquered Nation, and that the King might do with them what he pleased;* and speaking of the Charters of the former King's of *England* made to that City, he further said, that *their Charters were nothing worth, and did bind the King no further than he pleased.*

Testified by the Earl of *Cork* and two other Lords.

The Earl's Answer.

That if he had been over liberal of his Tongue for want of discretion, yet could not his words amount to Treason, unless they had been revealed within 14 daies, as he was informed. As to the Charge, he said, True it is, he said *Ireland was a conquered Nation, which no man can deny;* and that the King is the Law-giver, in matters not determined by Acts of *Parliament*, he conceived all Loyal Subjects would grant.

IV.

That Richard Earl of *Cork* having sued out Process in course of Law for recovery of his possessions, from which he was put by colour of an Order made by the said Earl of *Strafford*, and the Council Table of the said Realm of *Ireland*. The said Earl of *Strafford* upon a paper Petition, without legal proceedings, did *Feb. 20.* in the Eleventh year of his now Majesties Reign, threaten the said Earl of *Cork* (being then a Peer of the said Realm) to imprison him, unless he would surcease his suit, and said, *That he would have neither Law nor Lawyers dispute or question any of his orders.* And the 20 of *March* in the said Eleventh year, the said Earl of *Strafford* speaking of an Order of the said Council-Table of that Realm, made in the time of King *James*, which concerned a Lease which the said Earl of *Cork* claimed in certain Rectories or Tithes which the said Earl of *Cork* alledged to be of no force, said, *That he would make the said Earl and all Ireland know, so long as he had the Government there, any act of State, there made, or to be made, should be as binding to the subjects of that Kingdom, as an Act of Parliament:* And did question the said Earl of *Cork* in the Castle Chamber, upon pretence of breach of the said Order of Council Table, and did sundry other times; and upon sundry other occasions, by his words and Speeches arrogate to himself a power above the fundamental Laws, and established Government of that Kingdom, and scorned the said Laws and established Government.

The Earl's Answer.

It were hard measure for a man to lose his honour and his life, for an hasty word, or because he is no wiser than God hath made him. As for the words, he confessed them to be true, and thought he said no more than what became him, considering how much his Master's Honour was concerned in him, that if a proportionable obedience was not as well due to Acts of State, as to Acts of *Parliament*, in vain did Councils sit. And that he had done no more than what former

Anno 1640. Deputies had done, and then what was agreeable to his Instructions from the Council Table, which he produced. And that if those words were Treason, they should have been revealed within fourteen daies.

V.

March
28.

That according to such his Declarations and Speeches, the said Earl of *Strafford* did use and exercise a power above, and against, and to the subversion of the fundamental Laws, and established Government of the said Realm of *Ireland*, extending such his power to the Goods, Free-holds, Inheritances, Liberties and Lives of his Majesties Subjects of the said Realm, viz. The said Earl of *Strafford* the twelfth day of *December*, *Anno Dom.* 1635. in the time of full peace, did in the said Realm of *Ireland*, give and procure to be given against the Lord *Mount-Norris* (then and yet a Peer of *Ireland*, and then Vice-treasurer and Receiver General of the Realm of *Ireland*, and one of the Principal Secretaries of State, and Keeper of the Privy Signet of the said Kingdom) a sentence of death by a Council of War called together by the said Earl of *Strafford*, without any Warrant or Authority of Law, or offence deserving any such punishment. And he the said Earl did also at *Dublin* within the said Realm of *Ireland*, in the Month of *March* in the fourteenth year of his Majesties Reign, without any legal or due proceedings or Trial, give or cause to be given, a sentence of death against one other of his Majesties Subjects, whose name is yet unknown, and caused him to be put to death in execution of the said sentence.

The Earl's Answer.

That there was then a standing Army in *Ireland*, and Armies cannot be governed but by Martial Law: that it hath been put in constant practice with former Deputies; that had the sentence been unjustly given by him, the crime could amount but to Felony at most, for which he hoped he might as well expect pardon from his Majesty, as the Lord *Conway* and Sir *Jacob Aspley* had for doing the like in the late Northern Army.

That he neither gave sentence, nor procured it against the Lord *Mount-Norris*, but only desired Justice against the Lord for some affront done to him as he was Deputy of *Ireland*.

That the said Lord was judged by a Council of War, wherein he sate bare all the time, and gave no suffrage against him; that also to evidence himself a party, he caused his Brother Sir *George Wentworth*, in regard of the nearness of blood, to decline all acting in the process.

VI.

That the said Earl of *Strafford* without any legal proceedings, and upon a Paper Petition of *Richard Rolstone*, did cause the said Lord *Mount-Norris* to be disseised and put out of possession of his Free-hold and Inheritance of his Mannor of *Tymore* in the County of *Armagh*, in the Kingdom of *Ireland*, the said Lord *Mount-Norris* having been two years before in quiet possession thereof.

The Earl's Answer.

That he conceived the Lord *Mount-Norris* was legally divested of his possessions, there being a suit long depending in Chancery, and the Plaintiff complaining of delay, he upon the Complainants Petition called unto him the Master of the Rolls, Lord Chancellor, and Lord Chief Justice of the Common Pleas, and upon proofs in Chancery decreed for the Plaintiff. Wherein he said he did no more, than what other Deputies had done before him.

VII.

That the said Earl of *Strafford*, in the Term of Holy Trinity, in the thirteenth year of his now Majesties Reign, did cause a Case commonly called, *The Case of Tenures upon defective Titles*, to be made and drawn up without any Jury or Trial, or other legal process, and without the consent of parties, and did then procure the Judges of the said Realm of *Ireland* to deliver their Opinions and Resolutions to that case, and by colour of such Opinions, did without any legal proceeding, cause *Thomas Lord Dillon*, a Peer of the said Realm of *Ireland*, to be put out of possession of divers Lands and Tenements, being his Freehold in the County of *Mago* and *Rosecomen* in the said Kingdom, and divers others of his Majesties Subjects to be also put out of possession, and disseised of their Free-hold by colour of the same resolution, without legal proceedings, whereby many hundreds of his Majesties Subjects were undone, and their Families utterly ruined.

The Earl's Answer.

That the Lord *Dillon* with others producing his Patent according to a Proclamation on the behalf of his Majesty, the said Patent was questionable, upon which a Case was drawn and Argued by Counsel, and the Judges delivered their Opinions. But the Lord *Dillon* or any other, was not bound thereby, nor put out of their possessions, but might have traversed the Office, or otherwise have legally proceeded, notwithstanding the said Opinion.

VIII.

That the said Earl of *Strafford* upon a Petition exhibited in *October*, 1635. by *Thomas Hibbotts* against Dame *Mary Hibbotts* Widow, to him the said Earl of *Strafford*, recommended the said Petition to the Council Table of *Ireland*, where the most part of the Council gave their Vote and Opinion for the said Lady, but the said Earl finding fault herewith, caused an Order to be entered against the said Lady, and threatened her, that if she refused to submit thereunto, he would imprison her, and fine her five hundred pound; that if she continued obstinate, he would continue her Imprisonment, and double her Fine every Month by Month, whereof she was enforced to relinquish her Estate in the Land questioned in the said Petition, which shortly was conveyed to Sir *Robert Meredith*, to the use of the said Earl of *Strafford*.

And

Anno
1640.
And the said Earl in like manner did imprison divers others of his Majesties Subjects upon pretence of disobedience to his Orders and Decrees, and other illegal Commands by him made for pretended Debts, Titles of Lands, and other Causes, in an arbitrary and extrajudicial Course, upon Paper Petitions to him preferred, and no other Cause legally depending.

The Earl's Answer.

That true it is, he had voted against the Lady *Hibbotts*, and thought he had reason so to do, the said Lady being discovered, by fraud and circumvention, to have bargained for Lands of a great value, for a small Sum. And he denied that the said Lands were after sold to his use, or that the major part of the Council Board voted for the Lady; the contrary appearing by the Sentence under the Hand of the Clerk of the Council: which being true, he might well threaten her with Commitment, in case she disobeyed the said Order. Lastly, Were it true that he were criminal therein, yet were the offence but a misdemeanour, no Treason.

IX.

April 1. That the said Earl of *Strafford*, the Sixteenth day of *February*, in the Twelfth Year of his now Majesties Reign, assuming to himself a Power above and against Law, took upon him by a General Warrant under his Hand, to give power to the Lord Bishop of *Down and Connor*, his Chancellor, or Chancellors, and their several Officers thereto to be appointed, to Attach and Arrest the Bodies of all such of the meaner and poorer sort, who after citation should either refuse to appear before them, or appearing, should omit, or deny to perform, or undergo all lawful Decrees, Sentences, and Orders issued, imposed or given out against them, and them to commit and keep in the next Goal, until they should either perform such Sentences, or put in sufficient Bail to shew some reason before the Council Table, of such their contempt and neglect: And the said Earl, the day and year last mentioned, signed and issued a Warrant to that effect, and made the like Warrant to send to all other Bishops and their Chancellors in the said Realm of *Ireland* to the same effect.

The Earl's Answer.

That such Writs had been usually granted by former Deputies to Bishops in *Ireland*; nevertheless, being not fully satisfied with the convenience thereof, he was sparing in granting of them, until being informed that divers in the Diocese of *Down* were somewhat refractory, he granted Warrants to that Bishop; and hearing of some disorders in the execution, he called them in again.

X.

April 2. That the said Earl of *Strafford*, being Lord Lieutenant, or Deputy of *Ireland*, procured the Customs of the Merchandize exported out, and imported into that Realm to be farmed to his own use.

And in the Ninth Year of his now Majesties Reign, he having then interest in the said Customs (to advance his own gain and lucre) did cause and procure the Native Commodities of

Ireland, to be rated in the Book of Rates for the Customs (according to which the Customs were usually gathered) at far greater values and prices, than in truth they were worth; (that is to say) every hide at 20 shillings, which in truth was worth but five shillings, every stone of Wool at Thirteen shillings four pence, though the same ordinarily were worth but five shillings, at the utmost but nine shillings; by which means the Custom which before was but a twentieth part of the true value of the Commodity, was enhanced sometimes to a fifth part, and sometimes to a fourth, sometimes to a third part of the true value, to the great oppression of the Subjects, and decay of Merchandize.

The Earl's Answer.

That his Interest in the Customs of *Ireland* accrued to him by the Assignment of a Lease from the Dutchess of *Buckingham*: That the Book of Rates, by which the Customs were gathered, was the same which was established by the Lord Deputy *Faulkland*, Anno 1628. some years before he was employed thither. That as he hath been just and faithful to his Master the King, by encreasing his Revenue; so hath he also much bettered the Trade and Shipping of that Kingdom.

XI.

That the said Earl, in the Ninth Year of his now Majesties Reign, did by his own will and pleasure, and for his own lucre, restrain the Exportation of the Commodities of that Kingdom without his Licence, as namely *Pipe-staves*, and other Commodities, and then raised great Sums of Money for licensing of Exportation of those Commodities, and dispensation of the said restraints imposed on them, by which means the *Pipe-staves* were raised from Four pound ten shillings, or five pound per thousand, to ten pound, and sometimes eleven pound per thousand: And other Commodities were enhanced in the like proportion, and by the same means by him the said Earl.

The Earl's Answer.

That *Pipe-staves* were prohibited in King *James* his time, and not Exported but by licence, paying Six shillings eight pence a thousand, and that he had not raised so much thereby to himself, as his Predecessors had done for such Licences.

XII.

That the said Earl being Lord Deputy of *Ireland*, on the Ninth day of *January*, in the Thirteenth year of his Majesties Reign, did then, under colour to regulate the Importation of Tobacco into the said Realm of *Ireland*, issue a Proclamation in his Majesties Name; prohibiting the Importation of Tobacco without licence of him and the Council, therefrom and after the First day of *May*, Anno Dom. 1638. After which restraint, the said Earl, notwithstanding the said restraint, caused divers great quantities of Tobacco to be Imported to his own use, and freighted divers Ships with Tobacco, which he Imported to his own use: And that if any Ship brought Tobacco into any Port there, the said Earl and his Agents used to buy the same to his own use, at their own price.

price. And should the Owners refused to let him have the same at under values, then they were not permitted to vend the same; by which undue means the said Earl having gotten the whole Trade of Tobacco into his own hands, he sold it at great and excessive prices, such as he list to impose for his own profit.

And the more to assure the said *Monopoly of Tobacco*, he the said Earl, on the Three and twentieth day of *February*, in the Thirteenth year aforesaid, did issue another Proclamation, commanding that none should put to sale any Tobacco by whole-sale, from and after the last day of *May* then next following, but what should be made up into Rolls, and the same sealed, with two Seals by himself appointed, one at each end of the Roll. And such as was not sealed to be seized, appointing six pence the pound for a reward to such persons as should seize the same: And the persons in whose custody the unsealed Tobacco should be found, to be committed to Goal: Which last Proclamation was covered by a pretence of the restraining of the sale of unwholesome Tobacco, but it was truly to advance the said Monopoly.

Which Proclamation the said Earl did rigorously put in execution, by seizing the Goods, fining, imprisoning, whipping, and putting the Offenders against the same Proclamation, on the Pillory; as namely, *Barnaby Hubbard, Edward Coven, John Tumen*, and divers others: And made the Officers of State, and Justices of Peace, and other Officers, to serve him in compassing and executing these unjust and undue courses. By which Cruelties and unjust Monopolies, the said Earl raised 100000 pounds *per Annum* gain to himself. And yet the said Earl, though he enhanced the Customs, where it concerned the Merchants in general, yet drew down the impost formerly taken on Tobacco, from six pence the pound to three pence the pound, it being for his own profit so to do. And the said Earl, by the same, and other rigorous and undue means, raised several other Monopolies and unlawful exactions for his own gain, *viz.* on Starch, Iron-pots, Glasses, Tobacco-pipes, and several other Commodities.

The Earl's Answer.

That before his time the King had but 10. or 20*l.* *per Annum* for that Custom, which now yielded 10000*l.* For the Proclamation, it was not set out by his means principally, or for his private benefit, but by consent of the whole Council. The prices of Tobacco not exceeding two shillings the pound. And this he conceives cannot be made Treason, were all the Article granted, but only a Monopoly, for which he was to be fined.

XIII.

April 3. That Flax being one of the principal and native Commodities of that Kingdom of *Ireland*, the said Earl having gotten great quantities thereof into his hands, and growing on his own Lands, did issue out several Proclamations, *viz.* One dated the One and twentieth day of *May*, in the Eleventh of his Majesties Reign, and the other dated the One and thirtieth of *January*, in the same year, thereby prescribing and enjoying the working of Flax into Yarn and

Thread, and the ordering of the same in such ways, wherein the Natives of that Kingdom were unpractised and unskilful: Which Proclamations so issued, were, by his Commands and Warrants to his Majesties Justices of Peace, and other Officers, and by other rigorous means, put in execution, and the Flax wrought or ordered in other manner then as the said Proclamation prescribed, was seized and imployed to the use of him and his Agents, and thereby the said Earl endeavoured to gain, and did gain in effect the sole sale of that Native Commodity.

The Earl's Answer.

That he did endeavour to advance the Manufacture of Linnen, rather than of Woollen, because the last would be the greater detriment to *England*. That the Primate of *Ireland*, the Archbishop of *Dublin*, Chancellor *Lofin*, and the Lord *Mount-Norris*, all of the Council, and Subscribers of the Proclamation, were as liable to the Charge as himself. That the reducing of that Nation by Orders of the Council-Board, to the English Customs, from their more savage Usages, as drawing Horses by their Tails, &c. had been of former practice: That the Project was of so ill avail to him, as he was the worse for the Manufacture thirty thousand pounds at least, by the Loom he had set up at his own Charge.

The XIV. Article was not urged.

XV.

That the said Earl of *Strafford* traiterously and wickedly devised and contrived by force of Arms, in a warlike manner, to subdue the Subjects of the said Realm of *Ireland*, to bring them under his Tyrannical Power and Will, and in pursuance of his wicked and traiterous purposes aforesaid, the said Earl of *Strafford*, in the Eighth year of his Majesties Reign, did by his own Authority, without any warrant or colour of Law, tax and impose great Sums of Money upon the Towns of *Balsmore, Baudenbridge, Talowe*, and divers other Towns and places in the said Realm of *Ireland*, and did cause the same to be levied upon the Inhabitants of those Towns by Troops of Souldiers, with Force and Arms, in a warlike manner. And on the Ninth day of *March*, in the Twelfth year of his now Majesties Reign, traiterously did give Authority unto *Robert Savill* a *Serjeant at Arms*, and to the Captains of the Companies of Souldiers, in several parts of that Realm, to send such numbers of Souldiers to lye on the Lands and Houses of such as would not conform to his Orders, until they should render obedience to his said Orders and Warrants, and after such submission (and not before) the said Souldiers to return to their Garrisons. And did also issue the like Warrants unto divers others, which Warrants were in warlike manner, with Force and Arms, put in execution accordingly, and by such warlike means did force divers of his Majesties Subjects of that Realm to submit themselves to his unlawful Commands.

And in the said Twelfth Year of his Majesties Reign, the said Earl of *Strafford* did traiterously cause certain Troops of Horse and Foot, armed in warlike manner, and in warlike array, with Force and Arms, to expel *Richard Butler* from the possession

Anno 1640. possession of *Castle-Gumber*, in the Territory of *Idaugh*, in the said Realm of *Ireland*; and did likewise, and in like warlike manner, expel divers of his Majesties Subjects from their Houses, Families, and Possessions, as namely *Edward Brennan*, *Owen Oberman*, *Patrick Oberman*, *Sir Cyprian Horsfield*, and divers others, to the number of about a hundred Families, and took and imprisoned them and their Wives, and carried them Prisoners to *Dublin*, and there detained them until they did yield up, surrender, or release their respective Estates and Rights.

And the said Earl, in like warlike manner, hath, during his Government of the said Kingdom of *Ireland*, subdued divers others of his Majesties Subjects ease to his will, and thereby, and by the means aforesaid, hath levied War within the said Realm, against his Majesty and his Liege-people of that Kingdom.

Testified by Serjeant Savill.

The Earl's Answer.

That nothing hath been more ordinary in *Ireland*, than for the Governours to put all manner of Sentences in execution by the help of Souldiers; that *Grandison*, *Falkland*, *Chichester*, and other Deputies frequently did it. [*Sir Arthur Terringham* to this point deposed, That in *Falklands* time he knew twenty Souldiers assailed upon one man, for refusing to pay sixteen shillings.] That his Instructions for executing his Commission, were the same with those formerly given to the Lord *Falkland*, and that in both there is express warrant for it. That no testimony produced against him doth evidently prove he gave any Warrant to that effect; and that Serjeant *Savill* shewed only the Copy of a Warrant, not the Original it self, which he conceived could not make faith in case of life and death in that High Court, especially it being not averred upon Oath to agree with the Original, which should be upon record. That he conceived he was for an Irish Custom to be tried by the Peers of that Kingdom.

This Article pinch'd the Earl so close, as notwithstanding his Answer, the Commons thought the evidence so strong against him, and were so confident that the Fact was Treason, as they were very desirous to proceed to vote upon that very point; but the Lords withdrawing, returned Answer, That they could not agree to it, but desired them to go on to the remaining Articles.

XVI.

April 5.

That the said Earl of *Strafford*, the Two and twentieth of *February*, in the Seventh year of his now Majesties Reign, intending to oppress the said Subjects of *Ireland*; did make a proposition, and obtained from his Majesty an allowance, that no complaint of injustice or oppression done in *Ireland*, should be received in *England* against any, unless it first appeared that the party made first his address to him the said Earl: And the said Earl having by such usurped tyrannical and exorbitant Power, expressed in the former Articles, destroyed the Peers and other Subjects of that Kingdom of *Ireland*, in their Lives, Consciences; Land; Liberties, and Estates; the said Earl, to the intent the better to maintain and strengthen his Power, and to bring the People into a disaffecti-

on of his Majesty, as aforesaid; did use his Majesties name in the execution of his said power. And to prevent the Subjects of that Realm of all means of complaints to his Majesty, and of redress against him and his Agents, did issue a Proclamation bearing date the Seventeenth day of *September*, in the Eleventh year of his Majesties Reign, thereby commanding all the Nobility, Undertakers and others, who held Estates and Offices in the said Kingdom (except such as were employed in his Majesties Service, or attending in *England* by his special Command) to make their personal residence in the said Kingdom of *Ireland*, and not to depart thence without licence of himself. And the said Earl hath since issued other Proclamations to the same purpose, by means whereof the Subjects of the said Realm are restrained from seeking relief against the oppressions of the said Earl, without his licence: Which Proclamation the said Earl hath by several rigorous ways, as by Fine, Imprisonment, and otherwise, put in execution on his Majesties Subjects, as namely, one — *Parry*, and others, who came over only to complain of the exorbitances and oppressions of the said Earl.

Testified by the Earl of *Desmond*, the Lord *Roch*, *Marcastee*, and *Parry*.

The Earl's Answer.

That the Deputy *Falkland* had set out the same Proclamation. That the same restraint was contained in the Statute of 25 of *Hen. 6.* upon which the Proclamation was founded. That he had the King's express Warrant for the Proclamation. That he had also power to do it by the Commission granted him; and that the Lords of the Council, and three Justices, not only yielded, but pressed him unto it. That it was done upon just cause; for, had the Ports been open, divers would have taken liberty to go to *Spain*, to *Doway*, *Rhemes*, or *St. Omers*, which might have proved of mischievous consequence to the State. That the Earl of *D'Esmond* stood, at the time of his restraint, charged with Treason before the Council of *Ireland*, for practising against the life of one *Sir Valentine Coke*. That the Lord *Roch* was then a Prisoner for Debt in the Castle of *Dublin*, and therefore incapable of a licence. That *Parry* was not fined for coming over without licence, but for several Contempts against the Council-Board in *Ireland*, and that in his Sentence he had but only a casting voice, as the Lord Keeper in the *Star-Chamber*.

The XVII. and XVIII. Articles were not insisted upon.

XIX.

That the said Earl having taxed and levied the said Impositions, and raised the said Monopolies; and committed the said Oppressions in his Majesties Name; and as by his Majesties Royal Command, he the said Earl, in *May* the Fifteenth year of his Majesties Reign, did of his own Authority contrive and frame a new and unusual Oath; by the purport whereof, among many other things, the party taking the said Oath; was to swear that he should not protest against any of his Majesties Royal Commands, but submit themselves in all obedience thereunto. Which Oath he so contrived, to enforce the same on the Subjects of the Scottish Nation inhabiting in *Ireland*,

Anno 1640. land, and out of a hatred to the said Nation, and to put them to a discontent with his Majesty and his Government there, and compelled divers of his Majesties said Subjects there to take the said Oath; some he grievously fined and imprisoned, and others he destroyed and exiled; and namely, the Tenth of October, *Anno Dom. 1639.* he fined *Henry Steward* and his Wife, who refused to take the said Oath, five thousand pounds a-piece, and their two Daughters and *James Gray* three thousand pounds a-piece, and imprisoned them for not paying the said Fines. The said *Henry Steward's* Wife and Daughters, and *James Gray*, being the King's Liege people of the Scottish Nation, and divers others he used in the like manner: And the said Earl upon that occasion did declare, that the said Oath did not only oblige them in point of Allegiance to his Majesty, and acknowledgment of his Supremacy only, but to the Ceremonies and Government of the Church established, or to be established by his Majesties Royal Authority; and said, *That the refusers to obey, he would prosecute to the blood.*

The Earl's Answer.

That the Oath was not violently enjoined by him upon the Irish Scots, but framed in compliance with their own express Petition, which Petition is owned in the Proclamation, as the main impulsive to it. That the same Oath not long after was prescribed by the Council of England. That he had a Letter under his Majesties own Hand, ordering it to be prescribed as a Touch-stone of their Fidelity. As to the greatness of the Fine imposed upon *Steward*, and others, he conceived it was not more then the heinousness of their offence deserved; yet had they petitioned, and submitted the next day, that would wholly have been remitted.

XX.

That the said Earl in the Fifteenth and Sixteenth years of his Majesties Reign, and divers years past, laboured and endeavoured to beget in his Majesty an ill opinion of his Subjects, namely those of the Scottish Nation, and divers and sundry times, and especially since the pacification made by his Majesty with his said Subjects of Scotland, in Summer, in the Fifteenth year of his Majesties Reign, he the said Earl did labour and endeavour to perswade, incite, and provoke his Majesty to an offensive War against his said Subjects of the Scottish Nation, and the said Earl, by his counsel, actions, and endeavours hath been, and is a chief Incendiary of the War and Discord between his Majesty and his Subjects of England, and the said Subjects of Scotland, and hath declared, and advised his Majesty, that the Demand made by the Scots in this Parliament, were a sufficient cause of War against them. The said Earl having formerly expressed the height and rancor of his mind towards his Subjects of the Scottish Nation, viz. the Tenth day of October, in the fifteenth year of his Majesties Reign, he said, *That the Nation of the Scots were Rebels and Traitors:* And he being then about to come to England, he then further said, *That if it pleased his Master (meaning his Majesty) to send him back again, he would root out of the said Kingdom (meaning the Kingdom of Ireland) the Scottish Nation both root and branch.* Some Lords, and others who had taken the said Oath

in the precedent Article, only excepted. And the said Earl hath caused divers of the said Ships and Goods of the Scots to be stayed, seized, and molested, to the intent so set on the said War. *Car. 16.*

The Earl's Answer.

That he called all the Scottish Nation Traitors and Rebels, no one proof is produced, and though he is hasty in Speech, yet was he never so defective of Reason, as to speak so like a mad man: For he knew well his Majesty was a Native of that Kingdom, and was confident many of that Nation were of as Heroick Spirits, and as faithful and loyal Subjects as any the King had. As to the other words, of rooting out the Scots both Root and Branch, he conceives a short Reply may serve, they being proved by a single testimony only, which can make no sufficient faith in case of life. Again, the Witnesses was very much mistaken, if not worse, for he deposeth that these words were spoken the Tenth day of October in Ireland, whereas he was able to evidence, he was at that time in England, and had been so near a Month before.

The XXI. and XXII. Articles were not urged.

XXIII.

That upon the Thirteenth day of April last, the Parliament of England met, and the Commons House (then being the representative Body of all the Commons in the Kingdom) did according to the trust reposed in them, enter into debate and consideration of the great grievances of this Kingdom, both in respect of Religion, and the publick Liberty of the Kingdom, and his Majesty, referring chiefly to the said Earl of *Strafford*, and the Archbishop of *Canterbury*, the ordering and disposing of all matters concerning the Parliament, He the said Earl of *Strafford*, with the assistance of the said Archbishop, did procure his Majesty, by sundry Speeches and Messages, to urge the said Commons House to enter into some resolution for his Majesties Supply, for maintenance of his War against his Subjects of Scotland, before any course was taken for the relief of the great and pressing grievances, wherewith this Kingdom was then afflicted. Whereupon, a Demand was then made from his Majesty, of twelve Subsidies, for the release of Ship-money only; and while the said Commons then assembled (with expressions of great affection to his Majesty and his Service) were in debate and consideration of some Supply, before resolution by them made, He the said Earl of *Strafford*, with the help and assistance of the said Archbishop, did procure his Majesty to dissolve the last Parliament, upon the fifth day of May last: And upon the same Day, the said Earl of *Strafford* did treacherously, falsely, and maliciously endeavour to incense his Majesty against his loving and faithful Subjects, who had been Members of the said House of Commons, by telling his Majesty, they had denied to supply them. And afterward upon the same, did treacherously and wickedly counsel and advise his Majesty to this effect, viz. *That having tried the affections of his people, he was loose and absolved from all Rules of Government, and was to do every thing that power would admit, and that his Majesty had tried all ways,* and

and was refused, and should be acquitted both of God and Man, and that he had an Army in Ireland, (meaning the Army above-mentioned, consisting of Papists, his Dependents, as is aforesaid) which he might employ to reduce this Kingdom to obedience.

The Earl's Answer.

That he was not the principal cause of dissolving the last Parliament; for before he came to the Council Table, it was voted by the Lords to demand twelve Subsidies, and that Sir Henry Vane was ordered to demand no less; but he coming in the interim, he perswaded the Lords to vote it again, declaring to his Majesty (then present) and them, the danger of the breach of the Parliament: whereupon it was again voted, *That if the Parliament would not grant twelve Subsidies, Sir Henry should descend to eight, and rather then fail, to six.* But Sir Henry not observing his Instructions, demanded twelve only, without abatement, or going lower. That the height of this Demand, urged the Parliament to deny, and their Denial moved his Majesty to dissolve the Parliament: so that the chief occasion of the breach thereof, was, as he conceived, Sir Henry Vane. He confesseth, That at the Council Table he advised the King to an offensive War against the Scots; but it was not until all fair means to prevent a War had been first attempted. Again, others were as much for a defensive War, and it might be as free to vote one, as the other. Lastly, Votes at a Council-Board are but bare Opinions; and Opinions, if pertinaciously maintained, may make an Heretick, but never can a Traytor.

The XXIV. Article not urged.

XXV.

That not long after the dissolution of the said last Parliament, (*viz.* in the Months of May and June) he the said Earl of Strafford did advise the King to go on rigorously in levying of the Ship-money, and did procure the Sheriffs of several Counties to be sent for, for not levying the Ship-money, divers of which were threatened by him to be sued in the *Star-Chamber*; and afterwards by his advice were sued in the *Star-Chamber*, for not levying the same; and divers of his Majesties loving Subjects were sent for and imprisoned by his advice, about that and other illegal payments.

And a great Loan of a hundred thousand pounds was demanded of the City of London, and the Lord Mayor and the Aldermen, and the Sheriffs of the said City, were often sent for by his advice to the Council Table, to give an account of their proceedings in raising of Ship-money, and furthering of that Loan, and were required to certify the names of such Inhabitants of the said City as were fit to lend, which they with much humility refusing to do, he the said Earl of Strafford did use these or the like Speeches: *viz.* *That they deserved to be put to Fine and Ransom, and that no good would be done with them, till an example were made of them, and that they were laid by the heels, and some of the Aldermen hanged up.*

The Earl's Answer.

That there was a present necessity for Money; that all the Council-Board had voted with, Yea before him. That there was then a Sentence in the *Star-Chamber* upon the Opinion of all the

Judges, for the legality of the Tax of Ship-money, and he thought he might advise the King to take, what the Judges had declared was by Law his own. He confessed, that upon refusal of so just a Service, the better to quicken the Citizens to the payment of Ship-money, he said, *They deserved to be fined.* Which words might perhaps be circumspectly delivered, but he conceives cannot amount to Treason, especially when no ill consequence followed upon them; and it would render men in a sad condition, if for every halty word, or opinion given in Counsel, they should be sentenced as Traytors. But that he said, *it were well for the King's Service, if some of the Aldermen were hanged up,* he utterly denieth, (as well he might, the words being spoken by the Lord Cottington). Nor is it proved by any, but Alderman Garway, who is at best but a single testimony, and therefore no sufficient evidence in case of life.

XXVI.

That the said Earl of Strafford, by his wicked counsel, having brought his Majesty into excessive Charges without any just cause, he did in the Month of July last (for the support of the said great Charges) counsel and approve two dangerous and wicked Projects, *viz.*

To seize upon the Bullion and the Money in the Mint.

And to imbase his Majesties Coin with the Mixtures of Brass.

And accordingly he procured One hundred and thirty thousand pounds, which was then in the Mint, and belonging to divers Merchants, strangers and others, to be seized on and stayed to his Majesties use. And when divers Merchants of London, Owners of the said Bullion, came to his House to let him understand the great mischief that course would produce here, and in other parts, what prejudice it would be to the Kingdom, by discrediting the Mint, and hindring the importation of Bullion; he the said Earl told them, *That the City of London dealt undutifully and unthankfully with his Majesty, and that they were more ready to help the Rebels, than to help his Majesty; and that if any hurt came to them, they might thank themselves; and that it was the course of other Princes, to make use of such Moneys to serve their occasions.*

And when in the same Month of July the Officers of his Majesties Mint came to him, and gave him divers Reasons against the imbasement of the said Money, he told them *That the French King did use to send Commissaries of Horse with Commission to search into nuns Estates, and to peruse their Accounts, that so they may know what to levy of them by force; which they did accordingly levy:* And turning to the Lord Cottington, then present, said, *That this was a point worthy his Lordships consideration.*

The Earl's Answer.

That he expected some proofs to evidence the two first particulars, but hears of none. For the following words, he confessed, probably they might escape the door of his lips. Nor did he think it much amiss, considering their present posture

VVVVV

flure

Anno 1640. *W*sture, to call that Faction *Rebels*. As for the last words objected against him in that Article, he said, That being in Conference with some of the *Londoners*, there came to his hands at that instant a Letter from the Earl of *Leicester*, then at *Paris*, wherein were the *Gazets* inclosed, relating that the Cardinal had given order to levy Money by Souldiers. This he only told the Lord *Cottington* standing by, but made not the least application thereof to the English Affairs.

XXVII.

That in or about the Month of *August* last, he was made Lieutenant General of all his Majesties Forces in the Northern parts against the Scots, and being at *York*, did in the Month of *September*, by his own Authority, and without any lawful Warrant, impose a Tax on his Majesties Subjects in the County of *York*, of 8 *d. per diem*, for maintenance of every Souldier of the Trained Bands of that County, which sums of Money he caused to be levied by force. And to the end to compel his Majesties Subjects out of fear and terrour to yield to the payment of the same, He did declare that he would commit them that refused the payment thereof, and the Souldiers should be satisfied out of their Estates; and they that refused it, were in very little better condition than of High Treason.

The Earl's Answer.

That his Majesty coming from *York*, it was thought necessary, in regard the Enemy was upon the Borders, to keep the Trained Bands on foot for defence of the County: And therefore the King directed him to write to the Freeholders in *Yorkshire*, to declare what they would do for their own defence; that they freely offered a Months pay, nor did any man grudge against it. Again, it was twice propounded to the great Council of Peers at *York*, that the King approved it as a just and necessary Act, and none of the Council contradicted it, which he conceived seemed a tacit allowance of it. That though his Majesty had not given him special order therein, nor the Gentry had desired it, yet he conceived he had power enough to impose that Tax by virtue of his Commission. But he never said, That the Refusers should be guilty of little less than High Treason, which being proved by Sir *William Ingram*, he was but a single testimony, and one who had formerly mistaken himself in what he had deposed.

XXVIII.

That in the Months of *September* and *October* last, he the said Earl of *Strafford* being certified of the Scottish Army coming into the Kingdom, and he the said Earl of *Strafford*, being Lieutenant General of his Majesties Army, did not provide for the defence of the Town of *Newcastle*, as he ought to have done, but suffered the same to be lost, that so he might the more incense the English against the Scots. And for the same wicked purpose, and out of a malicious desire to ingage the Kingdoms of *England* and *Scotland* in a National and bloody War, he did write to the Lord *Conway* the General of the Horse, and under the said Earl's Command, that he should fight with the Scottish Army at the passage over the *Tyne*, whatsoever should follow, notwithstanding that

the said Lord *Conway* had formerly by Letters informed him the said Earl, that his Majesties Army then under his command, was not of force sufficient to encounter the Scots, by which advice of his, he did, contrary to the duty of his place, betray his Majesties Army then under his Command, to apparent danger and loss. *Car. 16.*

The Earl's Answer.

That he admired how in the third Article he being charged as an Incendiary against the Scots, is now in this Article made their Confederate, by betraying *Newcastle* into their hands. But to answer more particularly, he said, That there was at *Newcastle* the 24th of *August* ten or twelve thousand foot, and two thousand Horse, under the Command of the Lord *Conway*, and Sir *Jacob Astly*, and that Sir *Jacob* had written to him concerning the Town of *Newcastle*, that it was fortified, which also was never under his particular care, and for the passage over the River of *Tyne*, his Majesty sent special directions to the Lord *Conway* to secure it, and therefore that Lord is more (as he conceives) responsible for that miscarriage than himself.

The Earl having answered every particular, the Commons pray that if he had any thing farther to say in his own defence, he might do it presently; but the Earl desires leave till the next day, which was with difficulty granted. In the night his Lordship was taken with a terrible fit of the Stone, and continued so ill that day, that he could not possibly stir abroad, but in sudden danger of his life; the Commons deeming (for they were ever charitable, and fair in their constructions of the Earl) this to be counterfeit, meerly to gain time, whereupon the Lords ordered some of their House to go and see the Earl in the *Tower*: When they came to him, they found him ready and desirous to attend their Lordships and his Trial, for that he had by Physick obtain'd ease and ability to stir abroad. But he was not required to appear before the Tenth of *April* following, when Mr. *Pym* produced supplemental proofs upon the 23d. Article, founded upon some Notes taken by Sir *Henry Vane* Senior, Secretary of State, of some expressions of the Lord Lieutenant at the Council Table, *May* 5. 1640. the discovery whereof was, as was given out, in this manner following.

Secretary *Vane*, upon some occasion delivered to his Son Sir *Henry Vane* the Key of a Cabinet, to fetch some Papers laid therein. In this Cabinet young Sir *Henry Vane* finds a Key of another Cabinet, which he openeth, and there accidentally lights upon these Notes, who presently gives thereof an account to Mr. *Pym*, and he to the House of Commons. *Secretary Vane's Notes, how discovered.*

These Notes being thus brought to light, were read, the Title of which was;

No danger of a War with Scotland, if Offensive, not Defensive.

Then followed the Opinions interlocutory and by way of Dialogue.

K.C.H

Anno.

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The Notes
themselves

K. C. H. How can we undertake Offensive War, if we have no more Money?

L. L. IR. Borrow of the City 100000 l. Go on rigorously to leavy Ship-money. Your Majesty having tried the affection of your People, you are absolved and loose from all rule of Government, and to do what Power will admit. Your Majesty have tried all ways, and being refused, shall be acquitted before God and Man. And you have an Army in Ireland, that you may employ to reduce THIS Kingdom to obedience, for I am confident the Scots cannot hold out five Months.

L. ARCH. You have tried all ways, and have always been denied, it is now lawful to take it by force.

L. COTT. Leagues abroad there may be made for the defence of the Kingdom. The Lower House are weary of the King and Church. All ways shall be just to raise Money by in this inevitable Necessity, and are to be used being lawful.

L. ARCH. For an Offensive, not any Defensive War.

L. L. IR. The Town is full of Lords, put the Commission of Array on foot, and if any of them stir, we will make them smart.

To these the Earl Answered,

That being a Privy Counsellor, he thought he might have as free a Vote as another; that his Opinion was no other then what he thought the present exigent required; that it were hard measure for the Opinions or Discourses resulting from such Occasions, and at such Debates, to be prosecuted under the notion of Treason. And whereas the main dint of this Accusation received derivation from his suggested saying, *The King had an Army in Ireland; which he might employ here to reduce this Kingdom;* He answereth,

First, That it is proved by the solitary testimony of one man (Secretary Vane) which is not of validity enough in Law to create faith in a matter of Debt, much less in point of life and death.

Secondly, That the Secretaries Deposition was exceeding dubious; upon two examinations he could not remember any such words, and the third time his testimony was not positive, but that I spake those words; or the like; and words may be very like in sound, yet differ much in sense, as in the words of my Charge, *here for there, and that for this*, puts an end to the Controversie.

Thirdly, There were present at this Debate but eight Privy Counsellors in all, two whereof (the Archbishop of Canterbury, and Secretary Windbank) are not to be produced; Sir Henry affirms the words, I deny them: Then there remain four still to give in Evidence; viz. the Marquess Hamilton; the Earl of Northumberland, the Lord Treasurer, and the Lord Cottington; who have all declared upon their Honours, that they never heard me speak those words, nay nor the like.

Lastly, Suppose (though I grant it not) that I spake those words, yet cannot the word *This* rationally imply *England*, because the Debate was concerning *Scotland*, as is yielded on all hands, because *England* was not out of the way of obedience, as the Earl of Clare well observed, and because there never was any the least intention of landing the Irish Army in *England*, as the foresaid Lords of the Privy Council are able to attest.

And now all things coming to close, the Lord Steward acquaints the Earl, that if his Lordship had any thing further to say in his own defence, he might proceed, which his Lordship did, and made a summary repetition of his former Answers and Defence; and in the close, concluded with the Address to their Lordships about a new sort of Treason lately discovered, called *Accumulative Treason*, of which he was said to be guilty. For, says he,

My Lords,

Here remains another kind of Treason that I should be guilty of, for endeavouring to subvert the Fundamental Laws of the Land. That this should be Treason together, that is not Treason in one part; a Treason accumulative, that when all will not do it alone, being weaved up with others, it should do it, seems very strange. Under favour, my Lords, I conceive there is neither Statute nor Common Law, which doth declare this endeavouring to subvert the Fundamental Laws of the Land to be High Treason; for I have been diligent in the inquiry, as you know is deeply concerns me, and could never discover it. It is hard to be questioned for Life and Honour upon a Law, that cannot be shewn; for it is a Rule in Sir Edward Coke, *De non apparentibus & non existentibus eadem est ratio*. Jesu! Where hath this fire lain hid so many hundreds of years, without smother, to discover it, till it thus burst forth to consume Me and my Children? That punishment should precede promulgation of a Law, to be punished by a Law subsequent to the Fact, is extreme hard; What man can be safe if this be admitted? My Lords, it is hard in another respect, that there should be no token set by which we should know this Offence, no admonition by which we should avoid it. If a man pass the Thames in a Boat, and split himself upon an Anchor, and no Buoy be floating to discover it, he who overth the Anchor shall make satisfaction; but if a Buoy be set there, every man passeth upon his own peril. Now where is this mark, where the token upon this Crime to declare it to be High Treason. My Lords, be pleased to give that regard to the Peerage of England, as never to expose your selves to such moot-points, such constructive interpretations of Laws, If there must be a trial of Wits, let the subject matter be of somewhat else, than the lives and honours of Peers. It will be wisdom for your selves, for your posterity, and for the whole Kingdom to cast into the fire these bloody and mysterious volumes of constructive and arbitrary Treason, as the Primitive Christians did their Books of Curious Arts, and betake your selves to the plain letter of the Law and Statute, that telleth us what is, and what is not Treason, without being more ambitious to be more learned in the Art of Killing than our Forefathers. It is now full Two hundred and forty years, since any man was touched for this alledged Crime to this Height before my self; let us not awaken these sleeping Lions to our destructions, by raking up a few musty Records, that have lain by the walls so many Ages, forgotten or neglected. May your Lordships please not to add this to my other Misfortunes; for my other Sins beslave me, not for Treason: Let not a President be desired from me, so disadvantageous as this will be in the consequence to the whole Kingdom; Do not, through me, wound the Interest of the Commonwealth. And howsoever these Gentlemen say they speak for the Commonwealth, yet in this particular I indeed speak for it, and shew the

Car. 16.

The Conclusion of
the Earl's
Defence.

inconveniencies and mischiefs which will fall upon it.
Anno For, as it is said in the Statute 1 of Henry 4. No
1640. man will know what to do, or say, for fear of
 such Penalties. Do not put, my Lords, such difficulties upon Ministers of State, that men of Wisdom, of Honour, of Fortune, may not with cheerfulness and safety be employed for the Publick; if you weigh and measure them by Grains and Scruples, the publick Affairs of the Kingdom will be waste, no man will meddle with them who has any thing to lose. My Lords, I have troubled you longer than I should have done, were it not for interest of these dear pledges a Saint in Heaven hath left me. [At this he stopt awhile, offering up some tears to her Ashes.] What I forfeit my self is nothing, but that my indiscretion should extend to my Posterity it woundeth me to the very soul. You will pardon my infirmity, something I should have added, but am not able, therefore let it pass. And now, my Lords, for my self, I have been by the blessing of Almighty God taught, that the afflictions of this present life, are not to be compared to the eternal weight of Glory which shall be revealed hereafter. And so my Lords, even so, with all tranquillity of mind, I freely submit my self to your judgment; and whether that judgment be of life, or death,

—Te Deum laudamus.

The Gentlemen that prosecuted by the Commons order, were, Mr. Jeffrey Palmer, Mr. John Maynard, Mr. Bulstrode Whitlocke, the Lord George Digby, Mr. Oliver St. John, Sir Walter Earle, Mr. John Selden, Mr. John Hampden, Mr. Stred; of these Mr. Selden and the Lord Digby, hearing the Earl's Defence, became Converts, and left the prosecution after the Bill of Attainder was brought into the House. But as to the particular Answers and Replies made, both by the Earl and the Prosecutors, they may be seen in the Continuation of Sir Richard Baker from pag. 485. to pag. 504. and are worth the Readers perusal.

The Earl having finisht his Defence, Mr. Glyn and Mr. Pym began their Harangues, endeavouring to lay all the Load they possibly could upon his shoulders, but all to no purpose, for that the Matters of Fact said to be committed by the Lord Lieutenant, did not fall under the letter of any Statute of Treason; only they urged a Proviso in the Statute of the 25th of Edward the Third, which was repealed 1 Hen. 4.

That because all particular Treasons could not be then defined, therefore what the Parliament should declare to be Treason in time to come should be punished as Treason; within which compass they intend to bring him, and that by Bill of Attainder.

The Earl put upon a point of Law, desires Counsel, which by no means the Commons would assent unto, and notwithstanding all the reason in the World, it was canvassed three days, and at last concluded, that his Counsel should plead such matters as they should be restrained unto.

The Earl Saturday the Seventeenth of April, the Earl
answers appears with his Counsel, Master Lane the Prince's
by Coun- Attorney, Master Gardner Recorder of
sel with London, Master Loe and Master Lightfoot;
satisfaction. Lane argued, That the said Statute of 25

Edward 3. was a Declarative Law, and so not to be interpreted as of consequence, equity, or construction, but by the express Letter only: That it was a Penal Law, and so not to admit of any Constructions or Inferences; for the true nature of Penalties enforce the keeping of known Laws, not of conjectural and dubious. And for the *Salvo*, he affirmed, That in the sixth of Henry 4. the Nobility petitioned the Parliament to limit all Treasons by Statute; in which Parliament, Chapter 10. an Act passed thereupon, that the *Salvo* should be holden repealed in all times to come, nothing to be esteemed Treason, but what was literally contained in the Statute of 25 Edward the Third, nor could the rest of the Counsel speak more then what had been said by Mr. Lane, being so sufficient for matters of Law, unless their Lordships would state any other Questions, to which they were ready to answer; upon which the Court adjourned without prefixing any time of meeting.

The Commons meant it not to meet any more; the Earl had satisfied all curious Observations of his Defence, and the Commons knew it well enough: But they resolved to Attaint him by Bill, which was debated by the Commons the Nineteenth day, and the Earl voted by them guilty of High Treason merely upon the Evidence of Secretary Vane, and his Notes: But upon reading the Bill engrossed in their House the One and twentieth day, it was hardly canvassed by the Poll; the Dissenters being Fifty nine, and my Lord Digby the most eminent, that urged for him, and yet it passed.

That Afternoon, with all expedition it was brought to the Lords, and the Four and twentieth day, they were put in mind to fix a day for reading of it: To which they returned answer, That on Munday and Tuesday after they would not fail, being not over harty to do it then; for it was debated by the Lords to be a Business of very high concernments, and so perplext as necessarily required a conference with the Commons, who put it upon Master St. John the King's Solicitor, to satisfy them, and to justify the Bill by Law, upon Thursday the Nine and Twentieth, and to offer Reasons enforcing them to this way of proceeding against the Earl, who was ordered to be there present.

The Bill of Attainder was as followeth.

Bill of Attainder.

Whereas the Knights, Citizens, and Burgesses of the House of Commons in this present Parliament assembled, have in the Name of themselves, and of all the Commons of England, impeached Thomas Earl of Strafford of High Treason, for endeavouring to subvert the Ancient and fundamental Laws and Government of his Majesty's Realms of England and Ireland, and to introduce an Arbitrary and Tyrannical Government against Law in the said Kingdoms; and for exercising a Tyrannous and Exorbitant Power over and against the Laws of the said Kingdoms,

Anno
1640.

Kingdoms, over the Liberties, Estates, and Laws of his Majesties Subjects; and likewise for having by his own Authority commanded the laying and assessing of Souldiers upon his Majesties Subjects in Ireland, against their consent, to compel them to obey his unlawful Commands and Orders, made upon Paper-petitions, in Causes, between party and party, which accordingly was executed upon divers of his Majesties Subjects, in a War-like manner within the said Realm of Ireland; and in so doing, did Levy War against the King's Majesty and his Liege-people in that Kingdom. And also for that he upon the unhappy Dissolution of the last Parliament, did slander the House of Commons to his Majesty, and did counsel and advise his Majesty, that he was loose and absolved from Rules of Government, and that he had an Army in Ireland, which he might employ to reduce this Kingdom; for which he deserves to undergo the pains and Forfeitures of High Treason.

And the said Earl hath been also an Incendiary of the Wars between the two Kingdoms of England and Scotland, all which offences have been sufficiently proved against the said Earl upon his Impeachment.

Be it therefore Enacted by the King's most Excellent Majesty, and by the Lords and Commons in this present Parliament Assembled, and by Authority of the same, that the said Earl of Strafford, for the heinous Crimes and Offences aforesaid, stand and be adjudged and attainted of High Treason, and shall suffer such pain of death, and incur the Forfeitures of his Goods and Chattels, Lands, Tenements, and Hereditaments of any estate of Free-hold or Inheritance in the said Kingdoms of England and Ireland, which the said Earl, or any other to his use, or in trust for him, have or had the day of the first sitting of this present Parliament, or at any time since.

Provided that no Judge or Judges, Justice or Justices whatsoever, shall adjudge or interpret any Act or thing to be Treason, nor hear or determine any Treason, nor in any other manner than he or they should or ought to have done before the making of this Act, and as if this Act had never been had, or made. Serving alwaies unto all and singular persons and bodies politique and corporal their Heirs and Successors, (others than the said Earl and his Heirs, and such as claim by, from or under him) all such right, title and Interest, of, in and to all and singular such of the said Lands, Tenements, and Hereditaments, as he, they, or any of them, had before the first day of this present Parliament, anything herein contained to the contrary notwithstanding.

Provided that the passing of this present Act, and his Majesties assent thereunto, shall not be any determination of this present Session of Parliament, and all Bills and matters whatsoever depending in Parliament, and not fully enacted and determined; And all Statutes and Acts of Parliament, which have their continuance until the end of this present Session of Parliament, shall remain, continue, and be in force, as if this Act had not been.

His Majesty had been present at this great trial from first to last, and was not satisfied of the Earl's guilt, as to any matters of Treason; of Misdemeanours he would not acquit him, and therefore on the first of May, he called both the Houses together, and declared himself as follows:

My Lords and Gentlemen,

Car. 16.

I Had no intention to have spoken to you of this business to day, which is the great business of the Earl of Strafford, because I would do nothing which might hinder your occasions. But now it comes to pass that I must of necessity have part in the judgment, I think it most necessary to declare my Conscience therein.

The Kings
Speech in
defence of
the Earl
of Strafford.

I am sure you know I have been present at the hearing of this great Cause, from one end to the other; and I must tell you that in my Conscience I cannot condemn him of High Treason.

It is not fit for me to argue this business, I am sure you will not expect it, a positive Doctrine best becomes the mouth of a Prince, yet must I tell you three truths, which I am sure no man can tell so well as my self.

First, That I had never any intention of bringing over the Irish Army into England, nor ever was advised by any body so to do.

Secondly, That there was never any Debate before me, either in publique Council, or private Committee, of the disloyalty of my English Subjects, nor ever had I any suspicion of them.

Thirdly, That I was never Counsell'd by any to alter the least of any of the Laws of England, much less to alter all the Laws. Nay, I tell you this, I think no body durst ever be so impudent as to move me to it. For if they had, I should have made them such an Example, and put such a mark upon them, that all posterity should know my intentions by it, they being ever to Govern by the Law, and no otherwise.

I desire rightly to be understood, for though I tell you in my Conscience I cannot condemn him of High Treason, yet cannot I clear him of Misdemeanours; therefore I hope you may find out a way to satisfy Justice, and your own fears, and not oppress my Conscience.

My Lords, I hope you know what a tender Conscience is, and I must declare unto you, that to satisfy my people I would do great matters; but in this of Conscience, neither fear, nor any other respect whatsoever, shall ever make me go against it.

Certainly I have not deserved so ill of this Parliament at this time, that they should press me in this tender point, therefore I cannot suspect you will go about it. Nay, I must confess for Misdemeanours I am so clear in them, that, though I will not chalk out the way, yet I will shew you, that I think my Lord of Strafford is not fit hereafter to serve me, or the Commonwealth, in any place of trust, no not so much as a Constable. Therefore I leave it to you, my Lords, to find out some such way as to bring me out of this straight, and keep your selves and the Kingdom from such Inconveniencies.

This Speech of the King's did not at all please the Parliament, and upon the Sunday following the Pulpits of London echoed nothing but the necessity of Justice to be inflicted upon high Delinquents; and indeed this way of influencing the Rabble, was one chief means of the miseries which followed, for on the Monday morning following, a Rabble of the light-headed City, set on work by some Members of the Commons House, came thronging down to Westminster near

Anno 1640. *W* six thousand Armed with Swords, Staves and Cudgels; crying out for Justice against the Earl of *Strafford*; and complained of the decay of their Trade, &c. and this way of Tumult was lately taken up and taught us from *Scotland* to enforce a consent and execution of any Parliament designs, the Mutineers posting up a Catalogue of the names of the Members of Parliament who had voted for the Earls acquitment, stiling them *Straffordians*, menacing some of them, assaulting others, and reproaching them as they pleased: Upon which his Majesty hath the ensuing discourse upon the insolencies of those Tumults.

Eikon Bas. Chap. 4. *W* Upon the Insolency of the Tumults.

I Never thought (*says the King*) any thing (except our sins) more ominously presaging all these mischiefs which have followed, then those Tumults in *London* and *Westminster*, soon after the Convening of this Parliament; which were not like a Storm at Sea, (which yet wants not its terror) but like an Earthquake, shaking the very Foundations of all; then which, nothing in the World hath more of Horror.

As it is one of the most convincing Arguments that there is a God, while his power sets bounds to the raging of the Sea, so 'tis no less, that he restrains the madness of the people. Nor doth any thing portend more God's displeasure against a Nation, than when he suffers the confluence and clamours of the Vulgar, to pass all boundaries of Laws, and reverence to Authority.

Which those Tumults did to so high degrees of Insolence, that they spared not to invade the Honour and Freedom of the two Houses, Menacing, Reproaching, Shaking, yea, and assaulting some Members of both Houses, as they fancied or disliked them: Nor did they forbear most rude and unseemly deportments, both in contemptuous words and actions, to My self and My Court.

Nor was this a short fit or two of shaking, as an Ague, but a Quotidian Fever, alwayes increasing to higher inflammations, impatient of any mitigation, restraint, or remission.

First, They must be a Guard against those fears which some men scared themselves and others withal, when indeed, nothing was more to be feared and less to be used by wise men than those Tumultuary confluxes of mean and rude people, who are taught first to Petition, then to Protest, then to dictate, at last to Command and Over-awe the Parliament.

All obstructions in Parliament (that is, a freedom of differing in Votes, and debating matters with reason and candor) must be taken away with these Tumults: By these must the Houses be purged, and all rotten Members (as they please to count them) cast out: By these the obstinacy of men, resolved to discharge their Consciences, must be subdued; by these all factious, seditious, and Schismatical Proposals against Government, Ecclesiastical or Civil, must be backed and abetted, till they prevailed.

Generally, who ever had most mind to bring forth confusion and ruin upon Church and State, used the midwifery of those Tumults; whose Riot and impatience was such, that they would not stay the ripening and season of Counsels, or fair production of Acts, in the order, gravity, and deliberateness befitting a Parliament; but ripped up with barbarous cruelty, and for-

cibly cut out abortive Votes, such as their Inviters and Encouragers most fancied. *Car. 16.*

Yea, so enormous and detestable were their out-rages, that no sober man could be without an infinite shame and sorrow to see them so tolerated and connived at by some; countenanced encouraged, and applauded by others.

What good man had not rather want any thing he most desired, for the publique good, then obtain it by such unlawful and irreligious means? But mens passions and God's directions seldom agree; violent designs and motions must have suitable Engines; such as too much attend their own ends, seldom confine themselves to God's means. Force must crowd in, what Reasons will not lead.

Who were the chief Demagogues and Patrons of Tumults, to send for them, to flatter and embolden them, to direct and turn their clamorous importunities, some men yet living are too conscious to pretend ignorance: God in his due time will let these see, that those were no fit means to be used for attaining his ends.

But, as it is no strange thing for the Sea to rage, when strong winds blow upon it; so, neither for multitudes to be insolent, when they have men of some reputation for parts and piety to set them on.

That which made their rudeness most formidable, was, That many Complaints being made, and Messages sent by My self and some of both Houses; yet no order for redress could be obtained with any vigor and efficacy proportionable to the malignity of that now far-spread disease, and predominant mischief.

Such was some mens stupidity, that they feared no inconvenience; Others petulancy, that they joyed to see their betters shamefully out-raged and abused, while they knew their only security consisted in vulgar flattery: So insensible were they of Mine, or the two Houses common safety and Honours.

Nor could ever any order be obtained, impartially to examine, censure, and punish the known *Bombers*, and impudent Incendiaries, who boasted of the influence they had, and used to convoke those Tumults, as their advantages served.

Yea, some (who should have been wiser States-men) owned them as friends, commending their Courage, Zeal, and Industry; which to sober men could seem no better than that of the Devil, who goes about seeking whom he may deceive, and devour.

I confess, when I found such a deafness, that no Declaration from the Bishops, who were first foully insulted and assaulted; nor yet from other Lords and Gentlemen of Honour; nor yet from my self could take place for the due suppression of these Tumults, and securing, not only Our Freedom in Parliament, but our very Persons in the Streets; I thought My self not bound by My presence, to provoke them to higher boldness and contempts: I hoped, by My withdrawing, to give time, both for the ebbing of their Tumultuous fury, and others regaining some degrees of modesty and sober sense.

Some may interpret it as an effect of Pusillanimity for any man, for popular terrors to desert his publique Station. But I think it a hardiness, beyond true valor, for a wise man to set himself against the breaking in of a Sea; which

Anno. 1640. *to resist, at present: threatens imminent danger; but to with-draw, gives it space to spend its fury, and gains a fitter time to repair the breach. Certainly, a gallant man had rather fight, to great disadvantages for number and place in the field, in an orderly way, then skuffle with an undisciplined Rabble.*

Some suspected and affirmed that I meditated a War, (when I went from White-hall only to redeem My Person and Conscience from violence) God knows I did not then think of a War. Nor will any prudent man conceive, that I would by so many former, and some after-Acts, have so much weakened my self, if I had purposed to engage in a War, which to decline by all means, I denied my self in so many particulars: 'Tis evident I had then no Army to fly unto, for protection, or vindication.

'Who can blame me, or any other, for with-drawing our selves from the daily baitings of the Tumults, not knowing whether their fury and discontent might not fly so high, as to worry and tear those in pieces, whom as yet they but played with in their paws? God, who is my sole Judge, is my Witness in Heaven, that I never had any thoughts of going from my House at White-hall, If I could have had but any reasonable fair Quarter: I was resolved to bear much and did so, but I did not think my self bound to prostitute the Majesty of my place and Person, the safety of my Wife and Children to those, who are prone to insult most, when they have objects and opportunity most capable of their rudeness and petulancy.

'But this business of the Tumults (whereof some have given already an account to God, others yet living know themselves desperately guilty,) Time and the guilt of many hath so smothered up and buried, that I think it best to leave it, as it is, only I believe the just Avenger of all disorders will in time make those men, and that City see their sin in the glass of their punishment. 'Tis more than an even-lay that they may one day see themselves punished by that way they offended.

'Had this Parliament, as it was in its first Election and Constitution, safe full and free, the Members of both Houses being left to their freedom of Voting, as in all reason, Honour, and Religion, they should have been; I doubt not but things would have been so carried, as would have given no less content to all good men than they wished or expected.

'For, I was resolved to hear reason in all things, and to consent to it so far as I could comprehend it: but as Swine are to Gardens and orderly Plantations; so are Tumults to Parliaments, and Plebeian concourses to publick Councils, turning all into disorders and sordid confusions.

'I am prone sometimes to think, That had I called this Parliament to any other place in England (as I might opportunely enough have done) the said consequences in all likelihood, with God's blessing, might have been prevented. A Parliament would have been welcom in any place; no place afforded such confluence of various and vicious humours, as that where it was unhappily convened. But we must leave all to God, who orders our disorders, and magnifies his wisdom most when our follies and miseries are most discovered.

The Names of the Gentlemen of the House of Commons, posited up as *Straffordians*, were:

Car. 16.

Lord Digby, Lord Compton, Lord Buckhurst, Sir Robert Horton, Sir Thomas Fanshawe, Sir Edward Alford, Sir Nicholas Stanning, Sir Thomas Dunby, Sir George Wentworth, Sir Peter Wentworth, Sir Frederick Cornwallis, Sir William Carnaby, Sir Richard Wynn, Sir Gervase Clifton, Sir William Widdrington, Sir William Pennymann, Sir Henry Slingsby, Sir William Fortman, Sir Patrick Cornwell, Sir Richard Lee, Mr. Gervase Hollis, Mr. Sidney Godolphin, Mr. Cook, Mr. Coventry, Mr. Benjamin Weston, Mr. William Weston, Mr. John Selden, Mr. Alford, Mr. Lloyd, Mr. Herbert, Captain Digby, Serjeant Hide, Mr. Taylor, Mr. Griffith, Mr. Scowen, Dr. Turner, Dr. Parry, Mr. Bridgeman, Mr. Fettiplace, Captain Charles Price, Mr. Arundel, Mr. Newport, Mr. Robert Holborne, Mr. Noel, Mr. Kirton, Mr. Pollard, Mr. Price, Mr. Trevanion, Mr. Jane, Mr. Edcombe, Mr. Chickley, Mr. Mallory, Mr. Porter, Mr. Warwick, and Mr. White.

And now comes on the National Protestation occasioned by fears and jealousies studiously fomented and kept up by the Commons, as if Popery were about to enter; hereupon the publique Doctrine of the Church of England, as it was opposite to Popery and Popish Innovations, and not to the maintaining of any form of Worship or Government, nor any Rites or Ceremonies of the Church, is now protested to be only in the foregoing; since maintained and owned by both Houses, and ordered to be taken by all the people of England. Hereby it plainly appeared, that they intended to question the Discipline of our Church.

At last the Parliament think of satisfying the great Accounts which the Kingdom stood charg'd with two Armies then in being in this Kingdom, but with this Condition, That his Majesty would pass a Bill not to Adjourn the Parliament, nor Prorogate it, nor Dissolve it without the consent of both Houses, until the Grievances of the Kingdom were redressed. And Complaints were never wanting, nor matter of Grievance neither, therefore this Parliament was afterwards called the Everlasting Parliament. And accordingly a Bill was ordered to be brought in Parliament hereto.

The Bill of Attainder stuck still in the House of Peers, for that it brought in the King as Judge, and so was on that account laid aside, and his Articles against him taken in debate, when amongst forty five Lords, twenty six of them Vote him Guilty of High Treason upon the fifteenth Article, for Levying Moneys by force in Ireland; and upon the Nineteenth also for imposing an Oath upon the Subjects in Ireland, and so both those Bills of a perpetual Parliament, and the other of Attainder were both compleated, and a Conference of both Houses, had thereupon the day following, and some Lords were dispatched away to his Majesty to request his Answer, which was, That on Monday following he would satisfy them.

His Majesty had under his own Hand promised the Earl of *Strafford* that he would save him, and that the Bill of Attainder should not pass against him; and this Promise did indeed stick with the King; hereupon he sends for five Bishops, the Archbishop of *Armagh*, the Bishops of *London*, *Lincoln*, *Durham*, and *Carlisle*, and desires their direction as to this Promise, which was to this effect:

That

Anno 1640. That herein, the Matter of Fact, and the Matter of Law were to be distinguished; that of the Fact, he himself might make a Judgment, having been present at all the proceedings against the said Lord; where, if upon the hearing of the Allegations on either side, he did not conceive him guilty of the Crime, wherewith he was charged, he could not in Justice condemn him. But for the Matter of Law, what was Treason, and what was not, he was to rest in the Opinion of the Judges, whose Office it was to declare the Law, and who were sworn therein to carry themselves indifferently betwixt him and his Subjects; which gave his Majesty occasion to complain of the bad dealing of the Judges with him, not long before; that having earnestly pressed them to declare in particular what point of the Earl's Charge they adjudged to be Treason, (for as much as upon the hearing of the proof produced, he might in his Conscience perhaps find him guiltless of that Fact;) he could not by any means draw them to name any particular, but that upon the whole matter, Treason might justly be charged upon him.

But more particularly the Bishop of Lincoln finding that the Promise made by his Majesty was the great matter that stuck with the King; he hereupon tells his Majesty, That he was confident that the Earl was so great a lover of his Majesties peace, and so tender of his Conscience and the Kingdoms safety, as he would willingly acquit his Majesty of that Promise, which words were taken by the King in evil part, but the whole discourse imparted it seems cunningly to the Lord Lieutenant, who being told that his Majesty was satisfied of his Guilt in Law (which yet was false) and was only bound by his Promise to his Lordship; at which, 'tis said, that the Earl starting out of his Chair, calls for Pen, Ink and Paper, and writes the ensuing Letter to his Majesty:

May it please your Majesty,

The Earl's Letter to the King upon the Tumult of the Prentices.

It hath been my greatest grief in all these Troubles, to be taken as a person which should endeavour to represent and set things amiss between your Majesty and your People, and to give Councils tending to the disquiet of the three Kingdoms.

Most true it is, that this mine own private condition considered, it had been a great madness, since through your gracious favour I was so provided, as not to expect in any kind to mend my fortune, or please my mind more, than by resting where your bounteous hand had placed me.

Nay, it is most mightily mistaken, for unto your Majesty it is well known, my poor and humble advices concluded still in this, that your Majesty and your people could never be happy, till there were a right understanding betwixt you and them; no other means to effect and settle this happiness, but by the counsel and assent of the Parliament, or to prevent the growing evils upon this State, but by intirely putting your self in your last resort, upon the loyalty and good affections of your English Subjects.

Yet, such is my misfortune, this truth findeth little credit; the contrary seemeth generally to be believed, and my self reputed as something of separation between you and your people, under a heavier censure, than which I am persuaded no Gentleman can suffer.

Now, I understand the minds of men are more incensed against me, notwithstanding your Majesty hath declared, that in your princely opinion I am not guilty of Treason, nor are you satisfied in your Conscience to pass the Bill.

This bringeth me into a very great strait, there is before me the ruin of my Children and Family, hitherto untouched in all the branches of it with any foul Crimes. Here is before me the many ills, which may befall your sacred person, and the whole Kingdom, should your self and the Parliament part less satisfied one with the other, than is necessary for the preservation of King and people. Here is before me the things most valued, most feared by mortal man, Life or Death.

To say, Sir, that there hath not been a strife in me, were to make me less than God knoweth mine infirmities give me.

And to call a destruction upon my self and young Children, were the intentions of my heart (at least have been innocent of this great offence) may be believed will find no easie content to flesh and blood.

But with much sadness, I am come to a resolution of that which I take to be best becoming me, to look upon that which is most principal in it self, which doubtless is the prosperity of your sacred Person, and the Commonwealth, infinitely before any private mans interest.

And therefore in few words, as I put myself wholly upon the Honour and Justice of my Peers, so clearly, as to beseech your Majesty might please to have spared that Declaration of yours on Saturday last, and intirely to have left me to their Lordships. So now to set your Majesties Conscience, &c. at liberty, I do most humbly beseech you, for the preventing of such mischief as may happen by your refusal, to pass the Bill, by this means to remove (praised be God) I cannot say this accursed, but (I confess) this unfortunate thing forth of the way, towards that blessed Agreement, which God I trust shall for ever establish betwixt you and your Subjects.

Sir, my consent herein, shall more acquit you to God, than all the World can do besides. To a willing man there is no injury done. And as by God's Grace I forgive all the World, so Sir, I can give up the Life of this World with all cheerfulness imaginable, in the just acknowledgment of your exceeding favours: and only beg, that in your goodness, you would vouchsafe to cast your gracious regard upon my poor Son and his Sisters, less or more, and no otherwise, than their unfortunate Father shall appear more or less guilty of his death. God long preserve your Majesty.

Tower,
May 4. 1641.

Your Majesties most humble
and faithful Subject and
Servant,

STRAFFORD.

On Monday the Tenth of May, the King was solicited from both Houses for the passing both these Bills for a perpetual Parliament, and for the Earl's Attainder, which his Majesty did by Commission to several Lords, and thereby lost, at one blow, both his own Prerogative and Strafford's Life.

And

Anno
1640.

And here we must be forced to crave pardon of our Reader, for that we have (though we hope for his benefit) set the whole of this great Personage his Tryal before him, though the latter part thereof was in some part of the beginning of the year 1641. which we purposely did, that the story might not appear abrupt by the intermixture of other matters occurring in time with this.

We left the Scots in their five Months of warm Quarters in the four Northern Counties, and their Commissioners at London soliciting for the pay of their Army, and underhand debauching the City in their Loyalty; at which time they exhibited also Articles and Charges against the Lord Deputy of Ireland, and his Grace the Archbishop of Canterbury, which were as followeth:

Scots
Covenanters charge
against the
Archbi-
shop of
Canterbury.

The Scots Covenanters Charge against the Archbishop of Canterbury concerning Innovations in Religion, the main causes of Commotions in Kingdoms and States, the true causes of our present Troubles, many and great; besides the Books of Ordinances and Homilies.

First, Some particular Alterations in Religion without Order or Law, a new Book of Canons and Constitutions Ecclesiastical.

Secondly, A Liturgy or Book of Common Prayer, full of dangerous Errors; and we challenge the Prelate Canterbury the prime cause on Earth.

That he was Author of our changes in Religion by fourteen Letters of his to our pretended Bishops to promote the English Service-Book, and for which neglect he lost the Bishoprick of Edinburgh; but may deserve a better; advising him to return a List of the Names of such persons of Honour and Office that refuse.

More appears by Papers, memorative Instructions to the Bishop of St. Andrews and Ross, for ordering the Affairs of the Kingdom, to obtain Warrants, to order the Exchequer, Privy-Council, Commissions of Surrenders, the matter of Balmerino's Process, as might please Prelates, Warrants to sit in the High Commission once a Week, and to gain from the Noble-men the Abbies of Kells, St. Andrews and Conday, for the Prelates, ordering by his command even the meanest Offices in the Kirk.

Secondly, The Book of Canons obtruded, being devised for establishing a Tyrannical power in the persons of the Prelates over the Consciences, Liberties, and Goods of the People, and for abolishing the whole Discipline of our Kirk, settled by so many general and provincial Assemblies, Presbyteries, and Kirk-Sessions, by Law and continual practice since the Reformation.

The Book of Common-Prayer which by our National Assembly is found to be Popish, Superstitious and Idolatrous, and repugnant to all our Doctrine and Discipline reformed.

And that Canterbury was the main Actor they prove by several Letters to several pretended Bishops for promoting and ordering the use thereof; and the Book it self in Writ, is interlined, margined, and patched up by his hand, the changes and supplements taken from the Mass-Books, different from the Service-Book in England, and without the King's knowledge, as in the Sacraments of Baptism, and the Supper of the Lord.

That our Supplications were many against these Books, but Canterbury procured them to be answered with terrible Proclamations, whereby we were constrained to use the Remedy of

Protestations; we were called Rebels and Traitors, and procured War against us; and after the Pacification at Barwick he advised to have it broken, and to bring upon us this new War; that our Covenant he called damnable, treasonable, railing against us in the presence of the King and Committee.

That his hand was to the Warrant for Restraining and Imprisonment of some of our Commissioners; when we had manifested the truth of our Intentions, Declarations, Remonstrances, and Representations, true, just, and lawful.

That he advised the breaking up of the last Parliament, but sat still in his Convocation, to make Laws against them, tending to our utter ruin.

That he caused a Prayer to be used in all Churches in England, whereby we are stiled as Traiterous Subjects, &c.

That if the Pope had been in his place, he could not have been more zealous against the Reformed Churches, to reduce them to the Heresies, Doctrines, Superstitions, Idolatries of Rome, &c.

All which they will prove, and desire justice upon him.

The Charge of the Covenanting Scots against the Lord Deputy of Ireland; were to the effect following:

That they had conjoyned with Canterbury (by no other name) the Lord Lieutenant of Ireland, whose malice was to do mischief to their Kirk and Country; no cause moving, but his own pride and superstitious disdain of their Kirk, so much honoured; first, by sundry other Reformed Kirks, by many worthy Divines in England, by their oppositions against Innovations in all his Majesties Dominions; which he promotes by advancing his Chaplain Dr. Bromholm to the Bishoprick of Derry, and Vicar-General of Ireland, one prompted to exalt Canterbury's Popery and Arminianism; and Dr. Chapel to the University of Dublin, on purpose to impoverish and corrupting the Fountain of the Kirk: and when the Primate of all Ireland pressed a Ratification of the Articles of the Confession of that Kirk in Parliament, for barring of Innovation, he boldly threatened him, with burning of it by the Hangman, although confirmed in England.

He disgraced our new Reformation begun in Scotland, by a Pamphlet, *Examen conjurationis Scoticae, The ungirding of the Scottish Armour*, by *simachus Nicanor*, and he, the Patron of the Works and them.

That notwithstanding their National Oath and Covenant, warranted by General Assemblies, approved by Parliament there, and to be taken by all the people, and their Loyalty to the King, and lawful proceeding, the Innocency of their Covenant and Cause, yet did he tend all his malice and force against them.

First, By summoning some of the Scotch Nobility and Gentry there in Ireland to Dublin, and there conspired with the Prelate of *Röibes*, and framed a Petition, which the Scots there must exhibit, to renounce the Scots Covenant; and so thereby enforced all the Scots above sixteen years of age, to the same; upon pain of close Imprisonment, whereby a thousand others were forced to fly into Scotland, leaving all they had behind them, to the weakning of the Scots Plantation, and disservice to the King and Kingdom.

Xxxxx

That

Car. 16.

Dec. 17.
the Scots
Charge a-
gainst the
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nant of
Ireland.

Ann
1640

That by his means a Parliament is there called, and although by six Subsidies unduly gotten and levied, the Parliament before the Land was impoverished; He now again extorted four Subsidies more, otherwise Forces should have been levied against us as Rebels. This being intended as a President to the Parliaments in England, for levying a joint Army over the Subjects of both Nations.

And accordingly an Army was raised, and brought to the Coast, threatening to invade Scotland, and to make us a conquered Province, to the extirpation of Religion, Laws, and Liberties, which enforced us of necessity to maintain our Forces on Foot, to prevent his coming: our Ships and Goods taken as Prize on the Irish Coasts, inciting England to a War also against them.

Thus fitted, he hastning over into England, and at the delivery up of the Sword there he uttered these words, *If ever I return to this honourable Sword, I shall not leave of the Scots neither Root nor Branch.*

Being come to Court, he acts all Officers to our Commissioners who were to clear all our Proceedings at the Junto, using persuasions to stir up both King and Parliament to a War against us.

That course failing, he plotted to break the Parliament, and to have the Conduct of the Army in the Expedition against Scotland, which he exercised according to the largeness of his Patent of his own devising; and when the Scots Army came but in peace, far from intentions to invade, but with supplication and petition of peace; he gave order to his Officers to fight us, and so to be engaged in blood, the better for his wicked designs against both Kingdoms.

And although his Majesty with consent of his Peers were inclined to a Peace (as before) he only in that Honourable Assembly raged against us as Traitors and Enemies to Monarchical Government, to be sent home; nay, he himself would undertake to whip us home in our own blood.

That after the Cessation of Arms, he, during the Treaty, drew up his Army near the Tees, and gave his Warrants to the several Governours of *Barwick* and *Carlisle* for their Acts of Hostility; and he the Man that continueth several parts of England in terms of difference, sundry Scots imprisoned still, no free Trade, nor other face of affairs there, as before the Cessation.

And therefore desire their Lordships, that this great Incendiary not only against private persons, but even against Kingdoms and Nations, may come to his Trial, and endure condign Justice and punishment.

And to shew that the Parliament, I mean the Commons House, were not unmindful of the Scots, they now Voted them the sum of one hundred thousand pounds for the expence of their Army, though at the same time they had put the Northern Counties under Military Execution. They had already at *Rippon* and at *London*, put in their demands to his Majesty; they were in number eight, and hereafter follow, with his Majesties or the Parliaments Answer to them.

The Scottish Commissioners demanded.

Car. 16.

First, That his Majesty would be graciously pleased to command, that the Acts of the late Parliament may be published in his Highness Name, as our Sovereign Lord, with the consent of the Estates of Parliament convened by his Majesties Authority.

1. Demand

To this it is answered, and agreed 30 Decembris 1640. That forasmuch as the King's Majesty at the humble desire of his Subjects, did call and convene a Parliament to be holden at *Edinburgh*, the 2 of June, 1640. wherein certain Acts were made, and agreed upon, which Acts his Majesty is pleased to publish in his own Name with the consent of the Estates, and therefore commands that the said Acts bearing date the 2 day of June, 1640. be published with the Acts to be made in the next Session of the same Parliament, and that all the said Acts, as well of the precedent, as of the next Session to be holden, have in all time coming the strength of Laws, and to be obeyed by all the Subjects of the Kingdom of Scotland.

Answer.

Secondly, That the Castle of *Edinburgh*, and other Strengths of the Kingdom, should with the advice of the Estates of Parliament, according to their first foundation, be furnished and used for defence and security of the Kingdom.

2. Demand

It is agreed unto.

Answer.

Thirdly, That Scottish men within his Majesties Dominions of England and Ireland may be freed from censures for subscribing the Covenant, and be no more pressed with Oaths and Subscriptions unwarranted by their Laws, and contrary to their National Oath and Covenant, approved by his Majesty.

3. Demand

It is agreed Decemb. 8. 1640. that all those who in his Majesties Dominions of England and Ireland, have been imprisoned or censured any way for subscribing of the Covenant, or for refusing to take any other Oath contrary to the same, shall be freed of these Censures, and shall be fully restored to their Liberties, Estates, and Possession; and for time coming, that the Subjects of Scotland, as Subjects of Scotland, shall not be constrain'd to any Oath contrary to the Laws of that Kingdom, and the Religion there established; but such of the Kingdom of Scotland as shall transport themselves into the Kingdom of England or Ireland, and there be settled Inhabitants, either by way of having Inheritance or Freehold, or by way of settled Trades, shall be subject to the Laws of England or Ireland, and to the Oaths established by the Laws and Acts of Parliament in the said Kingdoms respectively, wherein they live. And the English and Irish shall have the like priviledge in Scotland.

Answer.

Fourthly, That his Majesty would be pleased to declare, that whosoever shall be found upon Trial and Examination by the Estates of either of the two Parliaments, (they judging against the persons subject to their own Authority) to have been the Authors and Causes of the late and present Troubles, and Combinations, whether by labouring to make and foment Division betwixt the King and his People, or betwixt the two Nations, or any other way, shall be liable to censure of the said Parliaments respectively.

4. Demand

Anno 1640.
Answer. It is answered, December 11. 1640. That his Majesty believeth he hath none such about him; therefore, concerning that point, he can make no other Declaration than that he is just, and that all his Courts of Justice are to be free and open to all men. Our Parliament in this Kingdom is now sitting, and the current Parliament of Scotland, near approaching the time of their meeting; In either of which *respective*, he doth not prohibit the Estates to proceed in trying and judging of whatsoever his Subjects.

And whereas it was further demanded, that none after the Sentence of the Parliament should have access to his Majesty, or be maintained, or enjoy Places, or Offices, and have credit or authority to inform or advise his Majesty.

It is declared in his Majesties Name, December 30. 1640. That he will not employ any person or persons in Office or Place, that shall be judged incapable by Sentence of Parliament: nor will he make use of their service without the consent of Parliament, or grant them access to his Person.

5. Demand Fifthly, That their Ships, and Goods, and all Damages thereof may be restored.

Answer. It is agreed, January 7. 1640. That all Ships taken and staid should be reciprocally restored on both sides. And that the Scottish Commissioners having informed that about eighty Ships of Scotland are yet staid in the Ports, and are like to suffer much loss if they shall not be delivered into some hands who may have care of them. It is agreed that Warrants shall be presently granted for delivery of all their Ships. And that four thousand pounds be presently advanced, for Caulking, Sails, Cordage, and other necessities, for helping the present setting forth of the said Ships.

6. Demand Sixthly, They desire from the Justice and the kindness of the Kingdom of England, Reparation concerning the Losses which the Kingdom of Scotland hath sustained, and the vast Charges they have been put unto by occasion of the late Troubles.

Answer. That this House thinks fit that a friendly assistance, and relief shall be given towards Supply of the Losses of the Scots, and that the Parliament did declare that they did conceive that the Sum of three hundred thousand pounds is a fit proportion for the friendly assistance and relief, formerly thought fit to be given towards supply of the Losses and Necessities of their Brethren of Scotland, and that the House would in due time take into consideration the manner how, and the time when, the same shall be raised.

7. Demand Seventhly, That as his Majesty hath approved the Acts of the late Parliament, wherein all such Declarations, Proclamations, Books, Libels, and Pamphlets, that have been made, written, and published against his loyal and dutiful Subjects of Scotland, are recalled, and ordered to be suppressed: So his Majesty may be pleased to give order that the same may be suppressed, recalled and forbidden in England and Ireland; and that the loyalty, integrity, and faithfulness of his Majesties Subjects of Scotland, towards his Majesties Royal Person and Government may at the closing of this Treaty of Peace, and at the time of publick Thanks-giving for the same, be made known in all places and all Parish Churches of his Majesties Dominions.

It is agreed upon the 10th of February, 1640. That all Declarations, Proclamations, Acts, Books, Libels, and Pamphlets that have been made and published against the Loyalty and Dutifulness of his Majesties Subjects of Scotland, shall be recalled, suppressed and forbidden in England and Ireland. And that this be reciprocal in Scotland, if any such have been made or published there in prejudice of his Majesties honour. And this upon diligent enquiry to be done by the Authority of Parliament next sitting in Scotland, of which the Commissioners of Scotland do promise to have an especial care. And we do also agree, that when it shall please Almighty God to grant an happy close of this Treaty of Peace, the Loyalty of his Majesties Subjects of Scotland shall be made known at the time of publick Thanks-giving in all places, and particularly in the Parish Churches of his Majesties Dominions.

That all Monuments, Tokens and shews of Hostility upon the Borders of the two Kingdoms may be taken away. That not only the Garrisons of Barwick and Carlisle may be removed, but that the Works may be slighted, and the places dismantled. 8. Demand

To the Eighth Demand it is said, [That being offered the Twelfth of this Month there was no *Answer.*] But there was this Answer, Die Lunae 8. Martii 1640. Hist. p. 212.

This House of Commons concur with their Lordships, that when a Peace shall be established, all things reciprocally be reduced into the Terms they were before the Treaty. *Answer.*

And do agree with their Lordships that the Scottish Commissioners shall set down all their particular heads and demands at once together, that for their eight Articles which they propound for establishing a peace, may with all speed be concluded, that being done this House shall willingly concur with their Lordships to settle all things their just satisfaction.

Then comes the Scots remaining heads to the Eight Demands.

1. Our desires concerning Unity in Religion and Conformity of Church Government, as a special means for preserving of peace between these Kingdoms.

2. That some Scottish-men of respect, and entrusted by their Nation may be in place about the King, Queen, and the Prince.

3. That none be in place about his Majesty, and the Prince, but such as profess the Reformed Religion.

4. Concerning the manner of choosing the Council and Sessions in Scotland.

5. Naturalization; declaring the capacity, and mutuality of the Subjects of both Kingdoms.

6. Concerning Customs in the Kings Dominions, and Foreign Nations.

7. Concerning freedom of Trade and Inter-courses.

8. Concerning Manufactory and Assessations by Sea and Land.

9. Concerning Equality and course of Coin in his Majesties Dominions.

10. Concerning Fishing.

11. An Act of Oblivion of all by-gone deeds betwixt the Kingdoms of Scotland, England and Ireland, since the beginning of the late troubles.

12. An Act of Parliament for the ratifying this Treaty, and Articles, and establishing the means of a firm and perfect peace.

13. That none of his Majesties Dominions shall take Arms or invade others, without consent of the Parliament of that Kingdom; and after declared Peace, no stopping of Trade, or taking of Ships, or any Acts of Hostility; the contemners to be punished as Enemies to the State.

14. That neither Scotland nor England engage in a Foreign War without mutual consent, and to assist each other against all Foreign Invasions.

15. Concerning the remanding of offenders or debtors in both Kingdoms.

16. Concerning exacting Decrees and Sentences.

17. In either Nation Authentick extracts, without production of the principal Warrant about the late borders, and middle Marshes; and that this peace may be inviolably observed, Trials may be taken in the Triennial Parliament of both Kingdoms, of all wrongs, to be done by either Nation to other, that the differences may be removed; and some Commissioners to be appointed of both Kingdoms for the conserving of peace in the Interval of Parliaments.

And now at last, they were required to bring in an exact account of their Charges in writing, which they did, and it amounted unto 514128*l.* 14*s.* Sterling, abating the odd pence, besides which they demand the losses, their Nobility and Gentry have sustained by neglect of their Fortunes and own affairs at home to make War upon England the sum of 4041000*l.* besides the sum of 800*l.* per menssem, Contribution paid them from the Northern Counties, a comfortable and advantagious War indeed this proved to the Scots, but the English Commissioners hereat stood amaz'd, and demand whether this were a positive account, or only an intimation of their Charges to induce the Kingdom of England to afford them some friendly assistance, to which they answered, 'That they could be no less willing to undergo the Charge than they had the hazard, but the Charge surpassing their strength and ability, they had exhibited to their Lordships the whole of their Charges and Losses, not intending a total reparation [you see their modesty] but in some measure desiring to bear the remnant, but they well hoped their Lordships had considered their reasons, and would not judge a matter of their [Self-denying people] covetousness, but of the justice and kindness of the Kingdom of England.

Subscribed by

ADAM BLATRE.

These demands were by some Scotiz'd Commissioners thought not very extravagant or unreasonable, but others truer English-men were of another Opinion, in particular Sir Benjamin Rudyard in his Speech in the Commons House, January 22.

Mr. Speaker,

Sir Ben.
Rudyard's
Speech.

The prudent Endeavours of our Commissioners, with the Scots, probably have drawn near to a blessed Peace. The King being graciously pleased to

assent to their Acts of Parliament, including the Articles of their Assembly, their Religion, Laws, and Liberties ratified; their Grievances relieved, for which we use to give the King Money. The Scots Remonstrance professing, that they would take nothing of the English but for Money or Security. But we have defrayed them hitherto, and are still provided to do longer.

That heretofore we established their Reformation, and bore our own Charges: and concerning mutual restitution of Ships and Goods, which now our Commissioners have fairly accommodated already. As for inferential and consequential Damages, such a Representation would not administer unacceptable matter of contestation.

We could truly alledge that Northumberland, Newcastle, and the Bishoprick will not recover their former Estate these twenty years; that the Coal-Mines of Newcastle will not be set right for an hundred thousand pounds, besides the price of Coals doth cast this City and other parts of this Kingdom above that value in loss. And much more of this nature and damage might be justly urged.

They say, they do not make any former Demands, but yet they make their Sum appear above four hundred and fourteen thousand pounds, more than ever we gave the King; A portentous Apparition, which shows it self in a very drytime, the King's Revenue totally exhausted, the Kingdom generally impoverished, and yet all this Supply is to be drawn out of us only without the least help from any his Majesties other Dominions, an utter draining of this Nation, unless England be Puteus inexhaustus: yet I shall afford what is reasonable and honourable to a convenient considerable Sum of Money, that they may go off with a handsome friendly Loss; if they shall reject it, we shall improve our Cause.

It was never thought any great wisdom over-much to trust to a successful Sword. A man that walks upon rising ground, the further he goes, the more spacious his prospect; success enlarges mens desires, extends their ambition, breeds thoughts never dreamt on before. But the Scots being truly touched with Religion, according to their professions, that only is able to keep their words; for Religion is stronger and wiser than Reason is self. But we hope of a good conclusion, of the effects of all these (hitherto Inconveniences) to the advantage of Religion, King, and Kingdoms.

The Commons had already Voted the Scots 300000*l.* Sterling for their losses and pay; but those Gentlemen who loved their native Country, were very ready to bid them adieu, whereas others put in delays and excuses for their stay, for that they did not believe the Kingdom [indeed their own designs] not yet in safety; and to shew how the Pulse of the Commons then beat, may well appear, for that Mr. Gervase Hollis a Burgess for Grimsby in Lincolnshire for saying upon the motion made in that House for the best and speediest means for their payment, That he knew no better or suter than by English Arms to expell them the Kingdom, was call'd to the Bar of that House, and then expelled the House.

However for their farther and present Supply, the Speaker was ordered by the House to write to the City to advance sixty thousand more upon the security of an Assignment for their repayment out of the next Subsidies.

The

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1640. The Dutch Ambassadour had made some former Propositions for a marriage betwixt the Prince of Orange, and the Lady Elizabeth, the King's eldest Daughter, which upon the arrival of the said Prince on Sunday the second of May following, was celebrated at Court, to the very great satisfaction of the whole Kingdom.

But these Joys lasted not long, their suppositions of Plots continually and studiously cast abroad by some of the Commons House of Parliament, said by them to be against Religion and Liberties, and more particularly by the Papists: Hereupon the very next day; after his Majesty had acquainted the Peers with his resolution, which was (as we said) so well taken by the Parliament and People, of his marrying his eldest Daughter to the Prince of Orange, four Members were appointed by the Commons House to carry up a Message to the Peers, of a great design of the Papists, who they said had in Lancashire 15000 men in Arms, when there was not one man then in Arms in that County, besides 8000 in Ireland, and many thousands more in sundry places in England well armed and appointed, and in pay under the command of the Earls of Strafford and Worcester. These matters, says one, may possibly be thought Fictions and Hyperboles [which were indeed real Messages sent from one House of Parliament to the other] and in truth gave occasion to some Commoners to influence the People to frame Petitions suitable to these Plots, Fears, and Jealousies of their own fomenting: And the Authors of these evil Com-motions which after followed, were very sensible of the Service which these suggestions did them.

On the Thirteenth of February Sir Robert Berkeley, one of his Majesties Judges, who had argued for the Imposition of Ship-money, was by a motion of the Commons accused of High Treason, and the next day was by the Black Rod taken from the King's Bench in Westminster-Hall, and shortly after also his Brethren the Judges, Lord Chief Justice Bramston, Chief Baron Davenport, Crawley, Weston, and Trevor, was impeach'd of High Misdemeanours: But the Commons thought fit to make no further prosecution therein.

On the Sixteenth of February the Bill for the Triennial Parliament passed the Royal assent, his Majesty expressly then telling the Commons, That he might well question his doing of it, looking to the outward face of their Actions or Proceedings, and not to the inward intention of their hearts; but that now he did this to shew them, that he had done all on his part, he hoped they well knew how to do theirs, &c. But this very great Trust his Majesty did out-do in his confidence he had in these Commoners, when he passed the Bill to make this very Parliament perpetual, as before we have mentioned in the Trial of the Earl of Strafford.

And now first was practised the way of tackling Subsidy Bills to others, the Commons had a mind should pass; for together with this Bill, the Parliament grant to his Majesty Subsidies for payment of the two Armies: And for his passing this Bill, the Parliament by Sir Edw. Littleton return their humble thanks, and order thorough the City the ringing of Bells, and making of Bonfires.

Car. 17.
HIS Majesty having signed the Bill of Attainder, as you have before heard against the Earl of Strafford, upon Information that his Lordships Estate was unsettled, desired by Letter from the Peers (which Letter he sent by the Prince of Wales) a respite of his Execution for some days, for the reason above said: The Peers acquainting his Majesty that they intended to become Suitors to his Majesty for favour to be shewed to his innocent Children, in which the Commons, after they had done their business also, joyned with the Lords.

Upon Wednesday, May 12. he was conveyed from the Tower by the Trained Bands of the City, the Sheriffs Officers, and the Wardens of the Tower; before him went his Gentleman-Usher bareheaded, and next him the Earl himself, accompanied by his Friend the Primate of Armagh. Upon his first coming forth he lifted up his eyes to the Lord Archbishop of Canterbury's Lodgings, upon whom, standing at his Window, he bestowed a low Obedience, saying, My good Lord, your Prayers and your Blessing. The Archbishop lifted up his hand, and bestowed both upon him, and overcome with grief, sank down in a swoond. The Earl proceeding a little further, he bowed again towards his Grace, saying, Farewell (my good Lord) the Lord protect your innocency. And being brought to the Scaffold, he address his Speech to the Lord Primate.

The Earl's Speech upon the Scaffold.

My Lord Primate of Ireland,

It is my very great comfort, that I have your Lordship by me this day, and I do thank God and your Lordship for it, in regard that I have been known to you these many years: I should be very glad to obtain so much silence as to be heard a few words, but I doubt I shall not, the noise is so great.

I come hither, by the good will and pleasure of Almighty God, to pay the last Debt which I owe to sin, which is death, and by the blessing of that God to rise again through the merits of Jesus Christ to righteousness and life eternal.

I come hither to submit to that Judgment which hath passed against me; I do it with a very quiet and contented mind; I do freely forgive all the world; a forgiveness that is not spoken from the teeth outwards (as they say,) but from the very heart. I can very well say in the presence of Almighty God, before whom I stand, that there is not a displeased thought arising in me towards any Creature. I thank God, I can say, and that truly too, and my Conscience bears me witness, that in all the employments since I had the honour to serve his Majesty, I never had anything in the purpose of my heart, but what tended to the joint and individual prosperity of the King and People. If it hath been my fortune to be misunderstood, surely I am not the first that hath been so; it is the common portion of us all, whilst we are in this life, to err, but righteous judgment we must wait for in another place, for here we are very subject to be misguided one of another.

There is one thing I desire to free my self of, and I am confident [speaking it now with so much cheerfulness] that it cannot be but that I shall obtain your Christian Charity in the belief of it: I did
always

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always think the Parliaments of England the happiest Constitution that any Kingdom or Nation lived under, and next under God, the best means to make the King and his People happy; so far have I been from being against Parliaments.

For my death, I here acquit all the World, and beseech the God of Heaven heartily to forgive them, though in the intentions and purposes of my heart I am innocent of what I die for.

And, my Lord Primate, it is a very great comfort unto me, that his Majesty conceives me not meriting so severe and heavy a punishment as is the uttermost execution of this Sentence. I do infinitely rejoice in this mercy of his, and I beseech God to return it upon him, that he may find mercy when he stands most in need of it.

I wish this Kingdom all the prosperity and happiness in the World: I did it living, and now dying it is my wish. I do most humbly recommend it to every man that hears me, and desire that they will lay their hands upon their hearts, and consider seriously, whether the beginning of the happiness of the Reformation of a Kingdom should be written in letters of blood: Consider this when ye are in your own homes, and let me be never so unhappy, as that the least drop of my blood should rise up in judgment against any one of you. I acquit you all, but I fear you are in a wrong way.

My Lord, I here profess, and with that I shall end, that I do die a true and obedient Son to the Church of England, wherein I was born, and in which I was bred; peace and prosperity be ever to it. And whereas it is objected (if it be an Objection worth the answering) that I have been inclined to Popery, I may truly say, that from the time of One and twenty to this present, going on now towards Nine and forty years, I never had in my heart to doubt of this Religion of the Church of England, nor ever had any man the boldness to suggest any such thing (to the best of my remembrance) to me. So being reconciled by the merits of Christ Jesus my Saviour, into whose bosom I hope I shall shortly be gathered to those eternal happinesses that shall never have end.

I desire heartily the forgiveness of every man, for any rash and unadvised words, or for any thing done amiss: And so my Lords and Gentlemen, Farewell. Farewell all the things of this World.

I desire that ye would be silent, and joyn with me in prayer, and I trust in God we shall all meet and live eternally in Heaven, there to receive the accomplishment of all happiness, where every tear shall be wiped away from our eyes, and every sad thought from our hearts; and so God bless this Kingdom, and Jesus have mercy on my soul.

To this he added a Prayer, (not taken by any) to strengthen his Faith, confirm him in Patience and Charity, to preserve the King and his Realms in prosperity, the Church in Unity, and to have mercy on his Soul.

Rising from his knees, he delivered these Commands for his Children.

To his Son William Wentworth commends himself, gives him charge to serve his God, to submit to his King with all Faith and Allegiance in things Temporal, to the Church in things Spiritual: Gives him charge, as he will answer it to him in Heaven, never to meddle with the patrimony of the Church, for it will be the Cancer that will eat up the rest of his Estate; again, charges it as he will answer him in Heaven. And so ended.

And to shew that his Speech on the Scaffold was not sudden, but premeditate, the Paper of the Heads written with his own hand, as it was left upon the Scaffold, doth evidence, which the Primate took up.

Come to pay the last debt we owe to sin.

Rise to Righteousness.

Die willingly.

Forgive all.

Submit to justice, but in my intentions innocent from perverting, &c.

Wishing nothing but prosperity to the King and People.

Acquit the King, constrained.

Beseech to repentance.

Strange way, to write (the beginning of Reformation and Settlement of a Kingdom) in blood.

Beseech, that demand may rest there.

Call not for blood upon themselves.

Dye in the Faith of the Church.

Pray for it, and desire their prayers, &c.

By the Triennial Parliament before spoken of, the power of calling Parliaments was put into the hands of Sheriffs and Constables, which without doubt was a great confidence his Majesty had in his People; but for that many conceived evil matters also of his Majesty's Privy Council, and Orders issuing thence, the King called to the Board the Earls of Hertford, Essex, Bedford, and Warwick, the Lord Viscount Say, and these were made great Officers by the resignation of others. The first was made Governour to the Prince in the room of the Earl of Newcastle; Essex Lord Chamberlain in the room of Pembroke; the Lord Say Master of the Court of Wards in the place of the Lord Cottington; and the Earl of Leicester Lord Lieutenant of Ireland in the Earl of Strafford's room.

And moreover, that his Majesty might leave no matter of Complaint to the Commons, an Act of Parliament was now made to take away the Courts of Star-Chamber and High Commission, several privileges of the Forests, his Majesties sole right to make Gunpowder: Another Act also for regulating the Office of the Clerk of the Market within the verge of his Majesties Household, &c.

The disbanding of the two Armies was at last accomplish'd, and a Pole raised for the payment thereof, and the Scots ordered to have 100000 £ sterling at Midsummer paid them, and the 200000 £. two years after, which was exactly paid. And accordingly the Earl of Holland being made General of the English Army for this purpose, both Armies were disbanded in August following. And for that his Majesty was by the Treaty of Pacification to be present at a Parliament in Scotland, there to be held, for the ratifying several Acts desired by the Scots, on the Sixth of August both Houses of Parliament here in England adjourned until the Twentieth of October following, only a Committee of Fifty Members were ordered to sit during this recess: And in the mean time his Majesty goes for Scotland, where he was entertained with the greatest demonstrations of joy and affections imaginable; and there in Parliament he confirms the Treaty between the two Nations by Act of Parliament, and all his former Concessions, and whatever had been acted by them in their general Assemblies. And the more to gratify them, Hamilton was made a Duke, and Lesly their General is made Earl of Leven, who in sente

Anno. of gratitude, said at *Perth* in the House of the
1641. Earl of *Kinoul*, upon his knees avowed, *That*
he would never bear Arms against his most gracious
Prince. How this he made good, the World
 very well afterwards saw. Not long had his
 Majesty been in *Scotland*, but a Plot was said to
 have been found out to have been against the lives
 of *Hamilton* and *Argile*, whereat they withdraw
 from Parliament, and the King is muttered to be
 in the Design. His Majesty hereupon orders the
 examination of the matter in open Parliament,
 where nothing of truth or design appearing
 against the persons, his Majesty openly
 told *Hamilton*, at the delivery of his Patent when
 he was made Duke, 'That he had not deserved
 'to be intrusted in that matter by him, for that he
 'well knew when he was accused to him of High
 'Treason by the Lord *Rea* in *England*, he yet per-
 'mitted him to lye in his Bedchamber. This mat-
 ter, though false, was strangely represented here
 in *England*, so that the Committee which sat
 during the recess of Parliament, and even the
 Parliament itself afterwards, when assembled,
 resolve and petition for a Guard for the defence
 of *London* and *Westminster*, and the two Houses of
 Parliament, during the Session of Parliament.
 And with these vain and false Alarms, some
 principal Ringleaders in the after Commotions
 continually entertained the Rabble.

About the end of *October* there broke out a most
 bloody Rebellion of the Papists in the Kingdom
 of *Ireland*, and this was managed with such secre-
 cy, that not the least discovery was thereof made,
 until the evening preceeding the bloody Trage-
 dy.

The innocent Protestants were upon a sudden
 disseized of their Estates, and the persons of above
 200000 Men, Women and Children, murdered,
 within the space of one Month, and many of them
 with exquisite and unheard of Tortures. That
 which increas'd the wonder of most men was,
 the consideration that the ancient hatred which
 the Irish (a thing incident to conquered Nations)
 had born to the English, did now seem to be for-
 gotten; forty years of peace had compacted those
 two Nations into one body, and cemented them
 together by all conjunctions of Alliance, by inter-
 marriages and consanguinity, which was in out-
 ward appearance strengthened by frequent enter-
 tainments, and all kinds of friendly Neighbour-
 hood.

This design was to be put in execution on the
 23 of *October*, upon which day, not only the Castle
 of *Dublin*, the Kingdoms chief Magazine, a Store-
 house of 10000 Arms at that time, but all other
 Forts and Magazines in that Kingdom, were to be
 surpriz'd, and all the English and Protestants that
 joyned not with them to be murdered.

The seizure of *Dublin* Castle was prevented
 by timely discovery of the Plot to the two Lords
 Justices, by one *Owen O'Connell* of *Irish* Extract,
 but a Protestant, which discovery was but the ve-
 ry night before that fatal day, and the occasion of
 it very accidental, by one *Hugh Mac Mahon*,
 Grandson to the great *Tyrone*, a Gentleman of a
 plentiful Fortune, in the County of *Monaghan*, and
 one that had been a Lieutenant Colonel in the
 King of *Spain*'s Service, who trusted this *Owen*
 with some relations concerning it at a Tavern.

Upon this discovery, *Mac Mahon* and the
 Lord *Mac Guire* were presently apprehended by
 the Lords Justices, and many Conspirators of
 great note escaped that night out of *Dublin*; so
 was *Dublin* saved, that all *Ireland* might not be

lost in one day. But the horrid design was past
 prevention, as to the general; for the Conspi-
 rators were up at the day fixed in all Counties
 round about; and poor English Protestants arri-
 ved at *Dublin* every day, robbed and spoiled of all
 they had, relating how their Houses were seized,
 how Towns and Villages in all parts were fired,
 and cruel Outrages committed.

The Lords Justices, Sir *William Parsons*, and
 Sir *John Burlace*, taking those Arms which they
 found in *Dublin*, and arming whom they could
 to defend themselves, dispatched Letters to the
 King in *Scotland*, and the Earl of *Leicester*, then
 chosen Deputy, but staying in *England*.

It was generally said, the late Insurrection (we
 must not call it Rebellion) in *Scotland*, gave the
 first Incouragement to this in *Ireland*, and the
 pretences were in many of them the same, name-
 ly, for Liberty of Conscience, not to have the
 English Bishops and Liturgy imposed upon them,
 and these, as those in *Scotland*, being mighty ze-
 alous in their Religion, when once they were pos-
 sessed with a possibility of compassing their De-
 sires, executed whatever the impetuous dictates
 of Superstition or wicked Exhortation of Priests
 could infuse into them, in this exceeding the a-
 ctions of the Scots, whose Religion founded on
 more pious Principles, instructed them not to such
 bloody ways of propagation of it.

The Lords Justices sent Sir *Henry Spotswood* to
Scotland to the King, with intelligence of all that
 hapned, and thereupon he sent Sir *James Stuart*
 to the Lords of the Privy Council in *Ireland*, to
 acquaint them with his knowledge and instru-
 ctions, and to carry all that Money that his present
 Stores could supply, He moved also the Parlia-
 ment of *Scotland* (as being nearest) to a speedy
 help, but they excused their Aids, because *Ireland*
 was dependent upon the Crown of *England*; but
 they said, if the State of *England* would use any
 of their men for that Service, they would make
 propositions in order to it; at the same time like-
 wise he sends Post to the Parliament of *England*,
 and a while after *Owen O'Connell*, the first disco-
 verer of the Plot, brought Letters to *London* to
 the Earl of *Leicester*, with an account of it, where-
 in the Lords Justices desired some reward might
 be given to him: Upon the receipt of which the
 Parliament Voted him a gift of 500 pounds, and
 an Annuity of 200 l. a year, and at a Conference
 of both Houses they resolved to consider of the
 relief of *Ireland*, and passed several Votes to that
 end; but little was done for their Relief till the
 King returned to *London*, which was about the
 end of *November*.

The Irish to dishearten the English from any re-
 sistance, bragg'd that the Queen was with their
 Army; that the King would come amongst them
 with Auxiliary Forces; that they did but main-
 tain his Cause against the Puritans; that they had
 the King's Commission for what they did (shew-
 ing indeed a Patent that themselves had drawn,
 but thereto was affixed an old Broad Seal that had
 been taken from an obsolete Patent out of *Farn-
 ham* Abby by one *Blunher*, in the presence of ma-
 ny of their Lords and Priests, as was afterwards
 attested by the Confession of many.) That the
 Scots were in Confederacy with them, to be-
 get a faith of which, they abstained for some time
 from the lives and fortunes of those of that Na-
 tion among them.

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1641. On the other side, to encourage the Natives of their own party, they produced fictitious Letters wherein they were informed from England, that the Parliament had passed an Act, that all the Irish should be compelled to the Protestant worship; and the Refusers for the first offence should forfeit all their Goods, for the second their Estates, and for the third their Lives. Besides, they presented them with the hopes of Liberty: That the English yoke should be shaken off; that they would have a King of their own Nation; and that the Goods and Estates of the English should be divided among the Natives.

With these hopes of Spoil and Liberty in the Irish, the Rebellion increased. The Rebels in Ulster under the Conduct of Sir Phelim O'neal, assisted by Turbeck O'neal his Brother, Rory Mac-Guire Brother to the Lord Mac-Guire, Philip O'Rely, Mulvere O'Rely, Sir Conno Mac Gennes, called Mac Ruian, and others, had possessed themselves of all the strong places in Ulster, (London-Derry, Colreyn, and the Town and Castle of Eniskellen excepted) many places which the English defended, and they could not either surprize by Treachery, or take by plain Force, they had surrendered to them upon Composition and Articles, which they afterwards most perfidiously broke, butchering and massacring the poor English without pity or compassion to Age or Sex, though they still spared the Scottish Plantations in Ulster, because of their numbers; and likewise for fear of the Scottish Army so easily to be transported into the North parts of Ireland, till such time as their General Sir Phelim O'neal (one of the Race of the late bloody Earl of Tyrone, of English Education, a Gentleman of *Lincoln-Inn*, and a professed Protestant till some time before) having gathered together a numerous Rabble of the Natives, who daily flocked in to him, fell upon their Quarters; where though he exercised not that cruelty upon their persons which he did upon the English, yet he deprived them both of their Goods and Livings, enforcing many of them to fly away naked to the Scottish shore; from thence he marched into the English Pale, and in the beginning of November he took Dundalk, and soon after he encamped at Ards within seven miles of Tredagh.

The King finding his stay in Scotland to be somewhat longer than he expected, that the business of Ireland might not suffer thereby, refer'd the whole business of Ireland to the Parliament of England, who had undertaken the Charge and Management of the War, wherewith the Earl of Leicester acquainted the Lords Justices, letting them know further, that they had declared a speedy and vigorous assistance, and had designed for their present Supply the sum of 50000*l.* which would be raised with all convenient speed.

By this time the Lords of the Council of Ireland had armed as many as they were able, and given Commissions for raising of several Regiments, which were put into the hands (for the most part) of Gallant men, as their Actions afterwards testified to the World; Sir Charles Coote, an active and valiant man (who was also made Governour of Dublin) with great speed made up his Regiment out of the poor robbed and stripped English which had fled to Dublin; Sir Henry Tichbourn, a worthy Commander, was dispatched away with a Regiment of Foot, to keep Tredagh from the approaching Rebels; the Lord Lambert, and Sir Thomas Lucas, Capt. Armstrong, Capt. Turner, with others, raised many Companies of Souldiers there.

This was done about the middle of November, at which time also the Earl of Ormond with his well armed Troop of Horse came to Dublin; wherewith in few days after, he was by a Commission sent from the Earl of Leicester, Lord Lieutenant of Ireland (as likewise by the King's approbation from Scotland signified in a Letter) made Lieutenant General of all the Forces there, who being a person of great Estate, Credit, and Reputation in that Kingdom, and a Protestant, did very eminent Service against the Rebels.

The Parliament, in prosecution of their great promises, sent over Twenty thousand pounds in Money, which arrived seasonably at this time, their Treasure being much exhausted, by paying the new Companies they had raised, but with this small relief they were much encouraged, and very successful service was performed in divers places against the Irish, but no levies of men were made in England, till the King had disclaimed his power of pressing Souldiers, and thereby laid himself open to those Arms that were afterward raised against him: The first Souldiers they sent was a Regiment under Sir Simon Harcourt, who arrived in Ireland on the last of December.

His Majesty about the end of November returns from Scotland, a contented King from a contented People, (so said the Scots;) And to give his Majesty a demonstration hereof, they caused an Act (then in force) to be published, *That it should be detestable and damnable Treason in the highest degree that could be, for any of the Scotch Nation, conjunctly or singly to levy Arms upon any pretence whatsoever, without the King's Commission.* How well they performed this all men know, and we shall not now speak.

At his coming to London he is caressed and feasted by the City; and he again entertains the principal men at Hampton-Court, and bestows Knighthoods on the Aldermen and others; but these things lasted not long: For within few days afterwards he is entertained by a Remonstrance of the State of the Kingdom, presented by the Commons to him at Hampton-Court, and together with it a Petition.

1. *That his Majesty would concur with the People for depriving the Bishops of their Votes in Parliament.*
2. *That he would only employ about his person such as the Parliament might confide in.*
3. *That no confiscated Lands in Ireland might be alienated from the Crown, on condition the Parliament of England would undergo the charge of War.*

The plain truth was, his Majesty was supposed to have gained much on his Scottish Subjects at his last being there, and some in the Parliament of England evil disposed to his Majesties Person and Government, being fearful hereof, endeavoured by all ways of private solicitations, threats, and promises, to bring about the matter of this Remonstrance and Petition, the debate whereof in the House of Commons lasted from ten in the Morning until three of the Clock in the next Morning, and then it was carried by but eleven voices, when many of the more aged, or persons of best Fortunes, not accustomed to such watchings, were wearied out; others perhaps not daring to provoke the prevailing party left the House; & thus this matter was carried, that it seemed rather the Verdict of a starved Jury (saith one) than the result of a Parliamentary debate. However, presented it was to the King, who promiseth a speedy Answer thereto; but in the mean time desires the Commons to forbear the printing and publishing of this or such matters to the People, which notwithstanding

Anno 1641. standing (a thing never before done) was now done, and so became the first Appeal of the House of Commons from his Majesty to the People. Notwithstanding, his Majesty answered hereto so moderately, and withal so effectually, that from hence many prime Actors were much troubled to find their practices fully discovered; and therefore they had again recourse to their own old way of raising the Rabble, and a Tumult was immediately raised in the City, which came down to Westminster, and assaulted and evilly entreated some of the Peers, even at the Doors of their own Houses, crying out against Bishops, for that at that time the Bill about taking away their Votes in the House of Peers was under debate, and found but a cold reception in their House; hereupon they are tumultuously assaulted by this insolent Rabble in their attendance upon the House, and afterwards demanding of the Commons a Conference of both Houses, that they would joyn with them in a Declaration against such Tumults. Mr. Pym openly then said, *God forbid that the House of Commons should proceed in any way to dishearken the People in obtaining their just desires.*

The Lords finding themselves disappointed in their expectation of the House of Commons compliance with them for the suppressing of these Tumults, consult the Judges, who legally advise the Peers to direct their Writs to the Sheriffs and Justices, according to sundry Laws, to raise Force and suppress these Tumults, and to hinder the conflux of the rude Multitude to Westminster; which Order of the Peers House being obeyed, the Justices and Constables attend accordingly to secure the Peers in their attendance, and to hinder the Rabble from gathering together about the Parliament Houses, as formerly: The Justices and Constables are immediately sent for by the Commons, and shewing their Order, which was for no other matter then as before, the Commons straightway Vote this a breach of Privilege, and without any Conference desired with the Lords hereabout, they discharge the Watch, and send the Justices of the Peace to the Tower; *The like matter never heard of in England till this time.*

The impunity and licence given to these Tumults, gave occasion to the Lords Spiritual to frame their Protestation, and Petition to his Majesty and the other Temporal Peers as followeth. They protest,

‘That whereas the Petitioners were called up by Writ to attend in Parliament, and have a clear and indubitable Right to Vote in Bills and other matters debated, and ought to be protected.

‘They protest before God, that they are most willing to do their Duties there accordingly.

‘That they abominate all Actions or Opinions tending to Popery, all Propensions or Inclinations to any malignant party, or any other party, to which their Consciences shall not move them to adhere.

‘That they have been many times menaced, affronted and assaulted by multitudes of people in their coming to do their service to the Parliament, and lastly chased away, in danger of their Lives without any redress of their Complaints to both Houses, &c.

‘They do therefore in all Duty and Humility protest before your Majesty and the Peers in Parliament, against all Laws, Orders, Votes, Resolutions and Determinations, as in themselves null and of none effect, which in their absence since Decemb. 27. have already passed, as likewise a-

gainst such as shall hereafter pass in that most honourable House, during the time of this their forced and violent absence, &c. and humbly beseech his Majesty, to command the Clerk of the House of Peers, to enter this their Petition and Protestation.

Signed John Ebor. Thomas Duresm. Robert Covent. & Lich. Jos. Norwich. John Asaphan. Gul. Ba. & Wells. Geo. Hereford. Rob. Oxon. Mar. Ely. Godfr. Glouc. Jo. Peterburgh. Mar. Landaff.

The Temporal Lords, who afterwards lived to see their own Error, and the whole House of Peers voted by the Commons House useless, dangerous, and burthensome, hereupon desire a Conference with the Commons, & this Conference produceth an Impeachment of High Treason against the Bishops; and they were by the space of four Months committed to the Tower, and then the most of them let out.

We had therefore acquainted the Reader that the Peers were hindered in their attendance on the Parliament, by the rude multitude out of the City, and by whom influenced; this sort of men not content to have broken the Privilege of the Peers House, as before we have related, they afterwards with shouting and acclamations go for Whitehall, where finding no admittance, they cry out *They must and will speak with his Majesty, They will have no Bishops, No Porters Lodge, but they would speak with the King when they pleased.* Hereupon Col. Lunisford by his Majesties command orders them to repair to their respective habitations, but he finds resistance, and hereupon draws, with some other Gentlemen in his company, and they dissipate themselves, but this however so exasperates them, that the next time they came down armed, and in great numbers, to the terror and affrightment of the Members of Parliament, which caused his Majesty to command the Mayor of London for the future to prevent all riotous Assemblies of such people about his Palace of Whitehall and his City of Westminster, during the time of the Holy-days (wherein these matters fell out) and then also sends a Message to the two Houses, desiring their concurrence with him for the suppression of the Irish Rebellion, and at the same time a Proclamation was sent forth against the Irish Rebellion, *in hac verba.*

By the King.

Whereas divers lewd and wicked persons have of late risen in Rebellion in our Kingdom of Ireland in surprizing our Ports, Garrisons, Arms, and Munition, dispossessed many good Subjects of the British Nation and Protestants, of their Houses, Lands, and Goods, massacred multitudes of them, &c. we do therefore declare our just indignation thereof, and denounce them Rebels and Traitors, with all such as adhere and abet them, Commanding them immediately to lay down their Arms.

Proclamation of the Rebellion of Ireland.

Having authorized his Justices of Ireland, and other his Governour, Governours, General, or Lieutenant-General of his Army there, to prosecute them with fire and sword, and to be countenanced and supported by him and his powerful succours assisted by his good Subjects of England, and this his Royal Pleasure he commands his Justices and other his Officers there to proclaim throughout the Kingdom of Ireland.

Y y y y

His

Anno 1641. His Majesty having sent, as before is related, his Orders to the Lord Mayor of the City of London, for the suppression of the Tumults; they to obviate his Majesty herein, Petition his Majesty for a Guard for the security of their Persons also under the Command of the Earl of Essex, a known and confiding person, and this Guard to consist of Citizens.

His Majesty hereto answers, *That he will protect them himself, and they shall be as much his care as his own Wife and Children; and if this general Answer will not satisfy them, he would command such a guard to wait upon them, as he would be responsible for to God Almighty.* The truth is, his Majesty himself was now in more danger than they, he was the person attack'd as before, and the Rabble the Assailants; hereupon his Majesty was enforc'd to accept of a Guard of some Gentlemen of Grays-Inn and others of the Inns of Court, under the Command of Sir William Mason.

His Majesty was very sensible from whence all these Mutinies came, and indeed of the beginning and progress of all our Troubles he was made acquainted with at his being in Scotland, where expostulating with some chief of the Reasons of their late Hostile Invasions of his Kingdom of England, he was there first acquainted that some prime men in the two Houses of his Parliament of England had invited them to it; and having furnish'd his Majesty with proofs, he commanded the Attorney General to draw up an Impeachment of High Treason against some of them, viz. the Lord Kimbolton, a Member of the Peers House, and against five Commoners, Denzil Hollis, Sir Arthur Haslerig, Mr. John Hampden, Mr. Pym, and Mr. Stroud, and acquainted the Peers House with the generals of their Accusation, which were as followeth:

Articles
against the
five Mem-
bers.

1. That they have trayterously endeavoured to subvert the Fundamental Laws and Government of this Kingdom, and deprive the King of his Legal Power, and to place on Subjects an Arbitrary and Tyrannical Power.
2. That they have endeavoured by many foul Aspersions upon his Majesty, and his Government, to alienate the affections of his people, and to make his Majesty odious unto them.
3. That they have endeavoured to draw his Majesties late Army to disobedience to his Majesties Command, and to side with them in their trayterous Designs.
4. That they have trayterously invited and encouraged a Forreign Power to invade his Majesties Kingdom of England.
5. That they have trayterously endeavoured to subvert the very Rights and being of Parliament.
6. That for the compleating of their trayterous design, they have endeavoured, as far as in them lay, by force and terror to compel the Parliament to joyn with them in their trayterous designs, and to that end have actually raised and countenanced Tumults against the King and Parliament.
7. That they have trayterously conspired to levy, and actually have levied War against the King.

These Articles his Majesty had sent also to the Commons, to acquaint them herewith, and did also require by the Serjeant at Arms that their persons should be secured, who coming to execute his Office, meets with a Countermand from the Com-

mons not to do it, and passed a Vote, That if any person came to attach them without order of their House [though the Crimes alledged were Treasons, &c.] they might stand in their defence, and make resistance. Hereupon his Majesty seeing all obstruction of Justice made by the Commons House, resolves, and did go in Person, accompanied by his Nephew the *Palsgrave*, and about 100 Lords and Gentlemen and their followers, to the Commons House, where he entred alone with the *Palsgrave*, commanding all others to stay without doors, & to offer no violence, nor return any uncivil Language (though provoked) to any person whatever. At his entrance the Speaker left the Chair, where fate down, he acquaints the House again of his demanding five of their Members into his hands, to be proceeded against only according to Law; but the Members, as is said, being acquainted hereof beforehand by the Countess of Carlisle, had withdrawn themselves, which his Majesty perceived also; then he expected they should send them to him so soon as they should return hither, &c. His Speech is as followeth.

Gentlemen,

I Am sorry for this occasion for coming unto you; Yesterday I sent a Serjeant at Arms upon a very important occasion to apprehend some that upon my Command were accused of High Treason, whereunto I did expect obedience, and not a Message. And I must declare unto you here,

That albeit that no King that ever was in England, shall be more careful of the Priviledges, to maintain them to the uttermost of his power then I shall be; Yet you must know that in Cases of Treason no person hath a Priviledge. And therefore I am come to know if any of those Persons that I have accused (for no slight crime, but for Treason) are here.

I cannot expect that this House can be in the right way that I do heartily wish it.

Therefore I am come to tell you, that I must have them wheresoever I find them.

(and with that he casts his eye again round about.)

Well, sithence (says he) I see all the Birds are flown, I do expect from you that you shall send them to me, as soon as they return hither; But I assure you in the word of a King I never did intend any force, but shall prosecute against them in a legal and fair way, for I never meant any other.

And now, sithence I see I cannot do what I came for, I think this no unfit occasion to repeat what I have said formerly, that whatsoever I have done in favour and to the good of my Subjects, I do mean to maintain it.

I will trouble you no more, but tell you, I do expect as soon as they come to the House, you will send them to me, otherwise I must take my own course to find them.

His Majesty was no sooner down the Stairs, but the House was in an uproar, crying out that his Majesty might plainly hear them, *Priviledge, Priviledge*; and on Wednesday, Jan. 5. the day following, by their Votes declare as followeth.

Whereas his Majesty in his royal person yesterday did come to the House of Commons, attended with a great multitude of men armed in warlike manner, with Halberds, Swords, and Pistols, who came up to the very Door of the House, and placed themselves there, and in other places and passages near to the House, to the great terror and disturbance of the Members thereof, then sitting, and according to their Duty in a peaceable

Car. 17.

Anno
1641.

able and orderly manner, treating of the affairs of both Kingdoms of England and Ireland. And his Majesty having placed himself in the Speakers Chair, did demand the persons of divers Members of the House to be delivered to him.

It is this day declared, &c. that the same is the high breach of the privileges of Parliament, and inconsistent to the liberty and freedom thereof.

And therefore this House doth conceive, they cannot with the safety of their own persons, or the indemnity of the Rights and Privileges of Parliament, sit here any longer without a full vindication of so high a breach, and a sufficient guard, wherein they might confide; for which both Houses jointly, and this House by itself, have been humble Suiters to his Majesty, and cannot as yet obtain.

Notwithstanding which, this House being very sensible of the greatest trust reposed in them, and especially at this time, the manifold Distractions of this Kingdom, and the lamentable and distracted condition of the Kingdom of Ireland, doth order that this House shall be adjourned until Tuesday next at one of the Clock in the Afternoon, and that a Committee be named by this House, and all that will come shall have Voices, which shall sit in the Guildhall in the City of London to morrow morning at nine of the Clock, and shall have power to consider and resolve of all things that may concern the good and safety of the City and Kingdom, and particularly how our Privileges may be vindicated, and our persons secured; and to consider of the Affairs of the Kingdom of Ireland; and shall have power to consult and advise with any person or persons touching the premises; and shall have power to send for parties, witnesses, papers and records.

And it is further ordered, that the Committees for the Irish Affairs shall meet at the Guildhall aforesaid, at what time they shall think fit, and consult and do touching the Affairs of Ireland, according to the power formerly given them by this House. And both the said Committees shall report the results of their consideration and resolution to this House.

And in a subsequent Declaration further they declare,

'That if any person shall arrest either of them, or any Member of Parliament, by any Warrant from the King only, is guilty of the breach of the privileges of Parliament.

And whereas by several Examinations taken the seventh of this instant January, before the Committee in London, it did appear that many Souldiers and Papists, to the number of five hundred, armed, came with his Majesty on Tuesday last, the fourth of this present, to the House, &c.

We do declare, That it was a Traiterous Design against the King and Parliament.

And whereas they the said Members did with approbation of the House absent themselves, since which time a printed Paper, in the form of a Proclamation, dated the sixth of this Instant issued out for their apprehending and imprisonment,

We do declare, That the said Paper is false, scandalous, and illegal; and that notwithstanding they may and ought to attend the service of the House.

And we do declare, That the publishing of several Articles of High Treason against them was a high breach of the privileges of Parliament, a scandal to his Majesty, and dishonour to the said Members, which cannot be sufficiently vindicated, unless his Majesty discover the Names of such persons who advised him thereto, that they may receive condign punishment.

This House declaring, That all such persons, &c. are declared publick Enemies to the State, &c.

Car. 17.

Hereupon strange Reports were raised in the City of London, wholly now Parliamenters, That his Majesty had offered violence to the House of Commons, coming thither with force to murder several persons thereof Members, with which the City was so possessed, that unusual Watches and great Guards were placed in many places thereof; hereupon the Commons, as is before intimated, petition his Majesty for a Guard;

Presenting to his Majesty their just Fears of Designs and practices to destroy them by a Malignant party in the Face and at the Doors of the Parliament, and at your Majesties own Gates, &c.

They humbly desire therefore to have a Guard out of the City of London, commanded by the Earl of Essex, Chamberlain of your Majesties Household, And to this end they humbly desire a gracious and speedy Answer; because theirs and the Kingdoms safety depends upon it, and will not admit of any Delay.

To which his Majesty answered,

'That with great grief of heart, after their twelve Months sitting, wherein they have obtained those things for their security and happiness, as no Age can equal; they should now be disturbed with jealousies, distrusts, and fears: protesting before God, that had he any knowledge or belief of the least Design in any of violence against them, he would pursue them to condign punishment with the same severity as the greatest attempt upon his Crown. Engaging solemnly the word of a King, that their security from violence shall ever be his care as the preservation of Himself and Children. And if this general Assurance shall not suffice, he shall command such a Guard to wait upon them, as he shall be responsible for to God, who hath entrusted him with the Protection of his Subjects.

And the City joyn with the Commons, and Petition likewise in form hereafter following.

To the Kings most Excellent Majesty.

'Wherein they represent their Dangers and Distractions by the bloody Rebellion in Ireland, fomented and acted by Papists, and of their Designs, forreign and at home, tending to the ruin of the Protestant Religion. The putting out of Persons of Honour from being Constables of the Tower, and the preparations there made, the fortifying of Whitehall, the late Discovery of divers Fireworks in the hands of a Papist; His Majesties late manner in the House of Commons.

The effects of which just Fears overthrow the Trade of this City, to the utter ruin of the Protestant Religion, and the Lives and Liberties of the Subject.

'And pray, that by the Parliaments advice the Protestants in Ireland may be relieved, the Tower be put in the hands of Persons of Trust, a Guard appointed for the safety of the Parliament, and that the late Five Members may not be restrained nor proceeded against, but by the Privileges of Parliament.

Y y y y y

For

Anno
1641.

For answer to this Petition, his Majesty told them who delivered it,

That he cannot possibly express a greater sense of Ireland than he hath done, and hopes by assistance of the Parliament, may be effected, to which he will contribute all his power.

And he hath removed a Servant of good trust and reputation from the charge of the Tower, only to satisfy the Cities Fears, whose Safety is as his own.

And for the fortifying of Whitehall, they must needs know of the Tumult there and at Westminster; his own person endangered; and if any Citizens were wounded, it happened by their own corrupt De-means.

That his going to the House of Commons with his Attendance only, nor otherwise armed but as Gentlemen with Swords, was to apprehend those five Members for Treason, to which the Priviledges of Parliament cannot extend, nor to Felony, nor Breach of the Peace, against whom his Majesty intends lawfully to proceed with justice and favour. And is confident that this his extraordinary way of satisfying a Petition of so unusual a nature, will appear to be the greatest Instance of his clear Intentions to the City, &c.

And because the proceedings against the five Members, as they are numbered (besides Kimbolton) began much Dispute; and willing the King was to retrieve his former Actions therein, is now pleased (by Message to both Houses) to waive his former proceedings in reference to the Priviledges of Parliament; and all Doubts being thereby settled, when the minds of men are composed; he will proceed thereupon in an unquestionable way, and upon all occasions be careful of their Priviledges, as of his Life or Crown.

The Petitions and Actions drew down great multitudes of Citizens and others to Whitehall and Westminster, in the most tumultuous and menacing manner; and that the good County of Bucks might not seem to desert their chosen Member, Mr. John Hampden, they also petition his Majesty, 'For that their [deep] judgment and care, &c. was wounded in the aforesaid Im-peachment, which they conceive to be against Privilege of Parliament, &c.

The confux of such Petitioners, and the bringing down the five Members to the Commons House by water to Westminster, with many hundreds of Boats, Barges, Flags of Triumph by some Citizens and Seamen, braving and threatening as they went by Whitehall, and in an insolent and contemptuous manner enquiring, Whether his Majesty was at home, enforced his Majesty, with the Queen, Prince, and Duke of York, to retire for fear of these Tumults to Hampton Court, where, to whose assistance several of the Nobility and Gentry came; and this offer of their Service to his Majesty for his guard against the Rabble cost Col. Lunsford his Liberty, who was imprisoned in the Tower, and the Lord Digby was forced to fly beyond Seas.

His Majesty at Hampton Court omits no means unelayed, that he might make manifest to his People the clearness of his Intentions, and by a Message to the Parliament of the twentieth of January, conjures them for Peace and Settlement; And for that particular Grievances and Distractions were too many, and would be too tedious to be presented by themselves, that they would comprise and digest

them into one entire Body, that so both he and themselves might be able to make the more clear Judgment of them: And that it should then appear, by what he would do; how far he hath been from intending or designing any of those things, which the too great fears and jealousies of some persons, seemed to apprehend; and how ready he would be to equal or exceed the greatest examples of most indulgent Princes in their Acts of Grace and favour to the people.

This Message is received with thanks; but the accused Members and their Partizans endeavour by all means any reconciliation, fearing their Empire would then be very short, 'Stir up the Parliament in pretence the better to enable them to perform their duty in those great matters mentioned in his Majesties Message, they desired him to raise up to them a sure ground of confidence, by putting the Tower of London into their hands, together with the command of the Navy Royal, and also all Forts, Castles, and the Trained Bands of the Kingdom, which in one word they called the Militia of the Kingdom. To which his Majesty answers,

That his Majesty having preferred to the Lientenancy of the Tower, a Person of a known Fortune and unquestionable Reputation, wonders that he should be pressed to remove him without any particular Charge objected against him; and therefore until some just Exception be, he is obliged to preserve his own work, lest his favour and good opinion become a misfortune to his Servants.

As for his Forts and Castles of this Kingdom, they shall always remain in such hands as the Parliament may confide in, which being the inseparable Flowers of the Crown vested in him, derivative from his Ancestours, by the Fundamental Laws of the Kingdom, he will reserve to himself, and to bestow them as their Eminence shall not be disproved by his Parliament.

For the Militia, which by Law is subject to no command but his own, when any particular course shall be digested by them for ordering the same, in reference to his honour and safety of the Kingdom, he will then return to them a satisfactory Answer therein.

And that he having granted to them more than ever any King hath done, they will not ask more than ever any Subjects have desired.

And therefore conjures them by all the Acts of Duty and Favour, which they have received, by their hopes of future happiness, by their love of Religion, and Peace of the Kingdom, in which, that of Ireland cannot be forgotten. That they will not be transported by unnecessary jealousies and Fears, but that they will speedily pursue the proposed way by his former Messages to compose the Distractions of this Kingdom.

And now the old way of petitioning is again set on foot from the County of Suffolk, and City Dames of London, for the taking away of the Votes of the Popish Lords and Bishops out of the House of Peers, where (they said) they had the greatest power. And for answer, the Commons tell them, They are just now under the consideration of this matter. And the Petitioners reply, That they doubted not of the care of the Commons, but that their whole distrust was in the House of Peers. And afterwards, for their fuller Answer, the Commons told them, That the House of Commons had already endeavoured relief from the Lords in their requests, and shall so continue, till redress be obtained.

On

Anno.
1648.

On the second of February the House of Commons sent for Sir Edward Dering, one of their Members, and examined him touching his Book of all his Speeches in this Parliament, and some others intended to have been spoken, in which some particulars therein tended to the dishonour of their House, and the privileges thereof, for which they excluded him their House, and Vote that his Book should be burnt at Westminster, Cheapside, and Smithfield; and that his Person should be Committed to the Tower during the pleasure of their House, which was done accordingly.

At last, after the many Instances of his Majesty, the Commons seem to lay the Affairs of Ireland to heart, and accordingly meeting in a Committee at Merchant-Tailors-Hall for the bringing in a Bill for the speedy raising of 400000 £ for the relief of Ireland, which was afterwards completed, and the Money raised; yet but very little of the Money sent to their relief.

About the midst of February his Majesty and the Queen went to Canterbury, with the Princess Mary, and from thence to Dover, where her Majesty Embarked with her Daughter the Princess for Holland, and his Majesty return'd by the way of Canterbury to Greenwich, where he was met with the Bill for taking away the Bishops Votes in Parliament which was then passed, from Greenwich he sends for the Prince of Wales and Duke of York; knowing neither himself or children safe at London, he resolves for York as a place of safety till a better way might be found for reconciling of these differences; in his Journey thither he was overtaken by two Petitions, the one about the Militia, which they desire may be settled by the Parliament, the other for the Trial of the Five Members, wherein they say, 'That 'tis their undoubted right, that no Member of Parliament can be proceeded against without the consent of Parliament. To the first his Majesty said,

'That when he shall know the extent of power which is extended to be established in those persons to be Commanders of the Forts and Militia, and to what time limited, no power shall be limited, no power shall be executed by his Majesty alone without advice of Parliament, so that they declare them such by Names, whom he shall have just cause to refuse.

And to the other Petition, 'That as he once conceived, he had ground enough to accuse them, so now he finds as good cause wholly to desert any prosecution of them. And lest some of his Subjects may be involved in some unknown and unwilling Errors, he is ready to grant such a free and general pardon as his Parliament shall think convenient.

These Petitions answered as before, and the Militia being the main point they would gain, finding his Majesty resolved not to devert himself thereof, they go about to settle it by an Ordinance, whereto they desire his Majesties concurrence, and for answer from Greenwich by the Lord Keeper Littleton, 'That he finds great cause to except against the Preface thereof, which confesseth a most dangerous Design upon the House of Commons, supposed to be an effect of the bloody counsels of Papists, which some may understand by their Printed Papers,

to be his coming in person the fourth of January to demand the five Members.

'In which he had no other Design than to require them to justice, without any intent of violation upon any person, nor was there any provocation by any of his Train.

'As for the Militia, he is contented to allow the persons named for the Counties; but concerning the City of London, and other Corporations, it cannot stand with Justice or Policy to alter their Government in that particular, but will grant to them such Commissions as he hath done this Parliament to other Lieutenants, or otherwise he shall do it, than to have it first by some Law invested in him with power to transfer it to others, and to be digested into an Act of Parliament, rather than an Ordinance, lest there be a latitude for his good Subjects to suffer under any Arbitrary power whatsoever.

'As to the time for continuance of that power, he cannot consent to devert himself of the power which God and the Laws have placed him, to put it into the hands of others, for an indefinite time.

'And since the ground of their Designs refers to their Jealousies and Fears, he hopeth that his grace to them since the former Exceptions, is sufficient to expel any fear from former suspicions.

'And since, he is willing to condescend to all their Proposals concerning the County Militia, only excepting that of London, and other Corporations, which will be more satisfactory, if the Parliament weigh it well, than their Proposals by an Ordinance, to which (for these Reasons) he cannot consent.

'And because he perceives that in some places some persons begin to intermeddle of themselves with the Militia, he expecteth that his Parliament should examine the particulars thereof, being of great concernment and consequence, and to be proceeded against according to Law.

In his Progress to York, he stayed at Theobalds, where another Petition, or rather peremptory demand, of the Parliament for the settling of the Militia, overtakes the King, wherein they protest, 'That if his Majesty persist in the Denial of the Militia, the Dangers are such as will endure no longer Delay, but to dispose of it by Authority of Parliament, and resolve so to do, as it hath been by them propounded.

And that for the safety of his person and people, in much Jealousie and Fear, he will be pleased to continue his abode near London and the Parliament, and to continue the Prince of Wales, or any other Houses near London, to prevent the Jealousies and Fears of the people.

'That by the Laws of the Realm, the power of the Militia, of raising, ordering and disposing thereof, in any place, cannot be granted to any Corporation, by Charter, or otherwise, without consent of Parliament: and that those parts of the Kingdom that have put themselves in a posture of Defence, have done it by Declaration and Direction of Parliament.

With this so amazing a Message, his Majesty was much surprized, and finding as before, that in some places some persons of that party had already according to the Ordinance of both Houses, intermeddled with the Militia to the prejudice of

Car. 17.

Anno 1641. of his Majesties just right, he, under his own hand to the Parliament, saith, 'That he is amaz'd at this their Message, that he knew not well what to answer; You speak (saith he) of Jealousies and of Fears, lay your hands to your hearts, and ask your selves, whether I may not in earnest be disturbed with Fears and Jealousies.

'And if so, I will assure you, this your Message hath nothing lessened them.

'For the Militia, I thought as much before my last answer, being agreeable to what in Justice or reason you can ask, or I in honour grant, which I shall not alter in any point.

'I with my Residence near you might be so safe and honourable, that I had no cause to absent my self from White-hall. Ask your selves whether I have not?

'I shall take that care of my Son which shall justify me to God, as a Father, and to my Dominions as a King.

'I assure you upon mine Honour, I have no thoughts but of Peace and Justice to my People, which I shall by all fair means seek to preserve, relying upon the goodness of God, for the preservation of my self and Rights.

At the Receipt hereof they proceed and Vote all the particulars of their former Petitions, and that his Majesties answer thereto was unsatisfactory, That the Kingdom be put into a posture of Defence in such a way as is agreed upon by Parliament, and it was referred to a Committee to prepare a Declaration upon the two Heads.

1. The just causes of the Fears and Jealousies given to the Parliament, and to clear them from any Jealousies conceived against them.
2. To consider of all matters arising from his Majesties Message, and what is fit to be done.

Upon the second of March, Northumberland is sent down to the Fleet, Beacons are set up to fright the people, great riding and posting up and down with Pacquets and Dispatches, whispering and telling of dangerous and strange news amongst the Vulgar; whereas in truth, Only wise men say the truth of all, and that our Enemy was only at home.

The Parliament having finished their Declaration, send it by two Lords, Pembroke and Holland to Royston, where the King then was, the former whereof read to his Majesty, who composing his countenance in which was visibly a mixture of compassion and disdain, it consisted of these particulars: How on the 12th of January, 1641, the King's Majesty, by his Letters under the Great Seal, did command the Lord Kimbolton, and the Lord Digby, to raise a Guard about your person, labouring to infuse into the people an ill opinion of the Parliament, as if to raise Arms for a Civil War: in which Com-
bustion Ireland would be lost.

The manifold Attempts to provoke your Majesties late Army, and the Scots Army, and to raise a Rebellion in London, and other parts, the Actors having their dependence, countenance, and encouragement from the Court; witness Jermia's Treason, who was transported beyond Sea by your Majesties Warrant; and how dangerous Petitions delivered to Captain Lee by your Majesty's own Hand, with a Direction signed by your Majesty's own Hand, to the Lord Kimbolton, and the Lord Digby, to raise a Guard about your person, labouring to infuse into the people an ill opinion of the Parliament, as if to raise Arms for a Civil War: in which Com-
bustion Ireland would be lost.

That the Lord Digby was sent to Sir John Pennington to be landed beyond Sea, to vent his traitor-
ous conceptions for the King to retire to some place of strength; offering to correspond by Cyphers with the Queen, as if to procure some Foreign Forces to assist your Majesty, answerable to your remove with the Prince as in a readiness for the atting of it.

Manifold Advertisements which they have from Rome, Venice, Paris, and other parts, expecting the effects of the King's Design, to alter Religion, and ruin the Parliament.

That the Pope's Nuncio hath solicited the Kings of France and Spain, to lend his Majesty four thousand men a-piece to help to maintain his Royalty against the Parliament.

And this Foreign Force, the most pernicious and malignant design of all the rest, so they hope it is from his thoughts. Because no man will easily believe you will give up your People and Kingdom to be spoiled by Strangers, if you did not likewise intend to change both your own profession in Religion, and the publick profession of the Kingdom, that so you might be more assured of these Foreign States of the Popish Religion for the future support and defence.

They beseech his Majesty to consider how fair a way he hath to happiness, honour, greatness, plenty, security, if he would but join with his Parliament and people in defence of the Religion and Kingdom?

This is all they expect from him, and for which they shall return their Lives, Fortunes, and utmost Endeavours, to support him and Sovereignty. And for the present, have but only this to desire, To turn away his wicked Counsellours, and put his trust in Parliament.

For answer hereto his Majesty put forth his Royal Declaration in justification of himself and proceedings, the purport whereof followeth:

'That he hath little encouragement to make replies of this nature, when he is told of how little value his words are with them, though accompanied with love and justice. He disavows the having any evil Counsellours about him, but leaves such to their censure where they shall find them: in the mean time, they ought not to wound his Honour, under the common stile of evil Counsellours.

'He hath formerly declared his faithful affection to the Protestant profession, his whole life answerable in practice, which should rather be acknowledged by them, than to declare any Design of his to alter it in this Kingdom. Imprecating God to be witness, and that the Judgments of Heaven may be manifested upon those that have or had any such Design.

'As for the Scotch Troubles, these unhappy Differences are wrapt up in perpetual silence by the Act of Oblivion passed in Parliaments of both Kingdoms, which staies him from any further Reply to revive the memory of these Evils.

'He thinks himself highly and causlessly injured in his Royal Reputation to have any Declaration, Action, or Expression of the Irish Rebels, or any Letters or strange Speeches to be uttered by such in reference to beget any misapprehension in the people, of his justice, piety, and affection, an evident advantage to the Rebels, by raising Fears to us here, and security to them there. Concerning this sense of his good Subjects in Ireland, what hath he not done in his Messages to both Houses, offering his own person ready to adventure for their Redemption, being to give an account to God for his interest in them.

'He

Anno. 1641. *He calls God to witness, he never had thought of any Resolution with his late Army to raise a Faction in London, or to force his Parliament.*

That Captain *Leg* was then lately come from the Army to *White-hall*, with a Petition from the Officers, desiring the Parliament might have no interruption in the Reformation of the Church and State to the model of Queen *Elizabeth's* daies; and for confirmation of Sir *Jacob Ashley* of my opinion therein I writ C. R. The Petition will satisfy, if you shew it.

Mr. *Fermin* was gone from *White-hall* before the Restraint, nor had he the King's Warrant after that time, for the Lord *Kimbolton* and the five Members; it hath been rubbed over so oft, that but looking to his former Answer, they will appear abundantly satisfied.

He had great reason to raise a Guard at *White-hall*, to secure his own person, and to receive the dutiful tender of his good Subjects service, which was all he did to the Gentlemen of the Inns of Court.

And assures them in the word of a King, that the Lord *Digby* had left the Court with Warrant to pass the Seas, before the Vote of the House of Commons, or that his absence could be excepted against.

As for the wilde Advertisements from *Rome*, *Venice*, *Paris*, the Pope's Nuntio, the Kings of *France* and *Spain*, which he is confident no sober man in all the Kingdom can believe, that the King is so desperate, so senseless, to entertain such Designs, to bring the Kingdom in destruction, and bury his Name and Posterity in perpetual infamy.

Can there yet want evidence on his part to join with his Parliament?

Hath he given no earnest but words?

Bids them look back upon their own Remonstrance in *November* last of the State of the Kingdom, which valued his Acts of Grace and Justice at so high a Rate, that it declared the Kingdom a Gainer, though it should charge it self by Subsidies and Poll-money six Millions of Pounds, besides the contracting the Scotch Demands of two hundred and twenty thousand pounds.

Nay more, hath he not passed these Bills, for the Triennial Parliament, for relinquishing his Title to impose upon Merchants Goods, and his power of pressing of Souldiers, for suppressing the Courts of Star-Chamber, High Commission, regulating the Council-Table? Are these but words? The Bills for the Forests, the Stannery Courts, the Clerk of the Markets, the taking away the Votes of the Bishops, nothing but words? What greater earnest can he give, than the Bill for the continuance of this Parliament, the length of which he wishes may never alter the nature of Parliaments? and for a perfect recontrition with his people, he offers a free Pardon. Nor doth he repent, but will meet them to add more, with alacrity and kindness, for the Peace, Honour, and prosperity of this Nation.

But they proceed however and resolve, That the Oaths of Supremacy and Allegiance is not in the least prejudiced by their Ordinance for the defence and settlement of the Kingdom. That his Majesties Commissions of Lieutenancy over the respective Counties are illegal and void.

That their Ordinance for the Militia is to be obey'd as a fundamental Law of this Kingdom; And these particulars be the heads of another Declaration.

However his Majesty now at *Huntingdon* [on the fifteenth of *March*] sends yet again this Message:

That he means to make his Residence at *York*, desires them to expedite the business of *Ireland*, and if Calamities increase upon that People, he shall wash his hands before all the World from imputation unto him.

He expects, that as he hath been forward to retract any Act of his entreuching upon them, so he expects an equal tenderness in them towards him, in an unquestionable Priviledge and fundamental. His Subjects not to be obliged to obey any Act, Order, or Injunction, to which his Majesty hath not given consent; And therefore he requires that they presume not upon any pretence of Order or Ordinance (to which his Majesty is not a party) of the Militia, or any other thing, to do or execute against the Laws; he being to keep the Laws himself, and his Subjects to obey them: and commends unto them, his Message of *Jan. 20*.

To which they give no other answer than, That they are resolved to adhere to their former Vote of the Militia. And furthermore, That to have their Votes question'd and contradicted, is a breach of Priviledge of Parliament; that a Committee be appointed to examine where and by whom this Message was counselled, being suspected therefore favourers of the Rebellion in *Ireland*; and in fine, an Answer by a Message, in every particular justifying their late Declaration.

So that now at last we are come to the true ground of intestine Divisions, the Parliament was resolved to wrest the Power of the Militia from the King, and his Majesty was resolved not to part with it (as he told the Earl of *Pembroke* at *Royston*) No, not for an hour, it is a thing never asked of any King, with which I will not trust my Wife and Children. However, the Parliament was resolved by force to have it, and had accordingly by an Ordinance settled it; this Ordinance was framed in *February*, and declared to be a Law whether his Majesty would give his consent to or no in *March* following, and had made settlements of the Militia in sundry places pursuant to the said Ordinance, whereas his Majesty had not then issued out any Commission of Array, for the said Commission appeareth by the date thereof to bear date the eleventh of *June* following in the eighteenth year of his Reign.

The Ordinance of both Houses of Parliament, for Ordering the Militia of the Kingdom of England, and Dominion of Wales.

Whereas there hath been of late a most dangerous and desperate design upon the House of Commons, which we have just cause to believe to be an effect of the bloody Counsels of Papists, and other ill-affected persons, who have already raised a Rebellion in the King-

Ann.
1641.
Kingdom of Ireland; And by reason of many discoveries, we cannot but fear they will proceed not only to stir up the like Rebellions and Insurrections in this Kingdom of England, but also to back them with Forces from abroad:

It is ordained by the Lords and Commons, now in Parliament assembled, that shall have power to assemble and call together all and singular his Majesties Subjects within the County of as well within Liberties as without, that are meet and fit for the Wars, and them to train, exercise and put in readiness, and them after their abilities and faculties well and sufficiently, from time to time, to cause to be Arrayed and Weaponed, and to take the Muster of them in places most fit for that purpose. And shall have power within the said County to nominate and appoint such Persons of Quality as to him shall seem meet to be his Deputy Lieutenants, to be approved of by both Houses of Parliament. And that any one or more of the said Deputies so assigned and approved of, shall in the absence or by command of the same have Power and Authority to do and execute within the County all such power and Authority before in this present Ordinance contained. And so shall have power to make Colonels and Captains, and other Officers, and to remove out of their places, and to make others from time to time, as he shall think fit for that purpose. And his Deputies, Colonels, Captains and other Officers, shall have further Power and Authority to lead, conduct and employ the persons aforesaid, Arrayed and Weaponed, as well within the County of as within any other part of this Realm of England, or Dominion of Wales, for the suppressing of all Rebellions, Insurrections and Invasions that may happen, according as they from time to time shall receive directions by His Majesties Authority, signified unto them by the Lords and Commons assembled in Parliament.

And it is further ordained, that such persons as shall not obey in any of the Premises, shall answer their neglect and contempt to the Lords and Commons in a Parliamentary way, and not otherwise, nor elsewhere; and that every the powers granted as aforesaid, shall continue until it shall be otherwise ordered or declared by both Houses of Parliament, and no longer.

John Brown, Clerk Parl.

The Commission of Array was as followeth:

CHARLES by the Grace of God, King of England, Scotland, &c. to our most dear Cousins Henry Earl of Huntingdon, and William Earl of Devonshire; and also to our beloved and trusty, Henry Hastings Esquire, Son of the said Earl of Huntingdon; Henry Barkley, George Villiers, Thomas Burton, Barons; Henry Shipwish, &c. Knights; Henry Hastings of Humberton, &c. Esquires; and the Sheriff of our County of L. for the time being, greeting. Know ye, that we willing to take care and provide for the safety and defence of Our Self and Kingdom, and our Lieges thereof, according as our duty is, and by God's good favour resolving to resist the malice of our ene-

mies, if they shall presume to invade this our Realm of England: Have appointed you, or any three or more of you, to Array and Train all and every person and persons in Arms, Bow-men, &c. dwelling within your said County, with Liberties and without; and that you cause to be Armed all such as are able of body, and fit to bear them, who have of their own where-with to Arm themselves, viz. every one according to his Estate or condition, to rate and proportion according to your advice and discretion, or of any three of you; and to distrain all those who have Lands and Possessions, and through debility of body are unable for Service, causing them to find according to the quality of their Lands and Goods, what Arms conveniently and reasonably (saving their condition) they can bear; and to provide men at Arms, armed but with Bows and Arrows, so that they who shall stay and continue at their own home in their County for the defence of this our Kingdom against our enemies, shall receive no wages nor expences for this their stay at home aforesaid: and that you likewise dispose and cause to be disposed the said men so Armed and Arrayed, into Regiments, Troops, and Companies, or other Divisions as you shall see convenient. And we have assigned you, or any three or more of you, whereof you the said Earl of Huntingdon, and in your absence you the said Earl of Devonshire, or you Henry Hastings, son of the said Earl of Huntingdon, to be one of the said men at Arms, and Bow-men, so Arrayed and Trained, as well to the Sea-Coasts as to any other places, where, and as often, and as need shall require, to expel, overcome and destroy our said enemies, from time to time, in any eminent peril, to command and lead. And we have likewise Commissionated you or any three or more of you, to cause Muster or Musters of the said men so Armed and Arrayed to be made, and to supervise them, as oft as occasion shall require.

And also to proclaim, ordain, and diligently examine, and see that all, and every such men at Arms, armed men, and Bow-men in such Musters, be armed with their own, and not others Weapons, upon penalty of losing them; those only excepted who are to be armed at the Charge of others. And to Arrest, take, and in our Prisons to put all, and every of those who in this behalf you shall find enemies or Rebels, and to continue them in such Prisons until they shall be thence delivered by Law. And therefore, as straightly as we can, upon your Faith and Allegiance which you owe us, we enjoin and command you, that forthwith upon the sight of these presents, that in the best and safest manner you can, you Arm and Array your selves; and that before you at certain daies and places which you shall judge most convenient and expedient, and of least hindrance to our people, you cause all men dwelling in your County by whom the Array and Arming may be best effected and compleated, to be called and come together, there and then to be Arrayed and Armed; and them so Arrayed and Armed, to keep in the same Array. And furthermore, that you cause Beacons to be set up in the usual places, by which the several Counties may in fit time be fore-armed against the coming of our Enemies. And the same men so Arrayed and Armed in eminent danger,

Anno
1641. " in the Defence of the Kingdom and Countrey
" aforesaid, from time to time, as well to the
" Sea-side, or to other places, where need shall
" require, you cause to be led and conducted, or
" some of you, of whom you the aforesaid Earl
" of *Huntingdon*, or in your absence, you the a-
" foresaid *William Earl of Devonshire*, or you
" the aforesaid *Henry Hastings*, Son of the said
" Earl of *Huntingdon*, we will to be one, do
" cause to be conducted as aforesaid; so through
" default of Defence, Array or Conduct of the
" aforesaid Soldiers, or through your negligence,
" no hurt or damage be done to the Country,
" as to your power it can be letted. And we
" streightly command all and every our Earls,
" Barons, Knights, Mayors, Bailiffs, Consta-
" bles, Ministers, and others our faithful Liege-
" People of our County aforesaid, as well with-
" in Liberties as without, by virtue of these Pre-
" sents, to be counselling, aiding and assisting
" to you, and every one of you, in all and sin-
" gular the Premises. And we likewise Com-
" mand you the said Sheriff, that at certain times
" and places which you, or any three or more of
" you as aforesaid shall appoint, shall cause to
" convene before you all such men in the County
" aforesaid, by whom the Array, Assessement
" and Appointment can best be effected and com-
" pleted; and to detain those in Prison, who
" for their Rebellion, shall happen thither to be
" committed.

In Witness whereof, we have caused these our Let-

ters to be made Patents. Witness Our Self
the 11th day of June, in the 18th Year of
Our Reign.

Per ipsum Regem.

By comparing the Dates of both these, our Reader may see who were the Aggressors in this War, and what Calamities hereafter ensued; whilst on the one hand His Majesty endeavours to retain the power of the *Milizia*, and the Parliament to snatch it out of his Royal Hands; wherein by God and the Laws it was intrusted, it would fetch Tears of Blood from the Eyes of any obdurate person, to think seriously thereupon; which makes however some, not imprudent men, think and believe, that considering the Wisdom of the *English Nation*, and the sad remembrance of our Sufferings during the late unnatural War, we shall hardly be brought again by the Artifices of any self-seeking persons, who labour to embroyl us, especially by Methods and Means not very distant and remote from those, whereby some of us saw them formerly to have attained their evil Ends, by our own Hands and Engagements, to bring that Ruine and Devastation upon the Kingdom; of which ('tis to be hoped and wished) the Authors have seriously repented; and so we shall finish these our Collections in this Critical time, and leave the Prosecution of them to an afterhand.

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